

**Application Number:** 21/0974/FULL

**Date Received:** 05.10.2021

**Applicant:** Hywel NMP Limited

**Description and Location of Development:** Erect a Sprinkler Tank and GRP Pump House - Land At Grid Ref 319235 191320 Nine Mile Point Industrial Estate Cwmfelinfach

**APPLICATION TYPE:** Full Application

### SITE AND DEVELOPMENT

Location: The application site is located within Nine Mile Point Industrial Estate. The industrial estate was built in the 1970's by the Welsh Development Agency, and provides some 35 industrial units ranging in size, supporting a variety of activities including manufacturing, workshops, administration offices and distribution warehouses.

Site description: The site was previously a parcel of undeveloped land that measures 1.11 hectares in area. It is currently under construction. The site is bordered by an industrial unit to the east and roads to the south and west. Across the road to the west there are a number of industrial units and an area used for car parking. To the north and south of the site, across the adjacent road, is an area of woodland. The Sirhowy River runs parallel to the southern edge of the site beyond the woodland.

The closest residential property to the proposed site is approximately 460 metres to the west in the village of Cwmfelinfach.

Access to the site is via Greenmeadow Road off New Road, Cwmfelinfach (B4251).

Development: Full planning permission is sought to erect a sprinkler tank and GRP pump house.

Dimensions and Materials: The proposed sprinkler tank measures 14.3 metres in diameter and 12.0 metres in height and will be galvanised.

The proposed GRP pump house measures 9.0 metres in width by 8.0 metres in depth with an overall height of 3.0 metres and will comprise of a light grey rendered finish.

Ancillary development, e.g. parking: None.

### PLANNING HISTORY 2010 TO PRESENT

15/0601/FULL - Develop an up to 100,000tpa Solid Recovered Fuel (SRF)/Refuse Derived Fuel (RDF) production facility – Granted 10.12.2015.

20/0725/COND - Discharge of Condition 14 (Surface Water and Land Drainage Scheme) of planning consent 15/0601/FULL (Develop an up to 100,000tpa Solid Recovered Fuel (SRF)/Refuse Derived Fuel (RDF) production facility) – Decided 25.11.2020.

20/0726/COND - Discharge of Conditions 10 (Parking Layout), 19 (Hard and Soft Landscaping), 22 (Arboricultural Impact Assessment), 23 (Tree Protection), 25 (Landscaping and Management Scheme), 26 (Light Mitigation Strategy), 27 (Light Mitigation Strategy), and 28 (Bird Nesting Provision) of planning consent 15/0601/FULL (Develop an up to 100,000tpa Solid Recovered Fuel (SRF)/Refuse Derived Fuel (RDF) production facility) – Decided 24.11.2020.

20/0796/COND - Discharge conditions 08 (Contamination) and 15 (Site Investigation) of planning consent 15/0601/FULL (Develop an up to 100,000tpa Solid Recovered Fuel (SRF)/Refuse Derived Fuel (RDF) production facility) – Decided 24.11.2020.

21/0789/COND - Discharge condition 17 (External Finishes) of planning consent 15/0601/FULL (Develop an up to 100,000tpa Solid Recovered Fuel (SRF)/Refuse Derived Fuel (RDF) production facility) – Decided 08.10.2021.

## POLICY

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

Site Allocation: The site is located within settlement limits and is also designated as a Secondary Employment Site EM2.28 (Nine Mile Point, Cwmfelinfach).

Policies: SP3 (Development Strategy in the Southern Connections Corridor), SP5 (Settlement Boundaries), SP6 (Place Making), SP9 (Waste Management), SP10 (Conservation of Natural Heritage), SP16 (Managing Employment Growth), SP21 (Parking Standards), CW1 (Sustainable Transport, Accessibility and Social Inclusion), CW2 (Amenity), CW3 (Design considerations - Highways), CW6 (Trees, Woodland and Hedgerow Protection), CW13 (Use Class Restrictions - Business and Industry) and CW15 (General Locational Constraints).

NATIONAL POLICY Future Wales: The National Plan (February 2021), Planning Policy Wales Edition 11 (February 2021), Technical Advice Note 12: Design (March 2018), Technical Advice Note 18: Design (March 2007) and Technical Advice Note 21: Waste (February 2017).

## ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes in that the proposed development, when combined with the original consented development, is Schedule 2 Development. The Local Planning Authority concluded as a result of the screening

opinion for the consented development (Planning reference: (15/0601/FULL) which is currently under construction that an Environmental Statement was not required.

On that basis the application has been screened in accordance with Schedule 2, Part 11 (b) Other projects relating to installations for the disposal of waste in order to assess whether or not an Environmental Statement is required for the resultant development. The site area associated with the proposal for consideration (Sprinkler Tank and GRP Pump House) falls below the 0.5 hectares threshold and therefore the Local Planning Authority has considered whether the consented development and the proposed development for consideration when combined would have any significant adverse effects on the environment in accordance with Schedule 2, Part 13 (b).

Was an EIA required? No in that it is not considered that the proposed development would give rise to a material change in circumstances resulting in significant adverse effects on the environment as set out in the Screening Opinion carried out with this application. On that basis there is no justification for the Local Planning Authority to request an Environmental Statement for the proposed Sprinkler Tank and GRP Pump House.

#### COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The sprinkler tank and GRP pump house would be sited within an area of low risk, however would be immediately adjacent to a high risk development referral area. There is a mine shaft present on site which has been filled in and capped previously.

#### CONSULTATION

Senior Engineer (Land Drainage) - No comments received at the time of writing the report.

Head Of Public Protection - CCBC - Confirms that they are satisfied the location of the proposed development will not affect residential dwellings but requests details of the acoustic design of the enclosure by way of condition.

Senior Arboricultural Officer (Trees) - No objection subject to imposing a condition to ensure Tree Protection is afforded. The agreed details associated with the Tree Protection Plan (planning reference 20/0726/COND) are sufficient in this respect.

Informative advice is also provided in respect of the tree root protection areas.

Landscape Architect - CCBC - Given its location within the industrial estate, the size and scale of the proposed tank is acceptable along with its external appearance.

Informative advice is also provided in respect of landscaping that will be controlled by way of condition.

Natural Resources Wales - No objection but provides informative advice to be conveyed to the developer.

Glamorgan-Gwent Archaeological Trust - A review of historic Ordnance Survey mapping indicates no archaeologically significant structures. Therefore it is unlikely that significant archaeological remains will be encountered during the course of the works.

Informative advice is also provided to the developer.

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and 3 neighbouring businesses were also consulted.

Response: Four call in requests for the application to be reported to planning committee along with three letters of representation objecting to the proposed development have been received.

Summary of observations: The following questions and objections were received:

1. Questions what analysis has been done to determine the likely levels of pollutants such as dioxins in run-off water from a fire event.
2. Questions what steps the applicant is going to take to ensure that any polluted water does not enter the Sirhowy River.
3. The addition of a sprinkler to the process is an alteration to the original consent and water pollution now presents a significant concern in that contaminated water could end up in the Sirhowy River.
4. Questions why permission is being sought through a separate planning application when the development is intrinsic to the existing consent and therefore the planning authority should be insisting on the applicant submitting a s73 application or similar instead of it being treated as a standalone application.
5. Requests that the wider implications affecting health, possible nuisance and adverse effects on air quality are fully considered.
6. Requests a full explanation of the process in particular why any waste material needs to be cleaned and where the contaminated effluent from the process will be disposed of, together with the expected daily volume of effluent.
7. Requests specification details of the new installation and its exact position 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?

There are no specific crime and disorder implications material to the determination of this application.

### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes the development is CIL liable as the proposal intends to create more than 100 square metres of additional floor space, however new industrial development is charged at £0 per square metre. Therefore no CIL will be collected.

### ANALYSIS

Policies: The application has been considered in accordance with national policy and guidance and local plan policies. The main issues for consideration in respect of this application are whether the proposed development is considered acceptable in this location and the impact in terms of visual and neighbouring amenity.

Policy SP5 of the Local Development Plan (Settlement Boundaries) states that the boundaries are defined in order to define the area within which development would normally be allowed, to promote the effective use of urban land and to prevent fragmented development and inappropriate development in the countryside. The proposed development is considered to comply with Policy SP5.

In tandem with Policy SP5, Policy CW15 (General Locational Constraints) states that development proposals must not constrain the development of any adjacent site for its allocated land use and that within settlement boundaries they accord with the role and function of the settlement. This application relates to an existing use within an identified employment site that would not prejudice the implementation of wider comprehensive redevelopment of Nine Mile Point Industrial Estate, Cwmfelinfach (EM2.28).

Policy CW13 relates to new development on identified industrial estates. Nine Mile Point Industrial Estate is identified as a Secondary Employment Site in the LDP. Policy CW13 states that development proposals on industrial estates will be subject to the following restrictions:

On sites allocated or identified as Secondary Employment Sites, development will only be permitted if it is:

i Within use classes B1 (light industrial), B2 (General industrial) or B8 (Storage or Distribution);

- ii An appropriate sui generis use;
- iii To provide an ancillary facility or service to the primary employment use;
- iv An acceptable commercial service unrelated to class B uses.

The proposed development will serve a waste recycling facility that is currently under construction on the site and therefore accords with the aims of policy CW13.

Policy CW2 relates to amenity and states that development proposals should have no unacceptable impact on the amenity of adjacent properties or land; should not result in the over-development of the site; and the proposed use is compatible with surrounding land-uses. The proposed development is considered to accord with this policy as the proposed building is considered to be acceptable in terms of its siting, massing, materials and design, and will integrate well with the host building on the site. Furthermore, given the site's industrial estate location and the distance to the nearest residential property, the proposed use is compatible with the surrounding land uses and would not result in any significant harm in terms of visual amenity of the surrounding area or residential amenity. The proposed development therefore complies with Policy CW2 of the LDP.

Policy CW5 explains that development proposals will only be permitted where they do not have an unacceptable adverse impact upon the water environment and where they would not pose an unacceptable risk to the quality of controlled waters (including ground water and surface water). In that respect from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m<sup>2</sup> or more to implement sustainable drainage to manage on-site surface water. In that regard the construction area of the proposed development will exceed 100m<sup>2</sup> and therefore Sustainable Drainage Approval is required. As part of the drainage strategy a swale is to be created along the eastern boundary of the site, whilst the drainage details for consideration will require technical approval independent of the need to obtain planning permission along with ensuring that there will be no adverse impacts to existing drainage systems and watercourses. The landscaping of the swale is a matter that can be controlled by way of condition in the interests of visual amenity. The proposed development therefore complies with Policy CW5 of the LDP.

In conclusion, having regard to the above observations, the proposed development accords with Policies CW2 and CW13 of the Caerphilly County Borough Local Development Plan up to 2021 - adopted November 2010.

Comments from Consultees: Whilst the Head of Public Protection has requested that a scheme for the acoustic design of the enclosure is submitted, in this instance given the distance away from the nearest residential receptors together with its location on a designated Secondary Employment Site, it is not considered reasonable or necessary to impose such a condition.

Comments from public: The following representations were received:

1. Questions what analysis has been done to determine the likely levels of pollutants such as dioxins in run-off water from a fire event.

2 Questions what steps the applicant is going to take to ensure that any polluted water does not enter the Sirhowy River.

3. The addition of a sprinkler to the process is an alteration to the original consent and water pollution now presents a significant concern in that contaminated wasted could end up in the Sirhowy River.

In respect of points 1, 2 and 3 the site will be controlled by an Environmental Permit regulated by Natural Resources Wales and is therefore a matter controlled by separate legislation. Notwithstanding the above the developer has confirmed that the outlet drainage pipes will have penstock valves installed to prevent any discharge of water from site in the event of a fire. Any fire water will then be contained within the site within a sealed drainage system. Following a fire event, the captured fire water will then be extracted from the fire water containment system and tankered off site for disposal at a permitted facility. On that basis the protection of surface water to the natural environment has been considered.

4. Questions why permission is being sought through a separate planning application when the development is intrinsic to the existing consent and therefore the planning authority should be insisting on the applicant submitting a s73 application or similar instead of it being treated as a standalone application - Whilst there may have been separate legislative changes outside of the planning system since the waste recycling facility was approved, there is no requirement for the developer to submit a Section 73 application in that there is an extant consent for a waste recycling facility on the site and therefore further planning permission for the approved SRF/RDF facility is not required.

5. Requests that the wider implications affecting health, possible nuisance and adverse effects on air quality are fully considered.

6. Requests a full explanation of the processes, in particular why any waste material needs to be cleaned and where the contaminated effluent from the process will be disposed of, together with the expected daily volume of effluent.

In respect of points 5 and 6 the sprinkler tank and GRP pump house will be used solely to store water to be used in the event of a fire and for no other purpose. The application for consideration is not an opportunity to consider the waste recycling facility on the site which has been previously considered.

7. Requests specification details of the new installation and its exact position on site - These details are provided as part of the submitted application.

Other material considerations: The development is considered to be acceptable in all other areas.

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.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

**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.
  
- 02) The development shall be carried out in accordance with the following approved plans and documents:  
Dwg No. 20001-040 Rev A Site Location Plan received on 05.10.2021;  
Dwg No. 20001-041 Rev B Site Layout Plan received on 03.11.2021;  
Dwg No. 20001-042 Rev A Proposed Western Elevation received on 27.09.2021;  
Dwg No. 20001-043 Rev A Proposed Eastern Elevation received on 27.09.2021;  
Dwg No. 20001-044 Rev A Proposed Southern Elevation received on 27.09.2021; and  
Dwg No 20-045 L102 Tree Protection/Development Impact Plan associated with planning reference 20/0726/COND received on 14.10.2020.  
; REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.
  
- 03) Prior to the commencement of the development a scheme depicting soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. The landscaping scheme shall include details and proposed timing of the soft landscaping together with details of ground preparation and planting plans noting the species, plant sizes and planting densities for all new planting. The agreed details shall be carried out in the first planting and/or seeding season following the occupation 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 policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

### Advisory Note(s)

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 at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former 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 new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: [www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

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, excavations for 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.

If any coal mining features are 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/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**WARNING:  
SUSTAINABLE DRAINAGE APPROVAL IS REQUIRED PRIOR TO  
COMMENCEMENT OF THIS DEVELOPMENT.**

Please note from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m<sup>2</sup> or more to implement sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers.

The Sustainable Drainage Approval process is a technical approval independent of the need to obtain planning permission, and as such you are advised to contact the Sustainable Drainage Approval Body. Their details are provided below:

Phone: 01443 866511

Email: [drainage@caerphilly.gov.uk](mailto:drainage@caerphilly.gov.uk)

Website: [www.caerphilly.gov.uk/sab](http://www.caerphilly.gov.uk/sab)

Please refer to Public Access to view the comments of Gwent Glamorgan Archaeological Trust, Natural Resources Wales and this Council's Landscape Architect that are brought to the applicant's attention.