

Lp/drp/JCC8192

23 October 2008

Ms Rosemary F Thomas
Head of Planning Division
Welsh Assembly Government
Cathays Park
CARDIFF
CF10 3NQ

Dear Ms Thomas

**Application Number 07/01356/FUL – Brecon Beacons National Park Authority
Proposed Anaerobic Digester Plant at Great Porthamel Farm, Talgarth, Brecon**

We have been instructed by Talgarth Town Council to advise upon the robustness and processing of the above application. In particular, we have been asked to investigate if the decision made by the BBNPA on 30th September 2008 to approve the application, subject to the relevant parties entering into a Section 106 Agreement, was based upon sound planning judgement, upon a thorough appraisal of the policy framework against which the application was to be judged, and upon a comprehensive and thorough assessment of the likely significant environmental effects of the proposal.

I enclose for your consideration four documents :

- The Officers' Report to Committee;
- A Screening Opinion issued by the Authority on 18th March 2008 (which I believe on very careful reading concludes that an EIA is needed);
- The consequential Environmental Impact Assessment; and
- The submitted Transport Assessment.

Please note that the attached 4-page EIA is not a Non Technical Summary. It is, I understand, the actual Environmental Statement itself. Also, the 3-page (including plan) Transport Statement is, as I understand it, the full submission on that topic.

Whilst our investigation of the position has been brief I would draw your attention to the following :

1. The application site extends to approximately 3 hectares yet the proposal relies upon the adjacent fields for the disposal of one of the main products of the process, digestate. Whilst the application drawings indicate that the "other land under the applicant's control" extends to an area of some 178 ha, including the application site, there is nevertheless still confusion within the application documents as to the total area of land needed to implement the proposal. This is a critical factor in determining the ability of the proposal to be implemented in accordance with condition No.4 of the proposed permission because that condition requires no digestate to be exported from the site for use at other farms. The ES makes no reference to the site area. The committee report makes no reference to the site area. Whilst the site plan suggests

that the area under the control of the applicant is circa 178 ha, the applicant's mother addressed the NPA Committee on 30th September 2008 and referred to a 405 ha holding. Yet, the Transport Assessment is based upon a holding of 250 ha, a figure confirmed by a letter of 26th June 2008 from WELTEC Bio Power submitted on behalf of the applicant.

2. The Committee Report stresses that *"it is important that the proposed use is controlled for agricultural purposes and for the purposes of that agricultural holding . Furthermore, it is important that the proposed use remains ancillary to the main use of the land for agriculture. Measures need to be put in place to ensure that the use of the digester does not become a commercial use in its own right. In this way the proposal is then farm diversification under Policy ES17 and needs to be in the proposed location to service the farm as required under Policy ES7."* (Page 48).
3. Whilst proposed Condition No.4 seeks to control the development accordingly, it is predicated on the proposal being farm diversification, not commercial waste treatment (to which other policies apply), and on the enterprise being able to function within the restrictions of that condition. The information submitted to support the application suggests that the scale of operation is such that it can handle, I understand, some 40,000 tonnes of waste per annum as compared to the 25,000 tonnes per annum quoted in the application. Whilst farm products are to be added to the imported animal wastes on arrival at the site, it is not clear if the larger volume quoted above takes account of that or not.
4. Additionally, the application states that some 22,500 tonnes of digestate will be produced per annum with 7,500 tonnes of that being injected into the soils of the 250 ha farmholding. That suggests that the balance (15,000 tonnes) will need to be injected into land outside the application site area, contrary to Condition No:4 which expressly seeks to prevent such an activity. Either the volume of proposed digestate is incorrect, therefore, or the site area is incorrect if the condition is to be capable of implementation. The Committee Report does not address this anomaly. It should be noted that the maximum weight of digestate capable of being successfully injected into farmland is of the order of 30 tonnes per ha per annum. At a production rate of 22,500 tonnes pa, therefore, there will be a need to secure a further 500ha outside the application site area to dispose of the digestate produced by the unit annually. The application seems not to have taken that into account; the officers' report seems to have avoided the point; the members were therefore not made aware of the point; and the proposed permission does not allow that to occur without the further approval of the NPA. That is not a sound basis upon which to determine an application for a sensitive industrial process within a National Park area.
5. It will be seen from the Committee report that the initial application was amended to address the concerns raised by consultees, both statutory and non-statutory. However, it would appear from my reading of the report that an outstanding objection from CCW on account of the detrimental landscape impact of the proposal (see page 49 of the report) has not been adequately addressed by the proposed permission. The report confusingly recommends that the concerns of CCW can be minimised by securing the submission of *"a landscape scheme requiring further planting of locally native tree species such as oak, ash, field maple and hazel to screen the AD from views from all directions"* which *"should be submitted to and agreed by the National Park Authority prior to commencement of any development on site."* It then (page 50)

states that *“following further negotiation the applicant has produced a landscape mitigation scheme which is satisfactory regarding screening the plant from public views. The detail of such a planting scheme can be controlled by planning condition if members grant planning permission.”* No indication is given in the report as to whether or not CCW was consulted on the landscape mitigation scheme and it must be speculated, therefore, that the CCW objection still stands. Of more concern, however, is the fact that there are no conditions recommended that either seek the submission of a landscape scheme or explicitly seek to commit the applicant to the implementation of the “satisfactory” mitigation scheme referred to above, unless it is the NPA’s view that proposed condition No.11 is meant for that purpose. If it is, the current wording is inadequate.

6. The officers conclude that the proposal is *“an industrial process for agricultural purposes”* (page 53); that the proposal is *“farm diversification under Policy ES17 and needs to be in the proposed location to service the farm as required under Policy E7”* (page 41); and that they *“do not consider this application to be a regional waste facility”* (page 47). Yet the proposal is to treat waste brought onto the site from industrial processes located as far afield as Merthyr Tydfil and Hereford. It now appears, also, that although not communicated to the Town Council when consulted, other abattoir waste is to be brought in from local industrial sources, that food waste is to be brought in from local authority sources, that market waste is to be brought in from Brecon and Talgarth markets, and that poultry waste (poultry daff) is also to be sourced locally.
7. In that respect no indication is given in the application documents or the ES as to which alternative sites were considered; no assessment appears to have been made as to why it is necessary to transport the waste large distances by road from outside the National Park into the National Park; and there appears to be no available assessment of why this industrial process cannot be undertaken at source, either through an extension of the existing industrial processes at Merthyr Tydfil and Hereford, or through the establishment of new facilities on existing industrial estates close to the point where the wastes are sourced.
8. In the policy context the approved NPA UDP confirms that the Assembly’s national waste strategy is driven by EC directives etc which seek to deal with wastes as near to where generated as possible (para 4.54); it states that new waste treatment sites must be identified in the UDP (4.57); and it confirms in paras 4.61, 4.62 and 4.63 that in this context there is no requirement for further land or facilities in the National Park. Paragraph 4.66 confirms that proposals to serve the region will be considered under Policy S13.
9. Policy S13 states clearly that *“The use of land for waste related development to cater mainly for wastes from outside the Park will be subject to the most rigorous examination and will only be permitted in exceptional circumstances where it is demonstrated to be in the public interest, that is where all the following criteria are met:*
 - i) *There is a regional need identified in a Regional Waste Plan;*
 - ii) *The need cannot be met in another way or in another location outside the National Park;*
 - iii) *The benefit to the economy of the Park can be shown to outweigh the*

detriment that would be caused to tourism and other economic activities; and

- iv) *There are no significant detrimental effects on the Park's special qualities, its natural beauty, wildlife and cultural heritage or communities."*

10. Paragraph 4.67 supports Policy S13 and indicates that, whilst landfill or windrow composting may be suitable for farmland, general industrial sites will be suitable for many types of future waste facility including in-vessel composting and anaerobic digestion. The proposed site is not an existing general or even light industrial estate.

11. The NPA has not considered the proposal against Policy S13, seeking instead to rely on farm diversification policies which are far more favourable to such developments if appropriate. Yet the proposal clearly seeks to promote a *"waste related development to cater mainly for wastes from outside the Park"* and it also has sufficient capacity to supply digestate for some 750 ha of farmland and to generate electricity for some 1,400 homes. Such a scale of development which requires a land holding much larger than the whole of the application site would not appear, on the face of it, to be an obvious diversification project, especially within a National Park environment.

Conclusions

It is therefore concluded, even from a very cursory assessment of the relevant documentation, that :

- i) The NPA may have resolved to approve the application on the basis of an assessment of the wrong policies. When the proposal is assessed against Policy S13 it is clearly out of accord with it because:
- The need for it to my knowledge is not identified in the relevant Regional Waste Plan.
 - It has not been demonstrated that the facility cannot be accommodated on an existing industrial estate outside the National Park, even if the digestate product then needs to be transferred to areas of farmland within the National Park thereafter.
 - No attempt has been made to show that the benefit of the proposal to the economy of the Park will outweigh the detriment that will be caused to tourism and other economic activities within it.
 - It has not been comprehensively demonstrated that the proposal can be implemented without significant detriment to the Park's special qualities.
- ii) There appears to remain an outstanding objection from CCW on the basis of the likely detrimental visual impact of the proposals.
- iii) The environmental assessment produced with the application is wholly inadequate for the purpose in that:
- It does not describe the site or its main characteristics, and it sets no baseline values against which to judge its environmental effects.
 - It does not describe the proposal in any detail.

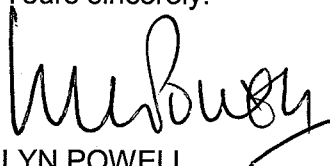
- It does not describe the main alternatives studies by the applicant prior to the submission of the application, or describe the main reasons for the choice made.
 - It does not describe the likely significant environmental effects of the proposal on the environment in any detail, and makes no distinction between direct and indirect effects, secondary, cumulative, short, medium or long-term, permanent or temporary, positive or negative effects.
 - It does not describe the mitigation measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment; and
 - It is not supported by a Non Technical Summary.
- iv) The NPA recognises the need to restrict the proposal to a scale that is no more than ancillary to the existing agricultural uses at the farm, and to the particular importance of preventing the exporting of digestate and other fertiliser products from the site for use at other farms. Yet, the information submitted quite clearly shows that the proposal has the capacity to produce an annual tonnage of digestate which cannot be accommodated at the application site or, indeed, even within the other land under the control of the applicant. The proposal cannot, therefore, be implemented to its full capacity within the terms of the proposed permission. There is no condition proposed that seeks to restrict the scope or scale at which the proposal can operate.

In light of the above it would appear that the proposal poses a serious threat to the special qualities of the Park that led to its designation; that the policies of the National Park (which derive from the policies of the Assembly (PPW; TAN's; The Wales Spatial Plan etc)) have not been properly applied; and that the proposal is therefore in conflict with the policies of the approved National Park UDP.

As the National Park is a national resource where the primary objective is to protect and enhance its environment in the national interest, it is considered that the proposal raises planning issues of more than local importance in that it will have an effect beyond the immediate locality; it has the potential to give rise to substantial regional controversy; and it conflicts in any case with national policies.

The Assembly Government is therefore urged to review this case and to, in the meantime, issue a Holding Direction under the provisions of Section 77 of the Town and Country Planning Act 1990 thereby preventing the NPA from issuing the permission until such time as the Minister has determined whether the application should be called in for her own determination.

Yours sincerely,



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