

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT
ASSESSMENT) (WALES) REGULATIONS 2017**

SCOPING OPINION

Name and address of the applicant	Name and address of the agent
FCC Environmental C/o Agent	Mr James Cook Sirius Office Suite 2 The Beacon Centre For Enterprise Dafen Llanelli SA14 8LQ

DATE REGISTERED: 3 September 2021

APPLICATION NO: P2021/0916

LOCATION: Pwllfawatkin Refuse Tip, Pontardawe Link Road To Baran Road, Pontardawe, Neath Port Talbot,

PROPOSAL: Request for scoping opinion - extension of time and amended restoration profile at Pwllfawatkin Landfill site

THE NEATH PORT TALBOT COUNTY BOROUGH COUNCIL AS THE LOCAL PLANNING AUTHORITY IN PURSUANCE OF ITS POWER UNDER THE ABOVE MENTIONED ACT AND REGULATIONS HEREBY ADOPTS THE FOLLOWING SCOPING OPINION SUBJECT TO ANY COMMENTS BELOW:

The Environmental Impact Assessment required to be submitted in respect of the above proposal should cover the matters referred to in Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, together with addressing all those matters raised in the formal Scoping Report attached to and comprising part of this decision.

Signed: 
Ceri Morris – Head of Planning & Public Protection
Date: 4 November 2021

Scoping Report

Planning History:

There is a long and complicated planning history at this site, this was detailed in the recent applications which were refused at December planning committee 2020. The most relevant

planning history to this particular scoping opinion request are the two most recent applications submitted, which effectively proposed mostly the same amendments, accept this proposal is for a shorter period of time. These two applications are as follows

- P2018/0511 | The variation of Condition 1 (to extend the operational lifetime of the site until 2025, followed by a year for restoration works) 2, 5, 6, 8, 15, 19 & 21 (to reflect the submitted updated plans and statements) attached to planning permission P2014/0693 (Please note amended date from 2023 to 2025)(re-consultation following revised final landform) GRANTED AT COMMITTEE 17/12/2021 – Welsh Assembly Government were notified of this decision, a call-in was not required, a decision has not been issued as the determination of this application is dependent upon the future of the tip890. The decision is currently pending, awaiting the new planning application for tip891.

- P2018/0512 | The REMOVAL of planning conditions 1 (commencement) 8, 12, 17, 18, 19, 37, 42, 49, 54, 61 (duplicated by other conditions) 21 (move to notes section) 24, 32, 36, 44, 45, 46, 53, 59 (relating to required works that have already been completed) 34 & 39 (superseded by subsequent permissions) 38 (Tip 891 has been restored). The VARIATION of planning conditions 2 (to extend the operational lifetime of the site until 2023, followed by a year for restoration works) 3, 5, 7, 22, 23, 28, 35, 41, 43, 48, 50, 51, 55, 60 (update conditions to allow for updated plans/information submitted) attached to planning permission P2002/1016. (re-consultation following revised final landform) – REFUSED 17/12/2021

Publicity and Response:

In order to help formulate a scoping opinion the following consultees were consulted
Contaminated Land – are in general agreement with the proposal to screen **out** contaminated land

The Coal Authority – no response to date

Drainage Section – no objections to the proposal and notes that SAB approval may be required

Ecology/Biodiversity – Agreed with the scoping **in** of ecology and provided guidance as to what should be provided (this will be repeated below)

Highways – No objections to the proposals but indicated that a transport statement is required

Environmental Health (Noise) - in general agreement with the scoping **out** of noise from the ES.

Environmental Health (odour) ‘We are not in agreement with the proposal to screen out Air Quality and in particular odour which would form part of this assessment. As you are well aware there have been numerous complaints recently about odour affecting the surrounding community and these have been quite wide reaching. We have significant concerns about the site’s ability to control odour and have not seen sufficient improvement since our consultation with yourselves on the previous application. We recommend that air quality and particularly odour is **screened into** the Environmental Statement.

NRW – have provided numerous suggestions as to what the ecological section of any ES should include when submitted and also provided advice with regard to the requirements of the Environmental Permitting Regime.

Councillor Anthony John Richards – no response to date

Cllr Linet Purcell – no response to date

Regulation 14 (1) Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 - Proposal for extension of time and amended restoration profile at Pwllfawatkin Landfill site Pwllfawatkin Refuse Tip Pontardawe Link Road To Baran Road Pontardawe Neath Port Talbot

The Local Planning Authority has carried out a scoping exercise and considers that the information listed below should be provided in any Environmental Statement in relation to the proposed development. In reaching this opinion the Local Planning Authority and specialist consultees have had regard to the specific characteristics of the particular development, and the environmental features likely to be affected by the development.

Landscape and Visual Impact Assessment

The submission confirms that Landscape and visual impacts will be scoped **in** to the ES, the Authority is in agreement with this approach. The submission also states that rather than undertaking a new standalone Landscape and Visual Impact Assessment (in accordance with the GLIVIA 3rd ed.), it is proposed that the previous Landscape and Visual Appraisal undertaken in 2018 (which was carried out in accordance with the GLIVIA) will be updated. This will include a review of the previous viewpoint/receptor locations assessing any notable changes to baseline conditions and the predicted scale of effect. The Authority is happy with this approach, given that a full LVIA was carried out relatively recently on the site. As with the LVIA submitted with planning application P2018/0511 & 0512 the LVIA is required to take into account any potential impacts on the landscape resulting from any potential differences from the proposed restoration of the site in comparison to the previously approved restoration plans.

Ecology

The scoping report also confirms that ecology will be screened **in** to the ES, the Authority is in agreement with this assessment. Both the ecologist for the council and NRW have been consulted on the scoping document and they have advised that the following points should be considered:

An assessment of ecosystem resilience (Section 2 Environment (Wales) Act 2016); this shall particularly consider:

- (a) diversity between and within ecosystems;*
- (b) the connections between and within ecosystems;*
- (c) the scale of ecosystems;*
- (d) the condition of ecosystems (including their structure and functioning);*
- (e) the adaptability of ecosystems.*

In line with the general principles set out in SPG: Biodiversity and Geodiversity (May 2018) and the Environment Wales Act (2016) the application should demonstrate how biodiversity enhancement is to be achieved.

NRW also provided comment and provided the following advice as to what the ecology section of the ES should cover;

We note a phase 1 Habitat survey was undertaken in May 2021 by Avian Ecology, to inform the scoping report, which has identified the potential impact on a number of protected species.

Site Surveys

We advise the site is subject to further assessment to determine the likelihood of protected species being present in the area and likely to be affected by the proposals. Targeted species surveys should be undertaken for all species scoped in and should:

- i. Be undertaken by qualified, experienced and where necessary, licensed ecologist; and*
- ii. comply with current best practice guidelines. In the event that the surveys deviate from published guidance, or there are good reasons for deviation, full justification for this should be included within the EIA.*

Should protected species be found during the surveys, information must be provided identifying the species-specific impacts in the short, medium and long term together with any mitigation and compensation measures proposed to offset the impacts identified.

Dormice

There is potentially suitable habitat for the species on site and potential connectivity of habitat through the wider landscape, therefore we advise that surveys for dormice are undertaken to inform the EIA.

Otter and Water vole

We are aware of records of otters principally along the River Clydach. In addition, there appears to be a water vole record close to the proposed site. We therefore welcome that these species are scoped into the EIA

EPS Licence

Where a European Protected Species is identified and the development proposal will contravene the legal protection they are afforded, a licence should be sought from NRW. The EIA must include consideration of the requirements for a licence and set out how the

works will satisfy the three requirements as set out in the Conservation of Habitats and Species Regulations 2017 (as amended). One of these requires that the development authorised will 'not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range'. These requirements are also translated into planning policy through Planning Policy Wales (PPW) December 2018, section 6.4.22 and 6.4.23 and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). The local planning authority will take them into account when considering the EIA where a European Protected Species is present.

Schedule 1 Birds

We advise that consideration is given to the presence and likely impacts of the proposals on Schedule 1 birds in the area.

Protected sites

Based on the information submitted, we consider that the proposed development is not likely to damage the features for which Hafod Wennol Grasslands Site of Special scientific interest (SSSI) is of special interest.

Water Environment

The scoping document has confirmed that issues relating to surface water management and flooding would be scoped in to the ES, and the Authority are in agreement with this assessment.

The scoping document confirms that the current surface water arrangements will be reviewed and an updated scheme (covering the operational life of the site and post closure drainage) will be included in the ES. An updated Flood Consequence Assessment will also be included within this chapter of the ES. The drainage engineer for the Council has been consulted on this, in addition to NRW, the drainage officer for the Authority has comments as follows;

1. SAB approval will be required prior to any work commencing. To commence work is a breach of SAB approval required under Paragraph 7 (1) Schedule 3 of the Flood and Water Management Act 2010 whereby legal action will be taken by the Authority under The Sustainable Drainage (Enforcement) (Wales) Order 2018. Guidance and applications can be found on <https://www.npt.gov.uk/sab>
2. Should any springs or ground water seepage be encountered the on site works in that area shall cease until a scheme for collection and disposal of the water has been submitted to and approved in writing by the Local Planning Authority. No ground water shall ever be discharged into the proposed drainage scheme.
3. There must be no interference, alteration or diversion of any ditch, watercourse, stream or culvert crossing or bordering the site, without prior consultation and agreement with the Authority.
4. Unless otherwise agreed in writing by the Local Planning Authority, foul water and surface water discharges shall be drained separately from the site.
5. No surface water or Land drainage run-off shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.
6. Adequate provision shall be made for the drainage of the site, to ensure that the drainage of any adjoining land is not interrupted or otherwise adversely effected by the development during the life time of construction.

Further notes on the SAB process and drainage works were also included but these will not be repeated and full replies can be made available to the operator.

NRW commented as follows

Groundwater and water resources

We acknowledge climate change will not be considered in a standalone section, however the scheme needs to consider future resilience, and the impact of climate change on water resources (such as groundwater levels) should be considered as part of the EIA.

There is no information included relating to the groundwater monitoring regime. Confirmation is required within the EIA that the proposed changes to the final profile, will have no material impact on the groundwater monitoring programme at the Site

It is not clear what impact the proposed reprofiling will have on infiltration, and as such any

potential leachate generation. The EIA should consider leachate generation and management, which should include details of any treatment methods.

We welcome the production and submission of an updated Surface Water Management Plan. As part of the Surface Water Management plans, we would like to see the retention of Surface Water settlement lagoons in aftercare as a habitat enhancement of biodiversity.

Cumulative & In-combination Effects

The scoping document has confirmed that cumulative impacts will be scoped **in** to the ES, and that this will also include a review of local plan allocations, this is welcomed by the Authority.

In addition to cumulative impacts, the proposals will also need to consider in-combination effects (where one particular property/building may be affected by two or more particular environmental impacts, such as odour, noise, visual etc). Nearby properties that may experience in combination impacts should be considered, and if identified, further consideration will need to be given to in-combination impacts the proposal may have on nearby receptors.

Consideration of Alternatives

The scoping report has confirmed that the necessary alternatives (including the ‘do nothing’) scenario will all be considered within the ES, in line with schedule 4, of the EIA regulations, this should cover, as a minimum, the following.

‘a description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the applicant or appellant which are relevant to the proposed development and its specific characteristics and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

In this case all the alternative restoration options will need to be looked at (including leaving the site as is – the do-nothing scenario) and the potential impacts of these alternative restoration profiles will need to be explored thoroughly. This should help to demonstrate why the proposed operations are the best option for the site and the overall advantages of the proposals (in terms of planning and in achieving a satisfactory restoration of the site). The advantages of the proposed scheme over the alternatives needs to be made abundantly clear as this will help when the application gets to committee.

Topics Scoped out of the ES

The scoping document has assessed the following topics as suitable for scoping **out** of the ES;

Highways/traffic

Air Quality

Dust

Odour

Noise

Major accidents

Soils, geology and contaminated land

Public Health and well-being

Climate change

Socio economic

Cultural heritage

Surrounding land uses

The Environmental Health Department for the council have been consulted on the scoping report, and whilst they acknowledge that noise and contaminated land/ground conditions can be scoped out of the ES they are of the opinion that air quality and odour should be scoped **in** to any ES, please see the full response below

Thank you for your consultation regarding the above application.

We have considered the document included with the application entitled Request For Scoping Opinion: Extension Of Time And Amended Restoration Profile At Pwllfawtkin Landfill Site, Pontardawe.

We are in general agreement with the proposal to screen out noise, as operations are not intended to change and the only complaints we have had in the past are with regard to reversing beepers which I believe have been resolved.

We are in agreement that ground conditions can be screened out as the site has been demonstrated to be suitable for its use and any future contamination associated with the landfill will form part of the Environmental Permit surrender.

*We are not in agreement with the proposal to screen out Air Quality and in particular odour which would form part of this assessment. As you are well aware there have been numerous complaints recently about odour affecting the surrounding community and these have been quite wide reaching. We have significant concerns about the site's ability to control odour and have not seen sufficient improvement since our consultation with yourselves on the previous application. We recommend that air quality and particularly odour is **screened into** the Environmental Statement.*

Having regard to the views of the Council's EHO, and noting in particular the ongoing odour issues relating to the operations at the site, and the extent of complaints about the same, it is considered essential that air quality / odour are assessed within the ES.

Topics for inclusion in the ES

Following consultation with all the necessary technical experts the Authority would mostly agree with the suggested scope of the ES, except for the scoping out of air quality and odour, we would therefore suggest that this is scoped **in** to the upcoming ES, in line with advice from the Environmental Health Officer (as above).

We can therefore confirm that the following topics shall be screened **IN** to the forthcoming ES.

- Landscape and visual impact
- Ecology
- The water environment, including site drainage and flooding
- Air quality and odour
- Cumulative and in-combination effects
- Consideration of Alternatives

In addition, the ES should also include a review of all the national and local planning policies relevant to the planning application.

The above comprises the scoping opinion of the Local Planning Authority