

Ein cyf/Our ref: CAS-180993-D4Q1
Eich cyf/Your ref: P2021/1277

Maes Newydd
Llandarcy
Neath Port Talbot
SA10 6JQ

Ebost/Email:
swplanning@cyfoethnaturiolcymru.gov.uk

Thomas Boothroyd
Neath Port Talbot County Borough Council
The Quays
Brunel Way
Baglan Energy Park
Neath

Dyddiad/Date: 18 February 2022

Annwyl / Dear Mr Boothroyd,

BWRIAD / PROPOSAL: Revised restoration profile of Tip 890 including continuation of waste importation to 31st October 2023 with restoration completed by 31st October 2025.

LLEOLIAD / LOCATION: Pwllfawatkin Farm, Rhydyfro, Pontardawe, SA8 4RX.

Thank you for re-consulting Cyfoeth Naturiol Cymru/Natural Resources Wales on the above application, which we received on 21 January 2022.

We continue to have concerns with the application as proposed. However, we are satisfied that these concerns can be overcome by the planning authority attaching the following conditions to any planning permission granted:

Condition: Pre-commencement surveys for otter and Great crested Newts.

Please note, without these conditions, we would be likely to object to the planning application. Further details are provided below.

we would also have concerns if the planning authority do not include the following document in the approved plans and documents condition on the decision notice:

- Recommendations in chapter 8 of the Environmental Statement

Please note, we would be likely to object if this document is not included in this condition. Further details are provided below.

FCC are seeking permission to extend the period of landfill operations at the Pwllfawatkin site to the end of October 2023. This will allow the site to continue accepting non-hazardous waste and amend the restoration profile to reduce the capacity of the site from that previously approved.

We note a statement in the Pre-Application Report (PAC) prepared by Thirty47, December 2021, (page 14):

As part of the Pre-Application Consultation, NRW (as waste regulator) has reviewed the draft ES and has not raised any concerns over the odour assessment or the OMP.

We would like to clarify that NRW are statutory consultee under planning law and we are required to be consulted on certain planning applications. This response is restricted to our statutory consultee role within the planning process and does not extend to our role as a waste regulator. Whilst odour should be addressed as part of an Environmental permit variation (as detailed below). We recommend you also consult the Local Authorities Environmental Health department if not already done so.

Protected Species

- We welcome the provision of the Environmental Statement(ES) report, specifically chapter 8 (Ecology) which includes a recent walkover of the proposed area. We note that proposals are limited to current working areas and that pre commencement surveys prior to restoration and re profiling works will be undertaken.

- **European Protected Species – Legislation and policy:**

Otter and great crested newt, as well as their breeding sites and resting places, are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where these species are present and where a development proposal is considered likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- The proposed works to be authorised satisfy an appropriate derogation purpose, which in the case of development are for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- There is no satisfactory alternative; and
- The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

These requirements are translated into planning policy through Planning Policy Wales (PPW) Edition 11 dated February 2021, sections 6.4.22 and 6.4.23 and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). To avoid developments with planning permission subsequently not being granted a licence, the planning authority should take them into account when considering development proposals where a European Protected Species is present.

Condition : Pre-commencement surveys for otter and Great crested Newts.

No development with the potential to impact on otter and great crested newts, shall commence until a pre-construction species survey has been carried out for the development. If the survey confirms the presence of <otter or great crested newts the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out in accordance with the approved details.

- **Justification:** To ensure the potential presence of otter and great crested newt is confirmed prior to construction and where necessary remedial measures are implemented for their protection

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Environmental Statement -Ecology

We recommend you should only grant planning permission if you include the following documents on the decision notice:

- Implementation of the recommendations outlined in Chapter 8 (ecology) of 'Environmental Statement Vol 1- Amended Restoration Profile, Pwllfawatkin Landfill dated Nov 21 by Sirius Planning'

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Hydrology and groundwater

We have reviewed the relevant parts of the ES (notable Chapter 9 in relation to hydrogeology) and the updated surface water management plan (SWMP) and we offer no adverse comments. We welcome the addition of the consideration to climate change in line with TAN15 in both the ES and the SWMP.

Whilst there is no reference to a groundwater monitoring regime, either existing or proposed or any leachate management information, we are satisfied that this will be covered by the Environmental Permit.

Environmental Permitting

The operator currently holds a landfill permit issued under the provisions of the Environmental Permitting (England and Wales) Regulations 2016 (EPR). Any changes to the final landform will need to be approved and reflected in the site EPR permit. The operator is aware that they need to successfully apply for a variation to their EPR permit before the changes can be accepted by NRW. The operator is encouraged to submit this EPR application as a matter of urgency so that the changes can be considered. We are unable to pre-determine the outcome of this permit application and cannot therefore provide comment on the proposed revised landform at this stage.

Some of the key issues FCC (the operator) would need to address as part of the EPR permit application is whether any changes in the gradients would affect the stability of the landfill's capping and restoration infrastructure (i.e. particularly on the interfaces between the various geosynthetic and other layers that form the cap).

FCC will also need to demonstrate that the revised landform would not affect the integrity of the underlying basal lining system in each landfill cell. The design of the basal lining system in each cell was based on an expected loading from the overlying waste and soil layers, which in turn was derived from the original landform approved in the current EPR permit. Any changes to the landform could therefore impact the basal lining systems, which provide containment to the waste and landfill leachates. FCC will therefore need to demonstrate, as part of their EPR permit application, that the proposed changes in landform would be within the design parameters of the basal lining system built for each cell. If the changes in waste profiles are greater than the design parameters of the basal lining system in the underlying cell, then we are unlikely to accept the proposed landform.

As part of the EPR variation application FCC would also need to provide details on how landfill infrastructure will be maintained during the long aftercare period, specifically the practicalities of drilling replacement leachate/landfill gas wells on steep slopes. Furthermore there is also the practicalities of accessing the infrastructure routinely on steep flanks e.g. access roads etc.

The responsibility of complying with the environmental permit conditions and relevant legislation lies with the landfill operator and they are ultimately in control and responsible for what happens on site. By applying for an EPR permit, they have made a commitment to operate lawfully and in line with the conditions within it.

Please note, within submitted report number WR7816/ES dated November 2021 Titled Environmental Statement Volume 1: Amended Restoration profile at Pwllfawatkin landfill site, point 6.4.4 states “NRW is the regulatory body responsible for ensuring on site safety.” This is not accurate, NRW’s role is as an environmental regulator.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

If you have any queries on the above, please do not hesitate to contact us.

Yn ddifffuant / Yours sincerely

Rhian Isaac

**Ymgynghorydd Cynllunio Datblygu/Development Planning Advisor
Cyfoeth Naturiol Cymru / Natural Resources Wales**