



Brecon Beacons National Park Authority

PLANNING, ACCESS AND RIGHTS OF WAY

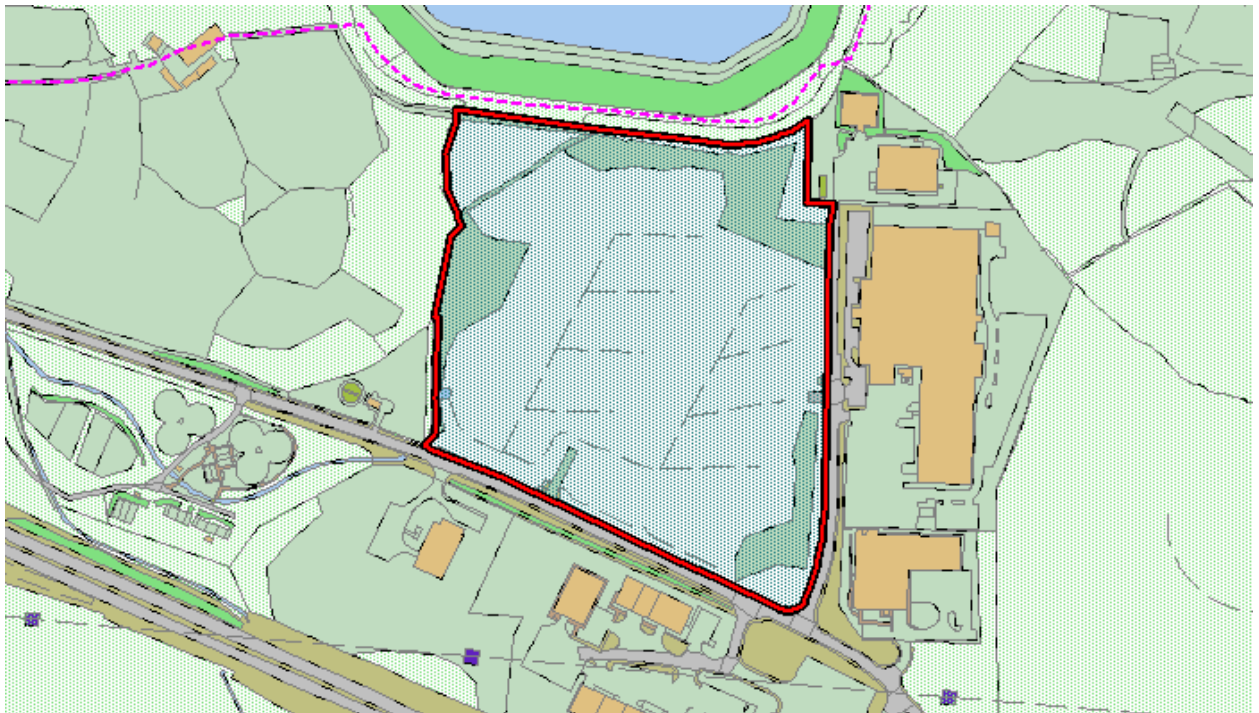
COMMITTEE

**RECOMMENDATIONS OF THE DIRECTOR OF
PLANNING AND HEAD OF DEVELOPMENT CONTROL
ON APPLICATIONS FOR DETERMINATION BY
THE PLANNING, ACCESS AND RIGHTS OF WAY
COMMITTEE**

ENCLOSURE 4

APPLICATION NUMBER: 08/02488/FUL
APPLICANTS NAME(S): Enviroparks (Hirwaun) Ltd
SITE ADDRESS: Fifth Avenue
Hirwaun Industrial Estate
Hirwaun
Aberdare
Mid-Glamorgan
CF44 9YN

GRID REF: E: 293871 N:206810
COMMUNITY: Hirwaun
DATE VALIDATED: 19 December 2008
DECISION DUE DATE: 10 April 2009
CASE OFFICERS: Denis Canney and Paul Rossington.



PROPOSAL Development of a sustainable waste resource recovery and energy production park comprising 26,476m² of buildings and structures, including a 10,240m² building for use class B1/B2 use; process buildings; a gatehouse and weighbridge; a visitor centre and administration building; a 20MW net capacity combined heat and power plant; with a 40m ventilation stack; external anaerobic digestion, liquid and gas holding tanks; 30,352m² of internal roads and hardstandings; vehicular parking; external security lighting; 17,497m² of landscaping; vehicular ingress and egress from Fifth and Ninth Avenues, and associated utilities infrastructure.

ADDRESS Fifth Avenue, Hirwaun Industrial Estate, Hirwaun

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CONSULTATIONS/COMMENTS

Consultee	Received	Comments
Brecon Beacons Park Society		No further comments. See comments dated 20th February 2009.
Brecon Beacons Park Society	20th Feb 2009	Do not object in principle, but note the close proximity of the proposed development to the exceptionally important area of the National Park known as the waterfall country, valued for its outstanding natural beauty. The Society does not have the resources to fully assess what the impacts would be. Although they object to any development that would adversely affect this area in terms of visual impact, air pollution and odour, noise and water pollution. They also state that the application should be refused if there is any likelihood that the proposed development would have an unacceptable impact on, or detract from the enjoyment of, the special qualities, natural beauty and wildlife of this area of National Park.
Caerphilly CBC Highways Caerphilly CBC Planning Policy	3rd Jul 2009	See comments received on 3rd July 2009. No highway concerns. Support from waste management perspective as Wales is currently lacking necessary infrastructure to achieve high landfill diversion and recycling targets. The location is considered such that its proximity to the Heads of the Valleys road would render it suitable for treating waste (municipal, commercial and Industrial) arising in South East Wales and Industrial South West Wales.
Caerphilly CBC Waste Management Carmarthenshire County Council Transport	8th Jun 2009	See response dated 3rd July 2009. No comments. 8.6.09 - The Authority does not have any comments to make on the proposal and cannot confirm whether they have any long term plans to use the facility.
Carmarthenshire County Council Transport	10th Jul 2009	10.7.09 - No observations No Observations
Countryside Council For Wales	16th Feb 2009	Object to the proposal as there is not enough information to assess the possible effects on Blaen

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Countryside Council For Wales	20th Aug 2009	<p>Cynon Special Area of Conservation (SAC), Brecon Beacons SAC, Coedydd Nedd a Mellte SAC, Cwm Cadlan SAC, River Usk SAC and 21 Sites of Scientific Interest (including component SSSI of the above SAC's).</p> <p>Since the EPR decision will require assessment of acceptable new atmospheric loadings and is subject to regulation 48 of the Habitats Regulations (as amended), CCW is confident that the adverse effect to the integrity of any SAC, and significant adverse effects to any SSSI, can be avoided and that there is a legal and enforceable framework in place via the EPR permission to ensure this.</p> <p>CCW therefore withdraws its holding objection.</p> <p>It may be prudent for the applicant to identify and implement management measures that will produce a definite enhancement of the Blaen Cynon SAC marsh fritillary metapopulation. This could be taken into account in the Habitat Regulations assessment at the EPR stage, and may therefore assist in the identification of the most appropriate abatement approaches.</p> <p>In any case, biodiversity planning obligations would be required by the NPA under the planning obligations strategy and it is recommended that biodiversity enhancements are sought.</p>
Dwr Cymru Welsh Water (Hyder Consulting)	14th Jan 2009	<p>Concerns raised regarding the impact of the development on Penderyn Reservoir and Dwr Cymru Welsh Water require data regarding the order of magnitude of contaminant concentrations within rainfall at ground level. Therefore Dwr Cymru Welsh Water have a holding objection on the application until concerns have been addressed.</p>
Dwr Cymru Welsh Water (Hyder Consulting)	28th Aug 2009	<p>Following detailed discussions with the applicant and the appointment of Environmental Consultants to advise on the scientific and technical information supplied by the applicant, DCWW is now in a position to withdraw the objection on the basis that the attached Heads of Terms will form the basis of the clauses to be incorporated in the S106 Agreement.</p>
Dwr Cymru Welsh Water (Hyder Consulting)	9th Oct 2009	<p>Objection withdrawn pending satisfactory S106 to protect Dwr Cymru asset at Penderyn Reservoir.</p>
Environment Agency Wales	1st Apr 2009	<p>Object to the proposed development for the following reasons:</p>

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1) Biodiversity: the proposed development would have an adverse impact on nature conservation and in adequate mitigation/compensation measures have been proposed.

The site is located adjacent to the Blaen Cynon SAC. and as submitted, the proposals would result in an unacceptable impact on nature conservation. It should be noted that it may be possible to overcome this objection, if the developer was prepared to amend the application to provide a suitable level of mitigation/compensation measures. This could be through both on and off-site proposals and could include works to improve the condition of the SAC itself.

2) Land affected by contamination/protected contamination: insufficient information has been provided to enable the risk to controlled waters to be properly assessed.

There is still some uncertainty on the risks to controlled waters from the proposed development. Section 11.100 states that no historical information on groundwater quality is available, however, recent sampling and analysis has been undertaken. This information has not been supplied and without it the EAW cannot determine the risks. This information should be submitted at the earliest opportunity.

The EAW also offer advice on other matters relevant to the application relating to: waste, flood risk, water resources and the Environmental Permitting Regulations 2007.

Ultimately, should planning permission be granted, the EAW are reliant upon the imposition of conditions to control the potential impact to controlled waters and the wider environment.

1) Atmospheric Pollution Impacts on the Blaen Cynon SAC.

The concern is that increases in acidic and nutrient deposition as a result of locating the development here could have a significant impact upon the SAC and its features, in particular the Marsh Fritillary Butterfly.

The EAW are disappointed that the additional information submitted does not contain detailed input and output data, including contour maps. This

Environment Agency 12th Jun 2009
Wales

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information, if submitted would enable us to gain a better understanding of the modelling undertaken. In turn, this would inform whether the outputs of the model are representative which would then allow the EAW to comment on the impact of emissions on the Blaen Cynon SAC.

EAW are unable to reconsider the objection without this information.

2) On-site habitat mitigation and compensation.

This issue appears to have been resolved subject to more information being submitted. This information relates to mitigation and compensation for the on-site loss of marshy grassland habitat. The compensation measure would be a financial contribution to Butterfly Conservation towards their strategic work on the 'shimmering Rhos Pastures'.

3) Risks to controlled waters from land potentially affected by contamination.

EAW are in a position to remove the objection in relation to this matter subject to the imposition of conditions intended to ensure the management of the risks to controlled waters.

Environment Agency 3rd Aug 2009
Wales

1) Atmospheric pollution impacts on the Blaen Cynon SAC.

Since the previous correspondence (12.06.2009), EAW have received and reviewed further technical information to enable the assessment of the modelling methodology used by the applicant. The conclusion is that the applicant's modelling methodology is fit for purpose. The model outputs predict that process contributions of greater than 1% are very likely at the Blaen Cynon SAC. This will have implications at the Permitting Stage and require the submission [at the EPR stage] of further information and proposals regarding the appropriate technical solutions to control emissions to an acceptable level.

2) On-site habitat mitigation and compensation.

The matter is progressing. EAW are of the understanding that the contributions will be secured by a S106 Agreement. Subject to this being signed, the EAW will remove the objection on this matter.

3) Risks to controlled waters from land potentially affected by contamination.

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Recommend conditions relating to: the submission of a risk assessment, site investigation scheme, remediation measures, verification plan, verification report demonstrating the completion of the works in line with approved remediation strategy, reports on monitoring and maintenance and any contingency action, piling and foundation designs and, finally, contamination.

	24 th Sept 2009	Further correspondence between EAW and Officers confirm issues to be dealt with under EPR will include noise, odour, type of waste, materials stored outside of buildings and any concerns regarding emissions effects to public health and animals.
Glamorgan Gwent Archaeological Trust	29 th Oct 2009	No recorded features or finds in the area. No objections to the positive determination of the application.
Health And Safety Executive	12 th Jan 2010	PADHI+ consultation response – HSE do not advise against the development. As the proposed development is within the Safeguarding Zone of a licensed explosives site, the full details of the consultation including any plans, drawings etc must be forwarded to HSE's Explosive Inspectorate for their consideration. (*NB: Full details sent to HSE explosives inspectorate on the 12 th January 2010).
	22 nd Mar 2010	The proposed development does not fall within the consultation distance for the explosive facility at Llwynich Farm, Penderyn, Hirwaun, therefore the Explosive Inspectorate have 'no comment' to make.
Hirwaun Community Council Hirwaun Community Council	14 th Jan 2009	No further comments. See comments dated 14 th January 2009. Opposed to the proposal for the following reasons: - Environmental damage from noise and air pollution caused by the additional volume of heavy goods vehicles travelling to and from the site - The main arterial access road to the site (A465) is inadequate for the anticipated increased volume of traffic. The proposed dualling of the A465 is not proposed until 2014 and in its present form would result in a diversion through Hirwaun Village which, as recent accidents have shown, causes gridlock throughout the village. - The proposed dualling of the A465 is estimated to take up to 6 years, which would take the inadequate road facility up to 2020.

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Merthyr Tydfil CBC Waste Management	8th Jun 2009	<p>State that it is not possible to say at this moment in time whether any waste will be transported to this proposed facility as the procurement process has still some way to run. Full details have not yet been discussed or agreed as to the preferred site location of the successful bidder.</p> <p>MTCBC cannot provide any further information on the matter.</p>
Neath Port Talbot CBC Planning	15th Jun 2009	<p>Council will forward observations to your authority within 14 days</p>
Neath Port Talbot CBC Planning	9th Sep 2009	<p>No objection subject to the following:</p> <ul style="list-style-type: none">- condition requiring any contract to dispose of waste which results in transportation through Neath Port Talbot CBC be subject to a Transport Assessment.- details requested regarding the volume of waste to be sourced from our region.
NP Ecologist	14th Oct 2009	<p>The ecologist/conservation officer has been heavily involved in advising the National Park Authority throughout the course of its determination of the Enviroparks application. This advice has extended across a wide range of issues arising from the development, notably potential impacts on neighbouring SAC/SSSI habitats, Habitats Regulations Assessment in relation to the neighbouring SACs, impacts on protected species and UK BAP habitats/species, impacts on adjacent public drinking water supplies, and the drafting of conditions and planning obligations to mitigate and compensate for the recognised impacts and secure biodiversity enhancements.</p> <p>On the basis of my knowledge of the proposed development and the advice of the statutory consultees (CCW and EAW) it is my opinion that the provided all the appropriate conditions and obligations, which have already been recommended by myself and other parties, are secured by the National Park Authority the proposed application will not have a significant adverse effect on the biodiversity interests of the National Park.</p> <p>I remain willing to provide further support to the Authority to finalise all remaining conditions and planning obligations if planning permission is forthcoming</p>

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NP Head Of Strategy
And Policy

1st Sep 2009

The Policy position from the TAN, the RWP, the UDP and the Local Plan is that the National Park should be excluded from the area of search for a regional waste facility. The development plan makes provision for proposals to deal with waste arising from within the Park. An important Policy issue for consideration in determining the application is whether the proposal is a regional waste facility or a local facility? To be a local facility the waste arising to be dealt with in the proposal should be mainly from within the Park. The application suggests waste will be delivered from within a 30 km radius. Given the location of the facility there will be a significant area outside the Park from where the waste will come. I am not aware of any discussions that have taken place with Powys County Council or other County Boroughs as to whether they see any of their regions waste using this facility. The proximity principle will have to be considered.

A further Policy issue which needs to be addressed is the availability of other sites outside the National Park. The applicant does not appear to have demonstrated that any other sites have been considered for this facility

However the RWP also states in para. 12.4.14 that sites on the edge but within National Parks may be acceptable in exceptional circumstances. The proposed facility is literally on the border of the southern boundary of the National Park on land allocated for industrial use, in an industrialized landscape, and therefore could be considered as an exceptional circumstance. The proximity issue would still have to be bottomed out.

In considering the Policy issues it is suggested that while the above issues are important and require clarification it will be other matters that are going to be crucial in deciding whether this proposal is acceptable. In particular, the effect of emissions on SAC's and SSSI's, the impact on the landscape of the National Park, and the transport implications.

No adverse comments. FP 15 to rear of site.

NP Rights Of Way
Officer
Rhigos Community
Council

8th Sep 2009

8th Jun 2009

Object for following reasons:

- 1) pollution as a result of the reclamation process
 - 2) discharge from the fume stack
 - 3) future processing of hazardous/toxic waste
 - 4) massive increase in lorry traffic from A465 Heads of the Valleys road to Hirwaun Industrial Estate.
- 300 letters of objection have been sent by residents

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Rhondda Cynon Taf CBC Environmental Health	21st Oct 2009	<p>to RCT to date.</p> <p>The issues relating around, noise, odour and emissions will be controlled by the EPR Permit and the conditions will be determined by the EPR team within the Agency.</p> <p>I would confirm that should the high energy user not be found and the subsequent building not built within 3 Years that it would be prudent to impose a condition or an element in the I06 requiring a further noise assessment and the undertaking of any works recommended.</p> <p>The issue of the piling can be dealt with by an informative as all that is required is a notification of the activity rather than conditions to control the activity.</p> <p>Noise conditions not recommended or considered necessary since covered under EPR control.</p> <p>The issue of odour is one that can be covered by the EPR however, an odour management plan planning condition is advised to deal with "low level issues" that may arise.</p>
Rhondda Cynon Taf CBC Highways	28th May 2009	Comments superseded by letter received on 3rd June 2009.
Rhondda Cynon Taf CBC Highways	3rd Jun 2009	No highway objection but No. 8 conditions recommended relating to visibility splays, no obstruction of visibility splays, engineering and design details of new junction off Fifth Avenue and Ninth Avenue, reinstatement of Fifth Avenue, submission of a swept path analysis, parking layout, submission of a construction method statement and a travel plan.
		<p>Notes are added to tie the developer into legal agreements to make a financial contribution of approximately £20,000 towards improving and upgrading existing public transport infrastructure in relation to 3 nearby bus stops. The developer would be required to make financial contributions towards increasing the existing bus service frequency for a period of 5 years. The developer will be required to enter into a legally binding agreement to secure the proper design and implementation of the proposed works to the existing highway including an appropriate bond.</p>
Rhondda Cynon Taf	21st Oct 2009	Revised comments recommending standard highway

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CBC Highways

conditions and legal agreement.

i) The developer would be required to enter into a legally binding agreement (s106 of the Town and Country Planning Act) to provide a Green Travel Plan which sets out proposals and targets together with a timescale, to limit or reduce the number of single occupancy journeys to the site and to promote travel by sustainable modes of travel that are acceptable to the local planning authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary of the date of the planning consent to the Highway Authority. The financial penalties to be applied for non-compliance with the targets set out in the Green Travel Plan should be £90,000.ii) The developer would be required to make a financial contribution of £18,000 towards improving and upgrading existing public transport infrastructure in relation to 2 nearby bus stops including the provision of raised kerbs, shelters, flagpoles etc. and their future maintenance (£7,000 plus £2,000 future maintenance for each stop).

iii) The Highway Authority will require the Developer to enter into legally binding agreements to secure the proper design and implementation of the proposed works to the existing highway including an appropriate bond.

A Transport Assessment has been submitted and reviewed. It has been confirmed that the proposal would not have a detrimental impact on the highway network.

The proposed development is providing 225 parking spaces, as indicated on the submitted layout plan, for approximately 200 full-time jobs. This provision is considered slightly short by 16 spaces based on the South Wales Parking Guidelines. However, considering the contributions to be made in respect of the improvements to public transport infrastructure and the provision of a Travel Plan with a mechanism to ensure compliance with meeting targets as set out for alternative modes of travel, on balance, no highway objections have been raised and this is reflected in the above highway observations.

This supersedes previous comments dated 13/05/2009 in light of officer negotiations and further discussions with the developer.

No response.

Rhondda Cynon Taf
CBC Planning Policy

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Torfaen CBC Highways	4th Jun 2009	Acknowledge receipt, observations will be forwarded to you as soon as possible
Torfaen CBC Highways	13th Jul 2009	No adverse comments
Torfaen CBC Planning And Public Protection	4th Jun 2009	Acknowledge receipt of the consultation. Observations will be forwarded as soon as possible.
WAG Transport Directorate	29th Jan 2009	Comments as per 19.01.09
WAG Transport Directorate	19th Jan 2009	No comments or objections. " Brought to attention by South Wales Trunk Road Agency and would advise that the Welsh Ministers have no comments to make or objections in respect of this proposal"
WAG Transport Directorate	5th Jun 2009	No objections or comments.

CONTRIBUTORS

T Lewis, Tai Cwplau Farm, Halt Road
Mr And Mrs G Evans, Trigfan, 8 Halt Road
Mr And Mrs Rooke, Maesglas Farm, Rhigos Road
W A Poole, Tre Banog Isaf Farm, Halt Road
F J Munson, Underwood Lodge, Pontpren
P M Wardle, Penderyn Neighbourhood Watch, 6 Bryn Onnen
Mr E J Jenkins, 28 Woodland Park, Penderyn
Mr Grant Hughes, Rapidgrid Ltd, Y Graig, , 16th Avenue, Hirwaun Industrial Estate
Mr Shane Clark, Eden Shelving, 9th Avenue, Hirwaun Industrial Estate

NEIGHBOUR/THIRD PARTY RESPONSE SUMMARY

The application has been the subject of publicity via press advert in accordance with the regulations and as an EIA development, development affecting a footpath and under the Departure Regulations. A number of site notices were erected at the site and over 70 individual consultation letters were sent out by the Authority to nearby addresses. The application has been the subject of formal consultation exercises on two separate occasions – Dec.08 and Oct. 09.

In response to formal BBNPA consultation periods, seven letters of objection have been submitted from residents in Halt Road and surrounding farms and dwellings. The summary of the objections to the application is as below:

- air pollution;
- concerns over the safety of new technologies;
- contamination of land;
- devaluation of property;
- detrimental impact upon quality of life;
- eager to be assured that sound monitoring will continue;
- effect of noise and activity particularly during construction;
- health problems resulting from air pollution to local residents and farm animals;
- heavy traffic and highway safety;
- on-site safety concern – on-site 'fire brigade' suggested;

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- pollution from the increased volume of traffic;
- proposed exhaust stack is extremely low and will cause low level pollution;
- proximity of the Site to the reservoir and any potential seepage;
- scepticism of safety measures;
- smells;
- visual amenity of the National Park;
- waste from outlying areas of South Wales will be transported to the site.

The Penderyn Neighbourhood Watch have also objected for the following reasons:

- The planned very large building is reported to overflow onto rural land. This area is of particular beauty being within the National Park
- The local highroads are of insufficient capacity to accommodate the proposal.
- Concerns regarding air pollution caused by the increased numbers of heavy vehicles.

Officers would comment that in response to the above objections most aspects referred to have been addressed and considered above and the planning consideration part of this report. However, it is important to confirm that:

1. With regard to the impacts on fauna and flora, CCW is confident that the adverse effect to the integrity of any SAC, and significant adverse effects to any SSSI, can be avoided and that there is a legal and enforceable framework in place via the EPR permission to ensure this. EAW through the EPR process will consider and have regard to matters relating to operational air emissions, noise, odour, waste input and storage of materials inside and outside of the buildings. Because of the control via the EPR noise will not be enforced by the LPA. Impacts to local biodiversity interests will be addressed by mitigation, compensation and enhancement measures subject to the controls via the planning conditions and Section 106 agreement.
2. Noise from construction operations may include piling, machinery and traffic movements. Both of these are proposed to be controlled via planning condition including Construction Method Statement and construction hours of operation and relevant Informative to developer confirmed by RCTCBC Environmental Health.
3. Safety concerns would be controlled by the Health and Safety Executive.
4. Contamination of land within the existing site would be controlled by planning condition as required by EAW. The EPR process would control potential pollution from the operation.
5. The WAG Transport and RCTCBC Highways have raised no objections regarding highway safety and capacity issues for heavy traffic using the site. RCTCBC highways have recommended planning conditions to control matters relating to highway safety and also a Section 106 agreement relating to Green Travel Plan and existing bus stop upgrade.
6. DCC have raised no objections to the scheme relating to the structural integrity of the reservoir or seepage from the site to the reservoir.
7. The stack is considered to be of an acceptable height and has been designed

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to minimise the risk of pollution. The EPR process will control emissions to that of an acceptable level minimising impact on fauna and flora.

8. Given the location and design it is not considered that there is a detrimental visual impact on the protected landscape of the National Park. The buildings will not “overflow onto rural land” as it is within identified industrial land within the Hirwaun Industrial Estate.

9. Officers do not consider that the development of this part of the Hirwaun Industrial Estate will cause a devaluation of nearby residential property and such a matter is not considered to be a material planning consideration.

It is considered the quality of life of nearby residents would not be detrimentally affected by the development proposed, subject to the controls via the EPR process, planning conditions and legal agreements.

Members are made aware by officers that the neighbouring Local Planning Authority (LPA), RCTCBC has received considerably higher levels of response to their formal consultation process in relation to the application covering the part of the development site in their area. Since the decision by RCTCBC, your Officers have recently received a number of further letters of objection. Whilst these letters have clearly not been received in connection with our formal consultation process, they are summarised here for Members consideration:

Contributor:

Mr J Morgan, 11 Smiths Avenue, Cefn Rhigos
Mr M Jones, 32 Woodland Park, Penderyn
Mrs Woodrow, 5 Woodland Park, Penderyn
Mr W Bethell, Maesygarreg, Penderyn
Mr D T S Oliver, no address given
Mrs T Harris, Pendarren House, Heol y graig, Rhigos
Mr W C Harris, Pendarren Farm, Heol-y-Graig, Rhigos
Mr & Mrs Lambert, 9 Halt Road, Rhigos
C M Hinwood, 1 Maes Rhydwen Flats, Windsor Street, Trecynon, Aberdare
Mrs L Evans, 41 Longmeade Park, Rhigos
L Harris, 11 Heol Escryn, Rhigos
M M Morze, Calfaria Cottage, Cwm Isaac, Heol-y-Graig, Rhigos
Mr & Mrs Lambert, 10 Halt Road, Rhigos
Mrs T Davies, 8 Heol Pendaten, Rhigos
Mr C Davies, 4 Heol Pendarren, Rhigos
E Woods, 4 Halt Road, Rhigos
D L C Richards, Maes-y-Meillion, Heol Pendarren, Rhigos
G Jeffries, 15 Cornerhouse Street, Aberdare
C W & J A Newman, 11 Hall Road, Rhigos
Mrs N E Mealing, 12 Bankes Street, Aberdare
T Smith, 54 Heol Esgyn, Rhigos
M Smith, 54 Heol Esgyn, Rhigos
J Jones, 8 Halt Road, Rhigos
J Davies, Crud y Awel, Pont Pren, Penderyn
J L Jones, 8 Halt Road, Rhigos

V Morgan, no address given
K W Donovan, 18 Halt Road, Rhigos
Mr & Mrs D Jones, 13 Craig y Darran, Cwmdare
G Grand, Mountain View Bungalow, Hirwaun Road, Hirwaun
I Evans, Pinewood, Heol-y-Graig, Rhigos
L J Davies, 7 Heol Pendarren, Rhigos, Aberdare
Mr D John, 16A Halt Road, Rhigos
Mrs K Jenkins, 16 Halt Road, Rhigos
Mr T E Jenkins, 16 Halt Road, Rhigos
Lynne Mears, 13 The Willows, Landare, Aberdare
L Ridge, 8 Woodland Park, Penderyn
Mrs P A Oliver, Maes-yr-Haf, 5 Heol-y-Graig, Rhigos
S Evans, 27 Greenways, Abernant
G Morris, 2 Heol Pendarren, Rhigos
Mr J D Heath, 7 Margaret Street, Aberaman
Mrs J Harris, Maesyffynnon House, Nant Road, Rhigos
Mr A Tobin, 9 Cwrt Twyn Rhyd, Rhigos
J Edwards, 28 Haulwen, Cwmdare

The issues raised in these objections are;

- emissions into the air
- contamination of water due to its close proximity to the reservoir
- effect of wildlife
- impact on tourism
- loss of habitat
- health issues
- environmental pollutants

Officers would comment that in response to the above objections most aspects referred to have been addressed and considered in the earlier parts and planning consideration of this report.

Two written correspondences in support of the application have been received from businesses on the Hirwaun Industrial Estate. Both welcome the development for its economic, environmental and job creation benefits to the area.

RELEVANT POLICIES

G3: “*Development in the National Park*” (Unitary Development Plan 2007)

G6: “*Design*” (Unitary Development Plan 2007)

PIP2: “*Part 1 Policy 2 Biodiversity and Earth*” (Unitary Development Plan 2007)

Q1: “*Sites of European Importance*” (Unitary Development Plan 2007)

Q2: “*Sites of National Importance*” (Unitary Development Plan 2007)

Q3: “*Sites of Importance Nature Conservation*” (Unitary Development Plan 2007)

Q4: “*Protected and Important Wild Species*” (Unitary Development Plan 2007)

PIP8: “*Part 1 Policy 8 Sustainable Energy*” (Unitary Development Plan 2007)

SI1: “*Biomass Energy*” (Unitary Development Plan 2007)

H2: “*Development and the Risk of Flooding*” (Unitary Development Plan 2007)

H3: “*Reducing the Risk of Flooding*” (Unitary Development Plan 2007)

- SI3:** “Waste Development Serving the Region” (Unitary Development Plan 2007)
- SI4:** “Waste Development Serving the Park” (Unitary Development Plan 2007)
- QI0:** “Nationally Import. Archaeological Remain” (Unitary Development Plan 2007)
- QI1:** “Sites of Archaeological Importance” (Unitary Development Plan 2007)
- QI2:** “Archaeological Evaluation” (Unitary Development Plan 2007)
- LPWP1:** “Policies for waste disposal.” (Local Plan 1999)
- LPWP2:** “Policies for waste disposal.” (Local Plan 1999)
- LPG3:** “Development in the National Park.” (Local Plan 1999)
- LPCL3:** “Wildlife and landforms.” (Local Plan 1999)
- LPCL4:** “Wildlife and landforms.” (Local Plan 1999)
- LPCL5:** “Wildlife and landforms.” (Local Plan 1999)
- LPCL6:** “Wildlife and landforms.” (Local Plan 1999)
- LPCL7:** “Wildlife and landforms.” (Local Plan 1999)
- LPPU3:** “Energy Generation” (Local Plan 1999)
- LPG7:** “Design and energy conservation.” (Local Plan 1999)
- LPRI2:** “Cycling and walking.” (Local Plan 1999)

PLANNING HISTORY

App Ref	Description	Decision	Date
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There is no relevant planning history to this proposal.

OFFICER’S REPORT

INTRODUCTION

Enviroparks (Hirwaun) Ltd (EHL) has submitted a planning application for a waste recovery and energy production plant at Hirwaun Industrial Estate, Hirwaun. The application was accompanied by an Environmental Statement (ES) as required by the Environmental Impact Assessment Regulations 1995 (EIA Regs). The application Site is a cross boundary site and falls within the planning authority areas of both Brecon Beacons National Park Authority (BBNPA) and Rhondda Cynon Taf County Borough Council (RCTCBC). The application is therefore being considered by both BBNPA and RCTCBC as two separate planning applications.

This Report will assess the proposed development as submitted by the Applicant in light of National and Local planning policy context. Whilst this report is a development control report, the assessment of the proposals has involved high levels of input from a number of BBNPA staff including Policy, Legal and Ecology Officers as part of a corporate project team approach to this complex application.

SITE LOCATION

The Site lies within the Hirwaun Industrial Estate, to the north of the A465 ‘Heads of the Valley’ east-west trunk road, and close to its junction with the A4059/A4061 north-south route between Brecon and the Rhondda Valley. Road access to the site

is gained from the A465(T) Heads of the Valley road via the A4061 Rhigos Road at two locations, which lead onto Fifth Avenue. The Site has existing road access from Fifth Avenue to the south and Ninth Avenue to the east.

The Site is located in an area of varied terrain. Whereas the Hirwaun Industrial Estate occupies a generally level area of land, the Site rises gently to the south/east, and more steeply to the east/north. Established land uses in the locality are also diverse, with a variety of manufacturing, storage and waste reclamation activities taking place on the Hirwaun Industrial Estate, and with a large area to the south-east of the Hirwaun Industrial Estate occupied by the workings of the former Tower Colliery (closed in 2008).

Across Ninth Avenue from the Site stand large industrial buildings, manufacturing shelving and fixtures for the retail industry. On the southern side of Fifth Avenue to the south-east of the Site there is a waste wood processing and storage yard. The area to the north and west of the Site is more rural in character, comprising woodlands and well-defined fields used for pasture.

To the north of the Site is the Penderyn reservoir, a lake formed by high artificial embankments. In addition to the reservoir there are operational treatment facilities and a pumping station at the northern end of Ninth Avenue and on both sides of Fifth Avenue to the south-west of the Site.

The boundaries of the Site are clearly defined on the ground, comprising Fifth Avenue to the south, Ninth Avenue to the east, a woodland screen below the reservoir embankment to the north, and wooded hedgerows on the western side. A stream on the western side of the Site flows into the River Camnant nearby. A public footpath (FP15) runs along the border of the site and at its rear between the Site and the reservoir embankment.

The Site is roughly square in shape and approximately 8.5 hectares in area. In general the Site comprises flat grassland with scrub vegetation. The Site has a well-defined network of drainage ditches in a regular herringbone pattern. It is understood that the Site was prepared for development by the former Welsh Development Agency approximately a decade ago. During the Second World War the Site was used in association with a factory that made brass shell and bullet cases for munitions. The Site is therefore considered to be previously developed land, and ground investigations have identified made-up ground overlying the natural geology. The Site is still in public ownership (Department for the Economy and Transport, WAG).

DEVELOPMENT DESCRIPTION

The planning application comprises the development of a sustainable waste resource recovery and energy production park comprising 26,476m² of buildings and structures, including a 10,240m² building for use class B1/B2 ('B1/B2 Unit'); process buildings; a gatehouse and weighbridge; a visitor centre and administration building; a 20MW net capacity combined heat and power plant; with a 40m ventilation stack; anaerobic digestion plant; liquid and gas holding tanks; 30,352m² of internal roads and hard standings; vehicular parking; external security lighting; 17,497m² of landscaping;

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vehicular ingress and egress from Fifth and Ninth Avenues; and associated utilities infrastructure.

The Applicant states that the proposed development would:

- sort the waste materials that arrive at the Site efficiently to extract recyclable materials, and preparing the feedstock for further processing. This takes place in what is called a 'fuel preparation area';
- use five technologies in an interlinked manner to process the remaining or 'residual' wastes and recover energy.

The five processes are as follows:

1. Biomax separator process that produces oil similar to a biodiesel from organic materials such as waste food, and other food industry products.
2. Anaerobic digestion, in which biomass waste is placed in sealed tanks and warmed and stirred in the absence of oxygen. This process removes most of the smells and unhealthy 'pathogens' from the waste and provides a useful energy source in the form of methane gas.
3. Pyrolysis, in which solid organic wastes are converted to a useful fuel gas under high temperatures and in the absence of oxygen.
4. Plasma Gasifier process in which materials are converted to simple gases and an inert, glass-like residual solid material that can be used as an aggregate in construction.
5. Energy Production - the liquid and gas-based fuels produced through these processes would then be used to run engines that would generate heat and electricity. These would be located in the proposed 'engine house'. Some of this recovered energy may be used by the proposed B1/B2 Unit. The Applicant has stated that it has received interest from potential 'high energy users' (HEU) – a manufacturing employer with high energy needs, occupying an industrial unit proposed in the northern part of the Site.

The Applicant states the proposed development at Hirwaun Industrial Estate is intended to be the first in a series of such projects across the UK. The Applicant states that it wishes to use this Site as a showcase for its resource management approach, to which end it is claimed the various processes described will be accommodated in buildings of bespoke architectural design in a landscaped setting.

The Applicant states that the buildings on the Site have been designed to achieve environmental standards classified as 'excellent' under the Building Research Establishment Environmental Assessment Method (BREEAM).

The proposed development includes a visitor centre designed to accommodate visiting parties from organisations such as schools and colleges. The design of the site will allow these visitors and other interested parties to be given an educational

tour of the facility, enabling them to see the various recovery and recycling processes at close quarters.

The Applicant states that the annual waste throughput of the Site is unlikely to exceed 250,000 tonnes with electricity exported to the local electricity distribution network from the Site predicted to be in the region of 160,000 megawatt-hours (MW/h) of electricity per year based on the maximum throughput described above. This is sufficient electricity to power approximately 40,000 homes.

The Applicant states recyclable materials or 'recyclates' recovered on the Site will include metals, plastics, and aggregates including glass. The proposed development is designed to optimise both the quality and quantity of these recovered recyclates. The Applicant estimates that the overall development, including the B1/B2 Unit/potential HEU, will generate approximately 200 full-time jobs or their equivalent.

It should be noted that the proposed development is intended to be completed in phases. The initial phase would see construction and operation of the fuel preparation area, Biomax, anaerobic digester and pyrolysis installations together with access infrastructure for the Site. The subsequent phase would seek to develop the plasma gasifier facility, and the B1/B2 Unit.

Without the B1/B2 Unit, the Applicant has indicated that there would be approximately 100 jobs created.

PLANNING CONSIDERATION

In assessing the planning application, views have been sought from a wide range of statutory and non-statutory consultees. Due to the complexity of the application and nature of the proposed development, it has proved necessary for Officers to engage in extensive discussions with officers from RCTCBC, Countryside Council for Wales (CCW), Environment Agency Wales (EAW) and Dwr Cymru Cyfngedig (DCC).

The Applicant states that the central objective of the proposed development is to operate a series of advanced waste resource management processes in one place so that they can recover as much material and energy as is currently possible under closely-controlled environmental conditions. The Applicant identifies that many waste processing technologies such as incineration which combust a large proportion of recyclable material and leave a substantial volume of ash or other material that is typically disposed of to landfill. By contrast, the Applicant's concept aims to employ a series of alternative technologies that extract the full recyclable value from the waste stream, and which it is claimed are capable of leaving only 2.5% of the original material for final disposal to landfill."

During discussions with your Officers, the Applicant's agents have been keen to encourage consideration of this proposal as an enviropark whereby waste operation, generation and high-energy industrial user are symbiotic and complementary in nature. Whilst in theory, the B1/B2 high energy user and the waste facility could develop both separately and independently of each other, there are sustainability

advantages to planning and combining these together into the Enviroparks concept. That the boundary of the National Park runs through the centre of the site gives added complexity to this proposal with the necessity for the applicants to make a separate application to RCTCBC and BBNPA. Officers consider, in planning terms, that this application is for a waste management, energy generation from waste and an industrial facility on an allocated industrial estate within the National Park and in the immediate vicinity of a European designated site for nature conservation. Whilst each LPA is duty bound to consider and determine only the application within its own boundaries and can come to reach separate and possibly differing decisions, clearly the development proposed as shown requires a planning consent from both LPAs in order to be implemented. Thus, the consideration of the development as a whole is material in planning terms.

This Report appraises the application in the context of Planning Policy, sustainability and all other material planning considerations. The main issues for Members' consideration are, in the opinion of your Officers:

1. Policy Context and the principle of the development;
2. Environment, Nature conservation and Ecology;
3. Water and other Pollution Concerns;
4. Analysis against other considerations including Archaeological Conservation, Rights of Way, Landscape Impact and Design amongst other issues;
5. Transport; and
6. Section 106 Agreement.

1. POLICY CONTEXT

The following section of the report gives a summary of the main policy considerations in connection with appraising the principle of this application, though policy in connection with detailed issues of ecology/nature conservation and design/landscape are considered in greater depth in following sections of the report.

International & National Policy

National Park designation confers the highest status of protection as far as landscape and scenic beauty are concerned. The strategic approach of the BBNPA requires that the consideration of all development proposals gives great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park. All development proposals should take account of the National Park's designation and the well expressed statutory purposes which are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and to promote opportunities for the public understanding and enjoyment of the special qualities of the National Park. PPW 2002 and Part I policy I of the UDP express this highest level status and assessment need.

If the special qualities of the National Park are to be protected, careful control needs to be exercised over development that straddles the National Park boundary or is

conspicuous from within the National Park.

Officers consider that the thrust of International and National legislation and policy is to limit the factors contributing to climate change, including finding alternative methods of waste management.

The Applicant has summarised the international and national policy context in the supporting document entitled Planning Policy Statement submitted with the ES. The Applicant states that the proposed development at Hirwaun Industrial Estate would be consistent with a wide range of International, European, UK and Welsh environmental, waste and energy policies.

European Policies

The Waste Framework Directive

Article 5 of the Directive requires member states to establish an adequate network of integrated waste management facilities and to produce waste management plans to demonstrate the location of sites as close to the source of waste as possible. Article 7 requires a Local Authority (LA) to identify sites for waste management facilities using recognised site selection criteria.

The Landfill Directive

The Directive includes the requirement on member states to reduce the amount of biodegradable waste sent to landfill. It also requires local authorities to assist in developing local industries that can use recovered materials.

Officers concur in general with the assertions made by the Applicant in relation to the International and European policies. National and Local policies are considered in greater detail in the remainder of the Report.

National Policies

National planning, waste and renewable energy guidance in Wales comprises the Wales Spatial Plan (2008) (WSP), The National Waste Strategy for Wales: Wise About Waste (2002), Planning Policy Wales (2002) (PPW), Ministerial Interim Planning Policy Statements (MIPPS) and Technical Advice Notes (TANs). These must be taken into account by Local Planning Authorities (LPAs) in the preparation of Development Plans in Wales and are material to decisions on individual applications and appeals.

Wales Spatial Plan (2008) (WSP)

As required by Part 6 of the Planning and Compulsory Purchase Act 2004, the WSP is a spatial expression of the Welsh Assembly Government's (WAG) policies for development, and provides the context for major decisions and the allocation of resources. The WSP seeks to ensure that development is both coherent and sustainable.

The Applicant states "the EHL proposals provide an early opportunity to meet a range of environmental, economic and regeneration objectives contained in the

Wales Spatial Plan.”

In terms of economic change, the WSP identifies the Heads of the Valleys area as a more deprived part of the greater capital region of South Wales, with higher rates of economic inactivity. Initiatives to foster regeneration in the area have included the generation of new employment opportunities. The proposed development is expected to create up to 200 jobs (phase 2) or in the shorter term 100 jobs without phase 2. This is claimed to act in support of the WSP's regeneration objectives. It should be noted that the BI/B2 Unit in phase 2 is estimated to require 100 employees. Until the BI/B2 Unit is operational, if at all, this cannot be confirmed. Dependent on the type of business carried out at the BI/B2 Unit, there may be more or less than 100 jobs created.

Officers consider that the development, in seeking to manage waste to minimise landfill disposal and create energy could contribute positively to the environmental, objectives of the WSP. The economic and regeneration contribution is less clear since this relies largely on the ability of the scheme to deliver the High Energy User. Nonetheless there will be some job creation in the waste management section and regeneration benefits of the scheme located as it is on a vacant site within an allocated industrial estate and of course additional short term job creation during the construction of the development.

The National Waste Strategy for Wales: Wise About Waste (2002)

The Strategy identifies policies for waste management at a national level, including targets and the actions to meet them. The primary targets include: reducing the amount of waste produced by public bodies; recycling and composting targets for each LPA; improving the segregation of hazardous waste. Secondary targets include: the reduction of household waste; encouraging the business sector to create waste minimisation targets; diverting waste from landfill; reducing the amount of hazardous waste produced; reuse and recycle construction and demolition waste wherever possible.

Officers consider that the proposal contributes to the stated aims of The National Waste Strategy for Wales.

Planning Policy Wales (2002) (PPW)

PPW sets out WAG's planning objectives in more detail. Underpinning the document is an approach of “planning for sustainability”, in line with WAG's duties under Section 121 of the Government of Wales Act 1998.

Section 5.5 deals with ‘Development Control and the Conservation and Improvement of the Natural Heritage’. It emphasises that it is important in the interests of sustainable development to balance conservation objectives with the wider economic needs of businesses and communities. A LPA should take reasonable steps to safeguard and enhance the environment in the determination of any planning applications. It acknowledges however that the adverse effects on the environment of a proposal could outweigh the other material consideration and should be refused on those grounds.

PPW goes on to say in Paragraph 5.5.6 that in National Parks special considerations apply to major developments that are more national than local in character. Major developments should only take place in National Parks in exceptional circumstances which could include an overriding public interest and there is no potential for the development being located elsewhere or the need met in another way. It suggests that considerations of applications for major development should include an assessment of need in terms of national considerations and the impact on the local economy; the cost and possibility of providing the development elsewhere or in another way; the detrimental effect on the environment and the extent to which it could be limited.

Officers consider that while the proposal may not be major or of national significance, it is of more than local significance. The waste stream will be collected from an area wider than the immediate vicinity and the National Park area. The principles of the PPW approach find expression in the UDP and LP. The policies contained in these documents will be considered in relation to the application later in the report.

Paragraph 12.5 considers planning to reduce and manage waste. It emphasises the LPA's responsibilities to provide a network of waste disposal sites with the aim in Wales to have 'sufficient facilities to treat, manage, or dispose of all the waste produced'. Waste should be managed as close to its generation as possible in line with the proximity principle. PPW encourages LPAs to work together and cooperate to produce regional waste plans. The South East Wales Regional Waste Plan 1st Review September 2008 (SEWRWP) will be considered later in the report.

PPW's objectives for energy, pollution and waste states at paragraph 2.3.2 that planning proposals should:

"Minimise the use of non-renewable resources, and, where it is judged necessary to use them, maximise efficiencies in their use. The use of renewable resources and of sustainably- produced materials from local sources should be encouraged."

"Encourage opportunities to reduce waste and all forms of pollution and promote good environmental management and best environmental practice."

"Contribute to climate protection by encouraging land uses that result in reduced emissions of greenhouse gases, in particular energy-efficient development, and promoting the use of energy from renewable sources."

Officers are satisfied that the design and location of the proposed development meet the above objectives through the sustainable production of electricity and heat energy, diversion of waste from landfill and recovery of recyclates in an energy efficient manner.

Specific guidance relating to renewable energy in Section 12.8 of PPW has been superseded by MIPPS 01/2005. The WAG's aim is to achieve a mix of energy provision in Wales while minimising the effect on the environment. This will be achieved in part by strengthening renewable energy production. MIPPS 01/2005

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states that “renewable energy projects should generally be supported by LPA’s provided environmental impacts are avoided or minimised, and nationally and internationally designated areas are not compromised. The WAG has set specific targets for renewable energy production and is committed to achieving them.

It is the clear intention of the WAG to promote renewable energy sources where sustainable and appropriate. Paragraph 12.8.6 above stipulates that nationally and internationally designated areas, of which the National Park is one, should not be compromised. As such, it is considered that there should be a presumption against any such development within the National Park save for where an application is shown to have satisfactorily addressed any environmental impacts which may affect the sensitive nature of the National Park. In this case the Site is cross boundary and as such is on the edge of the National Park. The part of the Site falling within the National Park is situated on land allocated by BBNPA for employment and B2 uses within an established industrial estate. RCTCBC have allocated the part of the Site within RCTCBC for employment uses.

MIPPS 01/2005 advocates resistance or refusal of proposed renewable energy schemes only where there are demonstrable significant adverse impacts on designated areas that cannot be overcome through mitigation or conditions. As the Environmental Statement accompanying this application concludes, as supported by the further technical information, there is no anticipated significant adverse impact on any designated site for landscape or nature conservation interests as a result of the proposals.

These judgements and conclusions, as presented by the applicant, were subject to scrutiny and caused significant delay in the determination of the application. This was due to the concern and objections lodged by CCW and EAW regarding potential adverse impact, as a result of inputs from atmospheric emissions, on the Blaen Cynon SAC/Cors Bryn-y-Gaer SSSI and other more distant SSSI/SAC including Coedydd Nedd a Mellte SAC. It has since been concluded that the objections can be removed due to the ability of the EPR stage (controlled by EAW) to satisfactorily control any emissions that may give rise to an adverse effects on the SACs/SSSIs. The avoidance and minimisation of significant adverse effects on other features of nature conservation interest is reliant on the delivery of on-site and off-site conservation and enhancement measures secured through a Section 106 agreement.

The Applicant states that paragraphs 12.8 to 12.10 of PPW emphasises that greenhouse gas emissions should be brought under control to avert severe and unpredictable climatic effects at a global and a local level. The WAG intends to address this through:

- i). increased renewable energy production;
- ii). energy efficiency;
- iii). energy conservation.

The proposed development responds to each of these objectives. A target of 200MW capacity from renewable technologies other than onshore wind is sought for Wales by 2010. Notwithstanding that the 2010 target was missed, the Applicant

argues that the proposed development would contribute very substantially toward the target, representing 20MW, or 10% of the target at full production.

Technical Advice Notes (TANs)

Technical Advice Notes (TANs) provide further more detailed guidance for LPAs in the determination of planning applications. They are recognised as material to decisions on planning applications in Wales, and are taken into account by the WAG and the Planning Inspectorate in the determination of planning appeals. Several TANs are of relevance to the proposed development. Specifically TAN5 Nature Conservation and Planning, TAN8 Renewable Energy, and TAN21 Waste.

TAN5 Nature Conservation and Planning

Covered in detail later in this report.

TAN8 Renewable Energy

TAN8 sets out how the land use planning system can deliver the WAG's targets for renewable energy. It sets out the Policy framework for LPAs to consider in determining applications and producing policies for development plans. The TAN discusses the different forms of renewable energy including energy from waste (para. 3.8) where it urges LPAs to obtain sound technical advice with regard particularly to emissions. It emphasises that the WAG's priority is to see the amount of waste reduced and that energy recovery is likely to only be a bi-product of recycling and composting.

TAN8 reiterates the UK-wide target for 10% of electricity to be produced from renewable sources by 2010.

In terms of anaerobic digestion and biogas, TAN8 states at paragraphs 3.3-3.4 that development plan policies 'should be supportive subject to appropriate siting, adequate vehicular access, etc'. LPAs are advised to support 'positive utilisation of the methane fuel'. In terms of biofuel, paragraph 3.5 of TAN8 recognises that additional capacity should be developed in Wales by 2010. The Applicant states the planning and other requirements are met in the siting, design and proposed operation of the proposed development.

Paragraph 3.8 of TAN8 confirms that waste can constitute a renewable energy resource, and is supportive of Mechanical and Biological Treatment (MBT) plants as well as Combined Heat and Power (CHP), recognising the CO₂ savings. TAN8 also encourages the generation of energy from landfill gas or other facilities where methane might otherwise escape into the atmosphere. The Applicant purports that the proposed development would harness methane through the process of anaerobic digestion and then use it as a renewable energy resource, largely in substitution for fossil fuels. In these terms, the proposed development would bring benefits in terms of greenhouse gas reduction.

TAN21 Waste

TAN 21 provides guidance as to how “the land use planning system should contribute to sustainable waste resource management” (Para. 1.3) and sets out the planning framework for waste management in Wales in conjunction with Planning Guidance Wales and the Wales Waste Strategy 2002. It also sets out the arrangements for the formulation of Regional Waste Plans (RWP) such as the relevant SEWRWP.

TAN21 commends the concept of eco-parks. “These are industrial sites where certain collected or locally generated waste is treated and converted to secondary materials and energy, for use in purposely-adjacent industries...Existing industrial estates may be suitable locations for the development of eco-parks” (para. 4.14). LPAs are encouraged to regard them positively and “existing industrial estates may be suitable locations for the development of eco-parks” (para. 4.14). The Applicant considers their proposal to be an ‘ecopark’.

Officers consider that at this stage the scale of this individual development does not constitute an eco-park as defined in TAN21.

Section 5.9 and 5.10 of TAN21 deals specifically with National Parks. It emphasises the need for a coordinated approach with the local waste management authorities and the due weight that needs to be given to the statutory purposes of National Parks. This should be reflected by the regional groups in the consideration of the SEWRWP.

South East Wales Regional Waste Plan (SEWRWP)

The SEWRWP is a strategic framework for the preparation of LDPs and is a material consideration in the determination of planning applications. The principle endorsed by the SEWRWP is that “waste must now be approached as a resource from which value can, and should, be recovered” (Para. 15) The particular concern of the South East Wales Region is how to divert biodegradable waste from landfill in line with European and National guidance.

The SEWRWP Technology Strategy identifies seven preferred technology options for dealing with waste in the Region;

- Pyrolysis
- Incineration with energy recovery
- Mechanical Biological Treatment (MBT) followed by Pyrolysis
- MBT followed by gasification
- MBT followed by incineration with energy recovery
- MBT followed by Refuse Derived Fuel (RDF) to offsite energy use
- Autoclave followed by RDF to offsite energy use.

The SEWRWP suggests that none of the technologies should be considered in isolation. The Enviroparks application appears to involve a number of the above preferred technologies.

The SEWRWP Spatial Strategy has 2 elements:

- The total land required for new in-building waste management/resource recovery facilities; available land for new in-building facilities on existing B2

- sites, major industry sites and allocated B2 sites and a list of these sites.
- Areas of Search maps for use in identifying new sites.

The SEWRWP indicates the level of need and search for potential sites for future facilities and where possible a choice of locations to serve the region.

The SEWRWP identifies 5 strategic waste management options plus a number of sub-options which are considered to represent a sufficient range of choices for dealing with waste in the region. One of those options is energy from waste facilities.

Relevant Policy Principles within the SEWRWP:

The Proximity Principle states that “waste should be treated and/or disposed of as near to the source of origin as possible” (para. 4.4.1)

The Self Sufficiency Principle states that “as far as is practically possible, waste should be treated and/or disposed of within a sensibly defined region where it is produced” (para. 4.5.1)

The Precautionary Principle. “Precaution should be applied where scientific evidence is insufficient, inconclusive or uncertain, or where there are indications through preliminary evaluation that there are reasonable grounds for concern....due to the effects “on the environment, human, animal or plant health...”(para. 4.6.1). Officers consider that the proposal needs to be judged, amongst other things, against these principles.

In the ‘Areas of Search’, National Parks and Areas of Outstanding Natural Beauty (AONB) have been specifically excluded due to their National conservation significance. However, the footnote to para. 12.4.14 states that, “In exceptional circumstances there may be sites on the edge of but within National Parks where facilities with the capacity to serve more than one local authority may be acceptable. Such exceptional circumstances could include, for example, B2 sites that for historical reasons are located on the edge of but within National Parks...” The applicants draw attention to this statement in their proposal. Officers consider that this statement and the location of the site are very relevant material considerations to this proposal.

Waste Catchment Area

BBNPA considers that the proximity principle referred to by national planning policy applies to this development. BBNPA has agreed that the waste to be accepted by this development should originate from catchment areas from within the National Park, Southeast and Southwest Wales Regional Waste area (south of the National Park) as defined by an agreed plan. The whole of Southeast and Southwest areas are unacceptable (this area covers almost half to two thirds of Wales). Heads of Terms have been agreed to include a significant percentage (90%) of waste arriving at this site originating from an identified geographical plan boundary.

SEWRWP Appendix K: Guidance on actions for LPAs.

K7.3 states that there are 2 options for the management of waste arisings in National Parks:

- NPAs may plan for new facilities serving only the National Park to be within the National Park Authority (NPA) area (and examples of the type of facilities which may be suitable are listed)
- NPAs and Unitary Authorities (UA) that cover the same area may work closely together to plan for new facilities serving both the NPA and UA areas to be sited outside the National Park.

In the drafting of the UDP, however, the constituent LAs did not indicate a need for waste facilities within the BBNP and consequently there are no allocations made for this use.

Annex C to TAN21 lists Specific Planning Considerations that should be considered in the determination of waste facilities. They include Birds and Vermin, Litter, Location, Protection of surface and Groundwater and Land Instability. Additional planning considerations including Transport and Access, Dust and Other Emissions, Odours, Noise, Visual Impact, Nature and Archaeological Conservation, Hours of Operation, Duration of Operations and Planning Conditions are discussed elsewhere in this Report.

Birds and Vermin

Waste management sites, especially landfills, can attract birds and vermin. Vermin can present a health hazard and control is provided by the EPR issued by EAW. Congregating birds can be a major nuisance to people living nearby facilities and a hazard to aircraft near aerodromes. In this case vermin would be controlled via the EPR issued by EAW and there are no nearby aerodromes for aircraft. Also, the waste processes would take place within buildings on the Site thereby reducing the availability of the waste to birds.

Litter

Litter can be a serious problem on waste management sites, especially landfills, transfer stations and civic amenity sites. Operators should ensure that their site operating procedures tackle this problem in a reliable and consistent way, by ensuring for example that working areas are covered, and that litter screens are erected and maintained. Even small-scale facilities, such as container banks, can give rise to litter through overflowing, if not emptied frequently enough. Vehicles bringing material to sites, and waiting to discharge, should be appropriately netted or sheeted.

Litter would be minimised in this development by arranged contract deliveries ensuring vehicles are sheeted/netted. The Site is not designed to accept waste from members of the public as at civic amenity sites where paper banks may overflow. Matters relating to sheeting/netting and members of the public using the Site would be controlled by planning condition if planning permission was forthcoming.

Location

The Site is situated on a large industrial estate and partly lies within the National Park. The Site is allocated for employment uses within the development plans of both RCTCBC and BBNPA. The site could be classed as an 'exceptional circumstance' for allowing waste management facility in the BBNP as indicated by the SEWRWP. The Site is well located for road access and supply from within the BBNP and from industrial areas to the south of the BBNP. It is therefore concluded that the Site is well located for the waste catchment area it intends to be supplied from.

Protection of Surface and Groundwater and Land Instability

Such matters are usually more of an issue at a landfill or land raising site. In this case EAW have considered flood issues, surface and groundwater seepage and contamination of the site from the proposed use and existing historical uses. The operation will be controlled through the EPR issued by EAW. EAW will also control any surface discharge from the site and have recommended planning conditions regarding potential contamination from historic uses that may be on the Site.

Brecon Beacons National Park Unitary Development Plan (UDP) and Local Plan (LP)

The UDP sets out policies and proposals to guide development in the National Park. The UDP was approved for development control purposes by BBNPA in March 2007. These policies and proposals aim to meet the needs for housing, jobs and services whilst protecting the National Park's high quality environment for which it is designated for its landscape quality.

Whilst the LP remains the formal statutory policy framework for the area, the BBNPA approved UDP provides a more up to date and relevant planning framework.

Both the UDP and the LP translate, specifically in relation to waste policies, the WAG's aspirations for waste management in the National Park context. There is no specific policy in either plan to deal with renewable energy from waste.

The proposed development suggests that the generation of up to 20Mw of electricity is possible, at capacity, from the reuse and recycling of waste products. The proposal intends to convert the methane produced during the anaerobic digestion and other fuel recovery process in producing electricity for the grid. The proposed development is appropriately sited and will be managed so as not to cause a detriment to residential amenity by way of noise (including abatement at source), dust or smell (including odour management) and appropriate major road links and access to the Site. The Applicant has agreed to a routeing access legal agreement so as to avoid transport vehicles travelling past residential properties outside the National Park but within RCT (Halt Road) and a Green Travel Plan promoting sustainable transport. These aspects will be discussed in more detail later in this report.

In conclusion, with regard to renewable energy, the proposed development is, with the benefit of the identified planning obligations, commensurate with UDP policies Part I Policy 8 and S11 and Policy PU3 in the LP.

UDP Policy, March 2007

The part of the site which falls within the jurisdiction of BBNPA is covered by a site specific UDP allocation as site HW1 for General Industrial (B2) development. Officers consider that the proposed High Energy User (B1/B2) use as part of phase 2 accords with this policy. The mixed waste processing, resource recovery and energy generation element of the proposal is considered the sui-generis component to the proposal and which has led Officers to advertise the application as a departure from the development plan. However, Officers consider that such operations do in general planning use terms, sit comfortably on industrial sites.

UDP Part I Policy 10 Allocation of Waste: Following the SEWRWP and subsequent Municipal Waste Plans, no land is allocated for waste related development in the National Park. Furthermore the BBNPA considers that the National Park is not an appropriate place for regional facilities (para. 4.63).

However, detailed Policy S13 expands on this and states that proposals for development to cater mainly for waste from outside the National Park will be subject to the most rigorous examination and will only be permitted in exceptional circumstances. Crucially some of the criteria that need to be met are that there is a regional need identified in the SEWRWP and that the need cannot be met in any other way outside the National Park. A clear regional need exists in general from National Policy which seeks to reduce the landfill requirement.

Policy S14 considers proposals for development to deal with waste arisings from within the National Park, provided it is in line with the SEWRWP, that it satisfies the criteria in Policy S13 and is located on a B2 industrial site. The waste arisings for this proposal are not from entirely or mainly from within the National Park (although the agreed geographical area for the supply of site feedstock includes the National Park) but as is stated above and below, in your officers opinion the proposal satisfies the criteria in Policy S13.

Specific waste policies in the Local Development Plans

The specific planning policy, in relation to the National Park context includes relevant National, Regional and Local Policies in the LP and the UDP. This includes PPW, emerging guidance, Technical Advice Notes (TANs) namely TAN5 Nature Conservation, TAN8 Renewable Energy, TAN18 Transport, TAN21 Waste, South East Wales Regional Waste Strategy 2008, the Brecon Beacons National Park Unitary Development Plan (UDP) and the Brecon Beacons National Park Local Plan (LP).

Matters relating to National Policy including PPW and TANs have been considered above along with Brecon Beacons Development Plan policies. Further consideration will be given regarding the specific waste policies in the Development Plans. The relevant UDP waste policies S13 and S14 and LP policies WP1 and WP2.

Whilst the development plan for the area includes the adopted LP, it has been largely superseded by the UDP which stopped short of formal adoption but was approved by the BBNPA for development control purposes. The UDP therefore provides a more up-to-date and relevant planning framework and has been given significant weight by Planning Inspectors at appeal despite the lack of formal adoption.

UDP Policy S13 refers to waste development serving the region. It states 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.”

Under point i) above, Officers are satisfied that there is a regional need identified in the SEWRWP to divert waste from landfill. This facility would allow diversion to take place with a LA contract to take municipal waste or in its absence through the diversion from landfill of commercial and industrial waste

Under point ii) above, Officers have considered whether the need can be met in another way or in another location outside the National Park. The applicants ES indicated the original site selection search area was within RCT as they were initially tendering for RCTCBC municipal waste contracts. The ES also indicates they were ‘steered towards the site on Fifth Avenue Hirwaun Industrial Estate’ by their discussions with WAG representatives. Officers were concerned initially by the applicants ES section on ‘site selection’ in terms of the robustness of approach and that it appeared to fail to acknowledge the environmental constraint of National Park designation. Your Officers sought specialist appraisal on this aspect of the Applicant’s information and upon process. In response to such issues raised, the applicants highlight the wider policy framework, regional waste plan and site specific designation and locational factors. Officers have concluded that in the absence of suitable waste management facilities, as is the case at present, the need cannot be met in another way or in another location outside the National Park. The Applicant chose the available Site due to its suitable size, type of site in land use planning terms, transport accessibility and proximity to waste stream market particularly in relation to the landfills of Bryn Pica in RCTCBC, Trecatti in Merthyr Tydfil CBC and Silent Valley in Blaenau Gwent CBC.

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It is acknowledged by the Applicant and the BBNPA that the site selection search undertaken by planning consultants RPS to inform the SEWRWP excluded the National Park from the area of search for locating waste facilities. However, the first review explicitly acknowledges that there may be existing use class B2 site allocations on the edge of but within the National Park where waste facilities may be acceptable. Hirwaun Industrial Estate is specifically identified as a potential location for advanced waste recovery facilities.

Under point 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”. Officers consider that the siting of a waste facility at this location on Hirwaun Industrial Estate would not cause significant detriment to the tourism economy of the National Park or other economic activities.

Similarly, under point iv), Whilst this is a sizeable development with potential for landscape impact through the height of stack, mass of buildings or ecological impact through emissions, your Officers consider there would be no significant detrimental effects on the National Park’s special qualities, its natural beauty, wildlife and cultural heritage or communities which cannot be controlled through the combination of design detail of the proposal, planning condition, Section 106 agreement and the Environmental Permitting Regulations 2007 (EPR) process undertaken by EAW.

The Applicant has stated that many “of the waste recycling components of the proposed Enviroparks development would occupy that part of the site that lies within Rhondda Cynon Taf, with the principal built element in the BBNPA area comprising a conventional industrial unit intended for a B1 or B2 user with high energy demands.”

Officers would point out that whilst the waste unloading and sorting operations are carried on within the RCT part of the site, a large portion of the waste conversion/energy production processing takes place within the BBNPA part of the site also.

The Applicant states that “Nonetheless, the proposals would fulfil a need identified in the Regional Waste Plan, and the RWP first review identifies Hirwaun Industrial Estate as a suitable location for in-building facilities... There is a clear public interest in the environmental benefits of enhanced waste management and renewable energy use, and in the creation of new employment. There would be no significant detriment to features of landscape, natural or cultural interest, or to tourism.”

Officers consider that the views expressed by the Applicant in the preceding paragraph are acceptable and that the proposed waste development component does not conflict with Policy S13 of the UDP.

UDP Policy S14 refers to waste development serving the National Park. It states:

“Applications for waste development which satisfy the criteria in Policy S13 or which relate to waste arising entirely or mainly from within the Park will be permitted on Class B2 industrial sites or where:

- i) they are in line with the Regional Waste Plans, and
- ii) conditions satisfactory to the NPA can be imposed relating to:
- protecting the Park's special qualities and the purposes for which it was designated,
 - safeguarding protected species, biodiversity, caves and other features of Earth heritage importance, archaeological features and historic landscapes,
 - protection of surface and groundwater and flood control,
 - visual impact,
 - the working area,
 - the design, phasing and duration of operations,
 - access by and to public roads,
 - traffic generation and vehicle movements,
 - the prevention of pollution,
 - dust, fumes, odours and other emissions,
 - noise,
 - floodlighting,
 - working hours and working practice in general,
 - litter, birds and vermin,
 - land instability, and
 - reinstatement of the site
- so as to minimise disturbance to local communities and essential interests; and
- iii) satisfactory conditions can be imposed relating to the design and phasing of landscaping, and where relevant there is a soundly based reclamation and aftercare scheme to ensure the beneficial after use of the site in line with the NPA's statutory purposes.”

Policy S14 states that applications for waste development which satisfy Policy S13 or which relate to waste arising entirely or mainly from within the National Park will be permitted on Class B2 industrial sites or where they are in line with the RWP and specific criteria are satisfied.

Officers consider that the proposed development complies with UDP Policy S14 in that the criteria contained in UDP Policy S13 are satisfied for the reasons given above.

The relevant LP policies for waste facilities include WPI and WP2.

LP Policy WPI states:

“The use of land within the Park for final disposal of waste except inert waste will only be permitted where:

- i. Other more sustainable options have been explored and ruled out;
- ii. The proposal conforms fully to the other policies in this Local Plan, as shown by an environmental statement if appropriate;
- iii. Its future management can be controlled by a legally binding agreement to the satisfaction of the waste licensing authority, the Environment Agency.”

Parts i), ii) and iii) of LP Policy WPI have been addressed in the UDP policies above.

Officers are therefore satisfied that the proposed development complies with LP Policy WPI particularly given that the site is cross boundary with large components of the waste recovery element (Biomax and Fuel Preparation Area) being located on the RCTCBC part of the Site.

LP Policy WP2 states:

“Proposal for waste transfer stations, facilities for the reclamation or recycling of waste materials or the storage or disposal of inert wastes will be permitted where:

- i. They conform fully to the other policies in this Local Plan;
- ii. They relate entirely or mainly to waste material arising within the park;
- iii. No equally suitable site is available outside the Park, given the desirability of minimising transport distances.”

Officers consider that the proposed development satisfies parts i) and iii) of LP Policy WP2 for the reasons given in relation to the UDP policies addressed above. However, the proposed development does not comply with part ii) in that the waste stream will not “relate entirely or mainly to waste material arising within the park”. Although some waste may come from within the National Park other waste will come from the South and West regions identified in the RWPs south of the National Park. As such, the proposed development is considered to “depart” from this part of LP Policy WP2. Consequently the application has been advertised as a “departure” from the LP.

Local Plan, May 1999

No need was identified for waste disposal sites in the National Park area as the existence of sites within the region were deemed sufficient to deal with the needs of the National Park over the LP period.

The LP makes provision for dealing with a waste proposal should one be submitted. Policy WPI deals with land for the final disposal of waste except inert waste and expects applicants to demonstrate that more sustainable options have been ruled out.

Policy WP2 deals with waste facilities for the reclamation or recycling of waste material, waste transfer stations and the disposal of inert wastes. Proposals must relate to waste arisings within the National Park and must demonstrate that there are no equally suitable sites outside the National Park. In common with the UDP policy, the application does not address these two issues.

2. THE ENVIRONMENT, NATURE CONSERVATION and ECOLOGY.

Under paragraph 2.3.2 of chapter 2 of PPW two further objectives relating to environmental designations are stated:

“Contribute to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems. In particular,

planning should seek to ensure that development does not produce irreversible harmful effects on the natural environment. The conservation and enhancement of statutorily designated areas and of the countryside and undeveloped coast; the conservation of biodiversity, habitats, and landscapes; the conservation of the best and most versatile agricultural land; and enhancement of the urban environment all need to be promoted.”

The Site lies within the National Park, albeit on land indicated for employment use in the UDP. The Design and Access Statement (DAS) that accompanies the planning application, indicates that the design and layout of the proposals have sought to respond to the Hirwaun Industrial Estate’s setting on the edge of the National Park.

Furthermore, because of the presence of Special Areas of Conservation (SACs) and Sites of Special Scientific Interest (SSSIs) in the locality, the Applicant believes that appropriate measures have been taken to ensure that no significant impact on nature conservation interests results. These measures are explained by the applicant in the Ecology Chapter of the ES and by further supporting information submitted by the Applicant following initial objections from EAW and CCW.

The BBNPA commissioned an independent landscape assessment of the submission and commentary in relation to the landscape impact on the National Park which concluded that the proposed development would not have a significant adverse impact on the landscape of the National Park. This element is detailed under the heading TAN12 Design below.

CCW and EAW initially objected to the application. These objections have been overcome and the Applicant has addressed the concerns raised by CCW and EAW. The objections have since been withdrawn subject to the controls on the design and operation of the proposed development achieved through the EPR, and through use of appropriate planning conditions/planning obligations. This aspect is considered in more detail under the heading TAN5 Nature Conservation and Planning below.

Nature Conservation and ecology.

The information provided by the applicant in the ES and the consultations received from the statutory consultees, CCW and EAW, has identified three specific areas of nature conservation that require consideration in the context of the proposed development. These are statutory designated sites: National Park, Special Areas of Conservation (SACs) and Sites of Special Scientific Interest (SSSIs), protected species and Biodiversity Action Plan (BAP) habitats and species. An appraisal is made of how the proposed development relates to the national and local planning policies that seek safeguard these three areas of nature conservation interest.

PPW and MIPPS

PPW

This application has been appraised against the following high level policy objectives of PPW (Paragraph 5.1.2) for the conservation and improvement of the natural heritage:

- promote the conservation of landscape and biodiversity, in particular the conservation of native wildlife and habitats;
- ensure that action in Wales contributes to meeting international responsibilities and obligations for the natural environment;
- ensure that statutorily designated sites are properly protected and managed; and
- safeguard protected species.

Paragraph 5.1.3 of PPW states that, “A key role of the planning system is to ensure that society’s land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment.” The following considerations endeavour to satisfy this key role in relation to the proposed development.

Statutory Designated Sites

Chapter 2 Planning for Sustainability of PPW sets out the broad planning objectives of maintaining nature conservation interests through sustainable development as indicated previously.

Officers accept that the proposed development as described by the Applicant in their ES and supporting supplementary information endeavours to meet the broad objectives of sustainability as set out in PPW Chapter 2 Planning for Sustainability.

Chapter 5 Conserving and Improving Natural Heritage and the Coast details the specific guidance to LPAs in considering developments that may affect the three key statutory designations applicable to the proposed development: National Park, SAC and SSSI. The Applicant does not make any specific reference in their Planning Statement to the relevant sections of Chapter 5 of PPW. PPW paragraphs 5.3.8-5.3.10 and 5.5.6-5.5.7 of Chapter 5 provides policy guidance on the underlying principles of international and national legislation that protect statutory designated sites.

Brecon Beacons National Park

Specific guidance on development in National Parks is provided in paragraphs 5.5.6-5.5.7 which emphasises that major developments should not take place within National Parks except under exceptional circumstances. The guidance also stresses the need for much greater rigor in assessing potential impacts on the National Park against the overriding public need for the proposed development in a national context but also with regards to the local economy. In addition there is a need to determine whether the development could be completed elsewhere or the need met by some other means. Although the proposal is considered by Officers to be of more than local significance it is not of significance in national (UK) context as described in Chapter 5 of PPW. Nevertheless, Officers have previously concluded that in the absence of suitable waste management facilities, as is the case at present, the need cannot be met in another way or in another location outside the National Park, and recognise the benefit to the economy of the National Park.

Paragraph 5.5.6 of PPW also requires considerations of major developments within

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National Parks to include an assessment of any detrimental effects on the environment and the extent to which that can be moderated. The Applicant prepared an ES within which they assess the impacts on the environment of the Application Site covered by the National Park designation and land outside the Application Site within the National Park.

The ES identified impacts on a protected species and a UK BAP priority habitat within Application Site. The Application Site lies in close proximity to designated SACs and SSSIs upon which could be affected by the proposed development.

In line with guidance of PPW the Officers are satisfied that appropriate levels of mitigation, compensation and enhancement can be secured to moderate any detrimental effects on the environment of the National Park. Details of these effects and the moderating measures are described in greater detail below.

SACs and SSSIs

Paragraph 5.3.9 of PPW underlines the direction within Article 6(1) of the EC Directive 1992/43/EEC on Conservation of Natural Habitats and of Wild Fauna and Flora to avoid deterioration of European protected sites (SACs). This section of PPW also reflects the general duty of compliance with the Directive as stated in Regulation 3(2) of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended).

PPW paragraphs 5.5.8-5.5.10 addresses the requirements for LPAs when considering the proposed development with respect to internationally (SACs) and nationally (SSSIs) protected sites. PPW refers to the European legislation, The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended), and UK legislation, Wildlife and Countryside Act 1981 (as amended) and Countryside and Rights of Way Act 2000, which underpin the respective designated sites and create the framework for planning policy. PPW underlines the need for an LPA to confirm that a development is not likely to have a significant effect on an SAC before determining an application and also the presumption against developments that are likely to damage SSSI. In the case of SACs, if likely significant cannot be discounted PPW guides LPAs to complete an appropriate assessment.

In Chapter 13 Ecology the Applicant has assessed the impacts of the proposed development on two SACs, Blaen Cynon and Coedydd Nedd a Mellte within 2km of the Site. They also recognise that these SACs are underpinned by the specific SSSIs, in the case of Blaen Cynon; Cors Bryn-y-Gaer and Woodland Park/Pontpren SSSIs and Coedydd Nedd a Mellte; Dyffrynnoedd Nedd a Mellte a Moel Penderyn SSSI.

The Applicant concludes in section 3.16 of their Planning Statement and sections 13.90-13.93 of Chapter 13 Ecology of the ES that the proposed development will have no unacceptable adverse effects on conservation and wildlife, and in particular that it will not have any significant impact on the two SACs and therefore equally the underlying SSSI. Consequently the applicant states in section 3.16 of their Planning Statement that, "...there is considered to be no conflict with the applicable [PPW] policies."

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This conclusion was rejected by both CCW and EAW in their initial consultation responses to this application. CCW in their response of 20th January 2009, objecting to the proposed development, criticised the limited scope of the Environmental Impact Assessment (EIA) as described in the ES and requested that the geographical range of the assessment be extended to include SACs within a 15km radius of the Site. This increased radius required the inclusion of Cwm Cadlan, Brecon Beacons and the River Usk SACs in addition to Blaen Cynon and Coedydd Nedd a Mellte. They also stated on the basis of the current information that they could not confirm that proposed development would not have a likely significant effect on the five SACs and there expressed the need for an appropriate assessment to determine the impact of inputs from atmospheric emissions from the proposed development. This point objection was also expressed by EAW in their response of 12th February 2009 with specific reference to likely significant effects on Blaen Cynon SAC. CCW also recognised the potential risks to the SAC due possible changes in the local hydrology as a consequence of the proposed development.

In an effort to address CCW's objection the applicant provided on February 13th 2009 the results of an appraisal of potential impacts from atmospheric emissions inputs to all five SACs, their respective underpinning SSSIs and remaining SSSIs within a 15km radius of the Site. Aspects of this further submission were accepted by CCW, in their response of 3rd April 2009, in relation to the absence of any likely significant effects to the Brecon Beacons and the River Usk SACs. CCW also confirmed that they were no longer of the view that the proposed development would give rise to likely significant effects as a consequence to changes in the hydrology. However, they maintained their objection on the basis that atmospheric emission modelling results provided by the applicant showed inputs referred to under the term 'Process Contributions' of greater than 1% of the critical load for particular habitat features present within the SACs. In their view, despite the Applicant's most recent submission, there remained the potential for impacts on the Blaen Cynon, Coedydd Nedd a Mellte and Cwm Cadlan SACs, which required appropriate assessment. They also maintained their opinion that significant adverse impacts to the range of SSSI underlying the three SACs may occur.

The Applicant responded to this continued objection from CCW by re-appraising the potential impacts following a revised atmospheric modelling exercise using a set of alternative assumptions. This re-appraisal was provided to the BBNPA, on 13th May 2009, in the form an additional report entitled "Enviroparks Hirwaun – Further environmental and supporting information" During the consequent re-advertising and re-consultation of the application, Officers sought confirmation from CCW and EAW that the assumptions upon which the modelling was based were appropriate and sound, and therefore whether the findings could be relied upon to assess the likely impacts on the SACs and the SSSIs.

The EAW advised the BBNPA on June 12th 2009 that report did not provide sufficient detail on aspects of the atmospheric modelling to enable them to determine whether the outputs were representative and therefore allow EAW to comment on the impact on the Blaen Cynon SAC as a consequence of the proposed development. EAW maintained their objection to the proposed development.

In response to the specific deficiencies highlighted by EAW, the Applicant provided

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further background information directly to the EAW. On the basis of a specialist assessment by their specialist Air Quality Modelling Unit the EAW confirmed in their response to the BBNPA of 31st July 2009, that the Applicant's atmospheric modelling was 'fit for purpose'. This response was also copied to CCW enabling them to rely on the modelling results in advising the BBNPA on the potential impacts on the SACs and the SSSIs.

CCW advised the BBNPA in writing on 20th August 2009 that on the basis of information provided by the Applicant and the advice from EAW it must be assumed that likely significant effects on the Blaen Cynon SAC as a consequence of inputs of nutrient nitrogen and acid deposition derived from the predicted atmospheric emissions of the proposed development could not be ruled out. They also confirmed that in their view that likely significant effects on the Coedydd Nedd a Mellte SAC as a consequence of inputs of nutrient nitrogen derived from the predicted atmospheric emissions of the proposed development could not be discounted. Furthermore CCW advise that significant impacts must be presumed on the SSSIs underpinning the two SACs. Additional reference is made to potential impacts on Bryncarnau Grasslands SSSI near Llywdcoed outside the National Park boundary.

CCW re-iterated their advice to the BBNPA that appropriate assessments for the proposed development, under Regulation 48 of The Conservation (Natural Habitats, &C.) Regulations 1994 should be carried out. The BBNPA have completed these assessments in line with the regulations.

In support of the BBNPA's appropriate assessments EAW and CCW provided their expert views, in their respective responses of 31st July 2009 and 20th August 2009, on the potential outcome of the likely significant effects on the SACs. EAW concluded, "In relation to this particular proposal we expect that on the information so far reviewed a suitable technical solution to control the atmospheric pollution impacts of the proposed development will be proposed by the applicant as part of their EPR Permit application and that since such a permit cannot be granted without such technical solutions we are able to remove our objection on that basis." In addition EAW state that, "An EPR permit would be refused if it did not meet all the relevant legislative requirements."

Drawing on the statements from EAW and on seeking their own expert views, CCW confirm that they are "of the view that there are technical approaches available that could avoid adverse effect to the integrity of any SAC, and adverse effects to any SSSI, and that the best approach to achieve this should be identified and applied at the EPR stage, where more detail will be considered by EAW." CCW conclude that, "Since an EPR decision will require assessment of acceptable new atmospheric loadings and is subject to Regulation 48 of the Habitat Regulations (as amended), CCW is confident that adverse affect to the integrity of any SAC, and any significant adverse effects to any SSSI, can be avoided and that there is a legal and enforceable framework in place via the EPR permission to ensure this. CCW therefore withdraws its holding objections to this proposal." CCW's conclusion and objection withdrawal is equally applicable to the potential significant adverse impacts on the Cors Bryn-y-Gaer, Woodland Park/Pontpren and Dyffrynnoedd Nedd a Mellte a Moel Penderyn SSSIs.

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The detailed discussions with and the conclusions of the statutory consultees have contributed significantly to the informing the opinion of the BBNPA on how the proposed development might satisfy PPW in relation to statutory designated sites.

Compliance with PPW requires the BBNPA to complete an appropriate assessment of the implications of the proposed development in view of the conservation objectives for the SACs. This assessment has been completed in line with requirements of Regulation 48 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended), and the BBNPA state that, “As competent authority the Brecon Beacons National Park Authority, in line with Regulation 48 of The Conservation (Natural Habitats, & C.) Regulations 1994, case law interpreting said regulations and best scientific opinion conclude that adverse affect on the integrity of the Blaen Cynon SAC can be avoided by the application of available technical solutions which will be appropriately defined and enforced by the Environmental Permitting Regulations process as conducted by the Environment Agency.”

At the stage of determining the planning application the BBNPA is satisfied that a legal and enforceable framework is in place within the EPR process to ensure the avoidance of adverse affects on the integrity of Blaen Cynon and Coedydd Nedd a Melte SACs. The BBNPA are therefore able to proceed in determining this planning application whilst remaining in compliance with PPW before commencement of the EPR application process.

Protected Species

PPW paragraph 5.5.11 advises that, “The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat.” It recommends in informing the planning decision that an ecological survey is completed to determine presence of any protected species and the likely impacts of a development.

The Applicant completed a range of ecological surveys including an Extended Phase I Habitat Survey; consultations with CCW, the local records centre, local wildlife trust and local interest groups to ensure a comprehensive desk study of all available information; and further ecological surveys undertaken on the site and its surroundings, determining the likely impacts upon particular fauna.

The results of the ecological surveys described in Section 13.59 of the ES identify habitat suitable for otter resting sites, which are protected from damage or destruction under European and UK law, in areas of scrub woodland beyond the southern boundary of the proposed development site. Otters are also protected from disturbance under these laws.

Section 13.60 of the ES records the presence of slow worm within the Site, which is protected under the UK Wildlife and Countryside Act 1981 (as amended) from intentional killing or injuring. The survey results documented in Section 13.49 of the ES acknowledge the use of the scrub woodlands on the western and northern boundaries of the Site by foraging bats.

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In line with paragraph 5.5.12 of PPW, CCW recommends in their consultation response of 20th January 2009 that in order to avoid potential disturbance of otters the LPAs assess the likely impacts on otters in accordance with Regulation 44 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended). This requires the BBNPA to take the three requirements of Regulation 44 (1) (e) to be taken into account when considering a development where otters are present. CCW also recommends that this matter is addressed by means of a relevant condition.

Regarding this specific matter the BBNPA Officers do not fully accept the recommendations of CCW. Firstly the requirements of Regulation 44(1)(e) as recommended by CCW cannot be delivered by means of a condition, as such a condition would be reliant on a separate area of legislation which would not be enforceable under the guidance of Circular 11/95.

Furthermore the presence of otters on the Application Site was not recorded by the ecological surveys completed by the Applicant. The results of the surveys as described in section 13.59 and detailed in Chapter 13 (Appendix 1) suggests that scrub woodland outside the southern boundary of the site may provide a suitable resting area for otters. This habitat is located by an existing operational water treatment works which according to the Section 13.49 of the ES is illuminated by bright lights. The proposed development area is also separated from this potential otter habitat by an existing industrial estate link road which is also illuminated. The likelihood of otters utilising this potentially suitable area of scrub woodland as a resting site is therefore considered low by the BBNPA's Ecologist. Consequently the your Officers do not accept that there is a significant risk of disturbing a possible otter occupying the potential resting site within the existing operational water treatment works outside the boundary of the Site. The BBNPA therefore considered that a derogation from Regulation 39 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended) is not required in this instance.

The BBNPA acknowledge the need to conserve and enhance protected species within the Site during the period of construction and operation of the proposed development. Section 13.115 of the ES acknowledges the need provide a mitigation plan to avoid impacts on slow worm. The Applicant has proposed a pre-construction trapping and translocation exercise to avoid harm or killing of this species. They also propose to monitor the receptor are to confirm the success of the translocation. CCW have requested that the mitigation plan is agreed and approved by them prior to construction. Officers are satisfied that the approval and implementation of the mitigation plan can be controlled by means of planning condition.

Common and soprano pipistrelle bats were recorded foraging along the edge of the scrub woodland on the western boundary of the Site. Although these habitat features are not protected in law the broad interpretation of Section 5.5.11 of PPW is that the presence of such habitat is a material consideration in determining a planning application. Section 13.119 of the ES states that, "To minimise the disturbance of nocturnal and roosting wildlife, no night working will undertaken during the construction phase." To conserve and enhance the wildlife value of the retained fringe habitats and those additional woodland and wetland habitats to be created (ES Sections 13.105-13.114) to compliment and supplement the existing features there is an additional need to minimise light disturbance during operation

the proposed development. The officer is satisfied that the detrimental effects of light pollution on bats and other nocturnal species can be controlled by means of condition.

In accordance with PPW Officers consider that disturbance or harm to protected species is either unlikely to result from the proposed development or can be adequately controlled by means of planning condition.

Biodiversity Action Plan (BAP) Habitats and Species

PPW does not provide specific guidance on development control matters relating to non-statutory designations, such as BAP habitats, nor species identified by UK and Local BAPs. Section 5.3.11 does state that, "Such designations should not unduly restrict acceptable development."

Sections 13.79 of the ES recognises that a significant proportion 7.25ha (85%) of the Site supports marshy grassland vegetation which is a UK BAP priority habitat. The Applicant states that the loss of this habitat is of minor County local significance. Mitigation is proposed in Section 13.105 through aspects of habitat creation as part of the soft landscaping associated with the proposed development. The ES states that 0.3ha of 'grassland habitat' will be created as part of the landscaping plan for the proposed development. The ES also identifies the presence of a small number of BAP bird species, notably a single pair of skylark, associated with the marshy grassland habitat and adjacent scrub woodland.

In specific consideration of PPW the Officer does not consider that identified impacts on BAP habitats and species sufficiently warrants undue restriction on the proposed development. Further consideration of the presence of and likely impacts on these habitats and species is given under the more specific guidance of TAN 5 Nature Conservation and Planning, and also the UDP Policies, which recognise them as a material consideration in determining a planning application.

MIPPS

There is no specific MIPPS in relation to nature conservation. However, MIPPS 01/2005 Planning for Renewable Energy paragraph 12.8.13, encourages LPAs to support renewable energy whilst ensuring that international and national statutory obligations to protect designated areas, species and habitats are protected from inappropriate development.

The Officer is of the view that the MIPPS provides no additional context that has not been appraised in line with PPW or will be subsequently addressed in accordance with TAN5 Nature Conservation and Planning and the UDP policies.

Conclusion in accordance with PPW and MIPPS

On the basis the ecological assessment presented in the ES the Applicant concludes in their Planning Statement and within the ES that the proposed development would not have an unacceptable adverse effect on conservation and wildlife and therefore is not at conflict with the applicable policies. This conclusion appears to be drawn

against the broad policy objective set out under paragraph 2.3.2 of PPW rather than the more detailed sections in Chapter 5. In addition the Applicant did not originally provide sufficient quantity or quality of environmental impact assessment in support of their application.

The subsequent objections of the statutory consultees have now been withdrawn following receipt and detailed appraisal of additional information. The Officer has consulted extensively with CCW and EAW in assessing the potential impacts of the proposed development on nature conservation interests. Based on the advice provided by CCW and EAW, Officers are satisfied that any significant adverse effects on statutory designated sites, protected species and BAP habitats/species can be avoided or minimised through regulatory controls of the EPR process, planning conditions and obligations. Subject to these restrictions and legally enforceable controls Officers are of the view that the proposed development can be completed in compliance with relevant sections of PPW.

TAN5 Nature Conservation and Planning 2009

Paragraph 1.2.1 states that, “This Technical Advice Note provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.” Paragraph 1.6.1 underlines the increased responsibility of the planning system in enhancing as well as conserving biodiversity, “Biodiversity conservation and enhancement is an integral part of planning for sustainable development. The planning system has an important part to play in nature conservation... This TAN demonstrates how local planning authorities, developers and key stakeholders in conservation can work together to deliver more sustainable development that does not result in losses from the natural heritage but instead takes every opportunity to enhance it.” This responsibility is accepted by the BBNPA in considering this application.

Paragraph 2.1 of TAN5 sets out the key principles that the town and country planning system in Wales seeks to deliver. These include, but are limited to:

- work to achieve nature conservation objectives through a partnership between local planning authorities, CCW, the Environment Agency Wales, voluntary organisations, developers, landowners and other key stakeholders;
- integrate nature conservation into all planning decisions looking for development to deliver social, economic and environmental objectives together over time;
- ensure that the UK’s international and national obligations for site, species and habitat protection are fully met in all planning decisions; and
- look for development to provide a net benefit for biodiversity conservation with no significant loss of habitats or populations of species, locally or nationally.

This application is considered in line with these key principles in the context of the identified nature conservation interest for which the proposed development has implications.

Statutory Designated Sites

Paragraph 5.3 of the TAN entitled “Development affecting internationally designated sites” provides specific guidance to LPAs on stages of assessment they must complete in considering a development that may have implications for a European site (SAC) in line with Regulation 48 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended) and the European Court of Justice in Case C-127/02 (the Waddenzee Judgment). TAN 5 paragraph 5.4 Development affecting nationally designated sites sets out the general duty on LPAs to conserve and enhance SSSI in exercising their statutory functions in accordance with the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000.

Specific guidance in paragraph 5.3.2 of TAN5 relates to the protection of SACs and states that LPAs must complete, “An appropriate assessment is required where there is a probability or risk that the plan or project (either alone or in combination with other plans or projects) will have a significant effect on a European site [SAC] or European offshore marine site.” On completing this assessment, “The local planning authority must then determine, in the light of the conclusions of the assessment, whether it can ascertain that the proposal will not adversely affect the integrity of any European site [SAC] or European offshore marine site.”

In response to formal consultation requests CCW and EAW indicated that the Applicant had not provide sufficient quality and quantity of information to enable them to advise the BBNPA on whether or not adverse affects on the integrity of Blaen Cynon, Coedydd Nedd a Mellte and Cwm Cadlan SACs could be avoided. The conclusions presented by Applicant in Section 3.40 of their Planning Statement that, “the proposals conform with TAN5 both in terms of broad principle and in their detail.” were therefore rejected in the initial consultation response received from CCW and EAW on 20th January 2009 and 12th February 2009, respectively.

Further information was submitted by the Applicant in response to holding objections lodged by EAW and CCW due to concerns relating to the potential impact on the SACs due to potentially polluting inputs from atmospheric emission arising from the proposed development. Both consultees have appraised the submissions in detailed and confirmed their views in writing to the BBNPA.

EAW have confirmed that the atmospheric emissions modelling provided in the additional submissions from the Applicant was “fit for purpose.” Based on this view they state in their consultation response of 31st July 2009 that, “In relation to this particular proposal we expect that on the information so far reviewed a suitable technical solution to control the atmospheric pollution impacts of the proposed development will be proposed by the applicant as part of their EPR Permit application and that since such a permit cannot be granted without such technical solutions we are able to remove our objection on that basis.” In addition EAW state that, “An EPR permit would be refused if it did not meet all the relevant legislative requirements.”

CCW have drawn on the statements from EAW in providing specific advice to the BBNPA in their consultation response of 20th August 2009. This response states that CCW are “of the view that there are technical approaches available that could avoid adverse effect to the integrity of any SAC, and adverse effects to any SSSI, and that the best approach to achieve this should be identified and applied at the EPR

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stage, where more detail will be considered by EAW.” CCW conclude that, “Since an EPR decision will require assessment of acceptable new atmospheric loadings and is subject to Regulation 48 of the Habitat Regulations (as amended), CCW is confident that adverse affect to the integrity of any SAC, and significant adverse effects to any SSSI, can be avoided and that there is a legal and enforceable framework in place via the EPR permission to ensure this. CCW therefore withdraws its holding objections to this proposal.”

Compliance with TAN5 paragraph 5.3.2 requires the BBNPA to complete an appropriate assessment of the implications of the proposed development in view of the conservation objectives for the SACs. This assessment has been completed in line with requirements of Regulation 48 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended), and the BBNPA state that, “As competent authority the Brecon Beacons National Park Authority, in line with Regulation 48 of The Conservation (Natural Habitats, & c.) Regulations 1994, case law interpreting said regulations and best scientific opinion conclude that adverse affect on the integrity of the Blaen Cynon SAC can be avoided by the application of available technical solutions which will be appropriately defined and enforced by the Environmental Permitting Regulations process as conducted by the Environment Agency.”

At the stage of determining the planning application the BBNPA is satisfied that a legal and enforceable framework is in place within the EPR process to ensure the avoidance of adverse affects on the integrity of Blaen Cynon and Coedydd Nedd a Mellte SACs. The BBNPA are therefore able to proceed in determining this planning application whilst remaining in compliance with TAN5 before commencement of the EPR application process.

TAN5 paragraphs 5.4.2-5.4.5 relate specifically to the considerations necessary to protect SSSI when LPAs are determining development proposals as established by the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000.

Paragraph 5.4.3 of TAN5 reminds Section 28 (G) authorities, as identified in Section 28G (2) Wildlife and Countryside Act 1981, inserted by the Countryside and Rights of Way Act 2000, to “to take reasonable steps, consistent with the proper exercise of these functions, to further the conservation and enhancement of the features for which the site is of special interest.” Paragraph 5.4.4 states that, “The Assembly Government expects all section 28G authorities, including local planning authorities, to: apply strict tests when carrying out functions within or affecting SSSIs, to ensure that they avoid, or at least minimise, adverse effects;”

The considerations and advice provided by CCW with regards to the potential impacts of the proposed development on the identified SACs relate equally to those SSSIs that underpin the respective European site, namely for Blaen Cynon SAC: Cors Bryn-y-Gaer and Woodland Park/Pontpren SSSIs and for Coedydd Nedd a Mellte: Dyffrynnoedd Nedd a Mellte a Moel Penderyn SSSI. The advice provided by CCW that any significant adverse effects on the relevant SSSIs can be avoided through the legal and enforceable framework of the consideration of EPR permission. This is reinforced by the statement from EAW that, “An EPR permit would be refused if it did not meet all the relevant legislative requirements.”

Officers are of the opinion that BBNPA has taken all reasonable steps in considering this application to further conserve the recognised SSSIs in accordance with requirement of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. In full compliance with the guidance of TAN5 the BBNPA have also sought to secure through a S.106 legal agreement habitat management within the Cors Bryn-y-Gaer and Woodland Park/Pontpren SSSIs to enhance these sites.

Protected Species

TAN5 paragraphs 6.2.1-6.2.2 and 6.3.1-6.3.2, 6.3.4-6.3.7 provide detailed guidance to LPAs when considering development proposal that may that, “if carried out, would be likely to result in disturbance or harm to the species or its habitat.”

Paragraphs 6.2.1 specifically states, “Local planning authorities should consult CCW before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations, under which the developer would take steps to secure the protection of the species and advise developers that they must comply with any statutory species protection requirements that may be relevant.” The BBNPA have formally consulted CCW in line with this guidance.

TAN 5 paragraph 6.6.2 advises LPAs that, “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It is considered best practice that such a survey is carried out before planning application is submitted. Planning permission should not be granted subject to a condition that protected species surveys are carried out and, in the event that protected species are found to be present, mitigation measures are submitted for approval. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of them being present. However, the level of likelihood that should trigger a requirement for developers to undertake surveys should be low where there is a possibility that European protected species might be present. It is considered best practice that such screening should be carried out by a competent ecologist on the basis of data provided by the relevant Local Record Centre(s). Where a survey is required by the authority, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is given. In appropriate circumstances, the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the appropriate wildlife legislation.”

In support of their application, the Applicant has completed detailed ecological surveys which are described in Chapter 13 and its respective Appendix I of the ES submitted to BBNPA. These surveys included an Extended Phase I Habitat Survey; consultations with CCW, the local records centre, local wildlife trust and local interest groups to ensure a comprehensive desk study of all available information; and further ecological surveys undertaken on the site and its surroundings. The

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BBNPA accept that the ecological survey work has been completed for this proposed development in compliance with guidance provided in TAN5.

Section 13.59 of the ES records in scrub woodland beyond the southern boundary of the proposed development site a potential resting area for otter, which are protected from damage or destruction European and UK law. In addition the survey results described in Section 13.60 of the ES record the presence of slow worm within the Site, which are protected under the UK Wildlife and Countryside Act 1981 (as amended) from intentional killing or injuring. The survey results documented in Section 13.49 of the ES acknowledge the potential for bat foraging activity associated with the scrub woodlands on the western and northern boundaries of the Site.

CCW in their consultation response of 20th January 2009 recommended that the LPAs assess the likely impacts on otters in line with Regulation 44 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended). The need to avoid impacts slow worm was recognised by CCW in seeking the preparation and implementation of a mitigation plan. They also CCW also recognised that the proposed development had the potential to affect bat foraging activity and flight lines within the scrub woodland on the northern and western fringes of the Site.

Regarding this specific matter of otters, as previously mentioned BBNPA Officers do not fully accept the recommendations of CCW. Firstly the requirements of Regulation 44(1)(e) as recommended by CCW cannot be delivered by means of a condition, as such a condition would be reliant on a separate area of legislation which would not be enforceable under the guidance of Circular 11/95.

Furthermore the presence of otters on the Site was not recorded by the ecological surveys completed by the Applicant. The results of the surveys as described in section 13.59 and detailed in Chapter 13 (Appendix 1) suggests that scrub woodland outside the southern boundary of the site may provide a suitable resting area for otters. This habitat is located by an existing operational water treatment works which according to the Section 13.49 of the ES is illuminated by bright lights. The proposed development area is also separated from this potential otter habitat by an existing industrial estate link road which is also illuminated. The likelihood of otters utilising this potentially suitable area of scrub woodland as a resting site is therefore considered low. Consequently the BBNPA do not accept that there is a significant risk of disturbing a possible otter occupying the potential resting site within the existing operational water treatment works outside the boundary of the Site. The BBNPA therefore considered that a derogation from Regulation 39 of The Conservation (Natural Habitats, &C.) Regulations 1994 (as amended) is not required in this instance.

In line with TAN5 paragraph 6.3.7 the Officers are satisfied that the proposed development would not adversely impact otters.

As previously stated the BBNPA seeks to ensure the conservation and enhancement of other protected species recognised under the Wildlife and Countryside Act 1981 (as amended). Section 13.115 of the ES acknowledges the need provide a mitigation plan to avoid impacts on slow worm. The Applicant has proposed a pre-construction

trapping and translocation exercise to avoid harm or killing of this species. They also propose to monitor the receptor area to confirm the success of the translocation. CCW have requested that the mitigation plan is agreed and approved by them prior to construction. The Officers are satisfied that the approval and implementation of the mitigation plan can be controlled by means of planning condition in compliance with paragraph 6.6.2 of TAN5.

Officers equally accept measures proposed by the Applicant to restrict night working will minimise the impact on the bat foraging activity during the construction period. Further controls to secure the conservation and enhance of bat activity on the western and northern fringes of the Site are sought through planning conditions. These conditions will ensure the completion of the landscaping plan proposed by the Applicant and the restriction of external lighting during the operation of the proposed development to minimise light disturbance to existing and potential additional bat activity associated with the retained and proposed extended woodland fringe.

The Officers are satisfied in accordance with Chapter 6 of TAN5 that the proposed development will not adversely impact European or other protected species. The proposed mitigation measures and planning conditions offer opportunities to conserve and enhance protected species and their habitats.

Biodiversity Action Plan (BAP) Habitats and Species

Paragraph 6.5 of TAN5 entitled, Habitats and species of principal importance for biodiversity in Wales, seeks to promote the conservation habitats and species which recognised as priorities in the UK BAP. Paragraph 6.5.1 advises LPAs, that such habitats and species are capable of being a material consideration in making planning decisions.

The ES recognises that a significant proportion 7.25ha (85%) of the Site supports marshy grassland vegetation which is a UK BAP priority habitat. The applicant considers that the loss of this habitat is of minor County significance. The Applicant offers a level of mitigation through aspects of habitat creation as part of the soft landscaping associated with the proposed development. The ES states that 0.3ha of 'grassland habitat' will be created as part of the landscaping plan for the proposed development. The ES also identifies the presence of a small number of BAP bird species, namely a single pair of skylark, associated with the marshy grassland habitat.

The Officers acknowledge the potential contribution of the proposed landscaping plan to mitigating the impact on the BAP habitat and species. However, in line with the views expressed by EAW and CCW in their consultation responses the Officers do not accept that this contribution adequately addresses the scale of habitat loss. It is accepted by the Officers that it is not possible to mitigate further for this impact within the proposed Site and it is therefore the intention to secure compensation for this habitat loss outside the boundary of the proposed development by means of a Section 106 agreement. Beyond the required compensation the Officers have sought also through Section 106 agreement the provision of further habitat enhancements outside the Application Site to deliver a net benefit for biodiversity conservation in line with TAN5 guidance and the requirements of the Natural Environment and

Rural Communities (NERC) Act 2006.

The compensation and enhancement agreed with the Applicant will take the form of a financial contribution of £205,031.00 to deliver a project to identification and management of 28ha of additional marshy grassland habitat in close proximity to the Application. The project will be delivered by Butterfly Conservation. The details of the project will be delivered and controlled to be developed from the agreed Heads of Terms of the full Section 106 agreement.

Conclusion in accordance with TAN5

The Applicant has considered in their Planning Statement and within the ES that the proposed development would have no detrimental effect on the nearby statutorily designated sites, and therefore the proposed development complied with TAN5. In addition they consider that the conclusion of the Ecology chapter of the ES as derived from the suite of ecological surveys (and atmospheric emissions modelling) support the compliance of the proposed development with the detail of TAN5. These considerations were not accepted by CCW and EAW who objected to the proposed development.

The objections of the statutory consultees have now been withdrawn following receipt and detailed appraisal of additional information. The Officer has consulted extensively with CCW and EAW in assessing the potential impacts of the proposed development on nature conservation interests. Based on the advice provided by CCW and EAW the Officers are satisfied that any significant adverse effects on statutory designated sites, protected species and BAP habitats/species can be avoided or minimised through regulatory controls of the EPR process, planning conditions and obligations. Subject to these restrictions and legally enforceable controls the Officers are of the view that the proposed development can be completed in compliance with relevant guidance from TAN5.

Unitary Development Plan and Local Plan

The relevant development plan policies are UDP Part 1 Policy 2: Biodiversity and Earth Heritage which states that development will only be permitted where there is no unacceptable impact on the biodiversity and earth heritage of the area. Proposals are expected to demonstrate that provision has been made for the protection, enhancement and positive management of areas which incorporate species, habitats and features of identified importance. More detailed policies include Policy G2(iii) Developments of National Significance in the National Park, G3(i) Development in the National Park, Policy Q1 Sites of European Importance, Q2 Sites of National Importance, Policy Q3 Sites of Importance for Nature Conservation, Policy Q4 Protected and Important Wild Species and Policy Q5 Biodiversity and Development. The equivalent LP policies include G3, CL3, CL4, CL5, CL6 and CL7.

Statutory Designated Sites - Brecon Beacons National Park

UDP Policy G2 considers that developments which are of more (UK) national rather than local significance will only be permitted under exceptional circumstances. Any adverse impact on the environment must be subject to rigorous examination and the

extent to which such impacts be moderated fully assessed. As previously considered in the context of the national policies, Officers are satisfied that appropriate levels of mitigation, compensation and enhancement can be secured to moderate any detrimental effects on the environment of the BBNP.

Policy G3 of the UDP, and its LP equivalent, requires that all development proposals within the National Park do “not have an unacceptable impact on, nor detract from or prevent the enjoyment of, the special qualities, natural beauty, wildlife and cultural heritage of the National Park.” Officers are satisfied that those impacts on wildlife of the National Park, identified by the ES and supporting information, can be avoided or reduced to an acceptable level by means of mitigation, compensation and enhancement.

SACs and SSSIs

UDP Policies Q1 and Q2 consider the circumstances where developments will be permitted in relation to sites of European importance and those sites national importance. In the case of European sites Policy Q1 (ii) states that developments that may affect such sites will only be permitted when they “will not have an unacceptable impact on the conservation objectives associated with the site or the integrity of the site.” Policy Q2(ii) advises that a development which may affect a SSSI will only be permitted where, “the developer proves to the satisfaction of the NPA that the proposal has no unacceptable impacts which would directly or indirectly damage the site, detrimentally affect its conservation interest or its value in terms of its designation.”

The BBNPA as a competent authority concluded, in line with Regulation 48 of the Conservation (Natural Habitats, &C.) Regulations 1994, on the advice and conclusions of CCW and EAW and best scientific opinion, that adverse affect on the integrity of the Blaen Cynon SAC and Coedydd Nedd a Mellte SAC can be avoided by the application of available technical solutions which will be appropriately defined and enforced by the EPR process as conducted by the EAW. This advice also underpins the avoidance of any direct or indirect detriment to the Cors Bryn-y-Gaer, Woodland Park/Pontpren and Dyffrynnoedd Nedd a Mellte a Moel Penderyn SSSIs.

Protected Species

Policy Q4 of the UDP, and its equivalent CL6 of the LP, address potential impacts on protected species as a consequence of development proposals. Such developments will only be permitted where:

- i) the need for the development outweighs the nature conservation importance of the site, and in the case of European protected species, the criteria for derogation under the Habitats Regulations are met;
- ii) positive measures are provided to contribute to species and habitat conservation targets; and
- iii) the developer proves to the satisfaction of the BBNPA that
 - a) the disturbance of the species and habitat in terms of the effect on the species survival and reproductive potential or habitat function is kept to a

minimum;
or

- b) alternative areas are provided to sustain at least the current levels of populations or size of habitat affected by the proposal.

On the basis of remoteness of the potential otter resting site from the Application Site the likelihood of adverse impacts on otters is minimal. As a mitigation plan the Applicant has proposed a pre-construction trapping and translocation exercise to avoid harm or killing of this species. They also propose to monitor the receptor area to confirm the success of the translocation. The approval and implementation of this mitigation plan can be controlled by means of planning condition. Further conditional controls on night working during construction and external lighting on the operational site will seek to mitigate for any additional impacts on bats. Further positive measures for protected species will be sought through the landscaping of the site.

The Officers are satisfied in accordance the relevant UDP and LP policies that the proposed development will not adversely impact European or other protected species. The proposed mitigation measures and planning conditions offer opportunities to conserve and enhance protected species and their habitats.

Biodiversity Action Plan (BAP) Habitats and Species

UDP Policy Q5: Biodiversity and Development considers that development will only be permitted where:

- i) the developer proves to the satisfaction of the NPA that there is no unacceptable loss or fragmentation of a characteristic habitat or landscape feature and/or increased isolation of important species as defined in the NPA's Local BAP;
- ii) the developer identifies habitats and landscape feature or importance for wildlife within the site and provides for the future creation, positive management, restoration, enhancement or compensation for these habitats and features to ensure that the site maintains its nature conservation importance; and
- iii) full provision is made for the future management of the site's habitats and features of nature conservation value. This will be secured either through planning obligations or the imposition of planning conditions.

The impact on the marshy grassland BAP priority habitat has been acknowledged by the ES. The Officers recognise the potential contribution of the proposed landscaping plan to mitigating the impact on the BAP habitat and species, although it is not deemed sufficient in terms of scale to offset the assessed habitat loss. The Officers are satisfied with the Applicant's offer of compensation for this habitat loss outside the boundary of the proposed development to be secured by means of a Section 106 agreement. Beyond the required compensation the provision of further habitat enhancements outside the Application Site to deliver a net benefit for biodiversity conservation in line policy and the requirements of the NERC Act 2006.

As previously described the compensation and enhancement package agreed with

the Applicant will identify and manage an additional 28ha of marshy grassland habitat in close proximity to the Application. The details of the project to be delivered by Butterfly Conservation will be developed from the agreed Heads of Terms of the full Section 106 agreement.

Conclusion in accordance with the UDP and LP

The Officers are satisfied that, with regard to nature conservation interests, the proposed development is able to comply with the requirements of policies UDP Part 1 Policy 2: Biodiversity and Earth Heritage, G2, G3, Q1, Q2, Q3, Q4 in the UDP and equivalent policies G3, CL3, CL4, CL5, CL6 and CL7 in the LP.

Nature Conservation – Conclusion

In relation to the nature conservation interests of the National Park the Officers conclude that the proposed development is compliant with the relevant national and local policies as applicable to the consideration of this application.

3. WATER AND OTHER POLLUTION CONCERNS

The development proposes to deal with water sustainably by the use of a sustainable water management plan that includes the recycling/reuse of water within the processes and buildings as appropriate. The development's indicative landscaping programme proposes the use of reed beds and ponded areas where grey water will be filtered further for reuse or an appropriate form of discharge. Officers support the sustainable water management proposed on the Site but note that there will still be significant quantities of waste water discharged. However, this will be subject to discharge consents from EAW.

The north of the Site adjoins land belonging to and used by DCC for the provision of Penderyn reservoir. The reservoir is sited behind an embankment and as such is higher than the Site and the rest of the Industrial Estate. DCC initially objected to the development due to potential concerns regarding air emissions polluting the water asset. A monitoring and mitigation scheme, controlled through a Section 106 agreement, has been negotiated between DCC, the LPAs and the Applicant. Subject to successful conclusion of the agreement by all parties, DCC are able to withdraw their objection.

PPW identifies the need for adequate, efficient and appropriate infrastructure, including in this application services for water supply, waste management and renewable energy.

TANI5 provides technical guidance which supplements the policy set out in PPW in relation to development and flooding. It advises on development and flood risk as this relates to sustainability principles (section 2.2 PPW), and provides a framework within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.

The Site is not in a known flood risk area but as a waste disposal facility it is classed as a Highly Vulnerable development. Highly vulnerable development describes

development where the ability of occupants to decide on whether they wish to accept the risks to life and property associated with flooding, or be able to manage the consequences of such a risk, is limited. It also includes those industrial uses where there would be an attendant risk to the public and the water environment should the site be inundated. The EAW have not objected on flood risk grounds following the submission of an appropriate Flood Consequences Assessment (FCA).

Officers consider that through the appropriate control of planning conditions relating to on site water management, and the DCC appropriate Section 106 agreement being executed, the impact on the water environment can be acceptably managed.

Dwr Cymru Cyfngedig (DCC)

DCC object to the development unless their concerns regarding a perceived risk relating to the potential of an unacceptable impact on their water asset is addressed via a legal agreement. Significant discussions, meetings and correspondence have taken place between Applicant, DCC and the LPAs, and DCC commissioned its own confidential independent environmental report regarding perceived risk to the water supply.

Heads of Terms have been agreed in principle between relevant parties to include monitoring (pre and post operation of development), information dissemination, trigger levels and appropriate mitigation if necessary.

TANI5 Development and Flood Risk

TANI5 sets out a precautionary framework to guide planning decisions, with an overarching principle of directing new development away from areas at high risk of flooding, and establishing testing processes to justify any exceptions to this. Figure 2 of TANI5 categorises power stations, chemical plants, incinerators, and waste disposal sites as 'highly vulnerable' development, suitable only within areas at low risk of flooding.

The ES considers flood risk issues at Chapter 11. The Applicant has stated the proposed development has been prepared in consultation with EAW to determine the requisite attenuation measures, which, as a result, have been made integral to the application.

EAW commented on flood risk in the earlier consultation response received on 12th February 2009. EAW reviewed the FCA undertaken as part of the surface water management plan and submitted as part of the application. EAW is satisfied that the FCA demonstrates the risks and consequences of flooding can be acceptably managed. EAW make further recommendations regarding surface water drainage to incorporate greenfield runoff and Sustainable Urban Drainage Systems (SuDS).

As stated in Chapter 11 of the ES, the Site is at low risk of flooding. The ES concludes also that the proposed development should not increase the risk of flooding elsewhere, for instance as a result of more rapid runoff. EAW have accepted this conclusion and thus the BBNPA are satisfied that the proposals are consistent with the advice contained within TANI5.

In the formal response received on 31st July 2009 EAW commented on “risks to controlled waters from land potentially affected by contamination”.

EAW recommend that planning conditions are imposed regarding potential contamination that may be identified on the Site. As stated earlier in this report the Site was the site of a former munitions factory. EAW state the reason for including such condition(s) is “Contamination is known/strongly suspected at the site due to the previous land uses, and as we consider that the controlled waters at this site are of high environmental sensitivity due to its close proximity to several water features, the risk of polluting controlled waters must be managed”.

The Applicant has made the following comments in an attempt to clarify the nature and extent of known contamination.

“We would like to point out, for the record, that as part of our environmental statement we submitted a detailed site report compiled by Soil Mechanics, in July 2009. The report concluded that:

The levels of contamination in the analysed soil and groundwater samples are low for the analysed contaminants. Based on available evidence, the site may be developed without the need for remediation to remove the risks to human health”.

The Applicant is willing to accept the planning conditions suggested by EAW. Consequently Officers consider that contamination and its potential can be adequately controlled by planning condition and as such is not a sustainable reason for refusal of planning permission.

Development Plan Policies

The relevant development plan policies include UDP Policy H2 – Development and the Risk of Flooding and Policy H3 Reducing the Risk of Flooding (LP equivalent policies G10 and G11). The proposal satisfies the policies in that the risks and consequences associated with flooding can be acceptably managed and the promotion of sustainable urban drainage system within the Site.

TAN11 Noise and other legislative controls

Noise and vibration are covered in detail in Chapter 10 of the ES.

TAN11 provides advice on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business. LPAs must ensure that noise generating development does not cause an unacceptable degree of disturbance.

Noise characteristics and levels can vary substantially according to their source and the type of activity involved. In the case of industrial development the character of the noise should be taken into account as well as its level. Sudden impulses, irregular noise or noise which contains a distinguishable continuous tone will require

consideration.

TAN11 cites measures that can be introduced to control the source of, or limit exposure to, noise which should be reasonable and proportionate and may include:

1. Engineering: reduction of noise at point of generation (using quiet machines and/or quiet working methods); Containment of noise generated (insulating buildings which house machinery and/or providing purpose built barriers around a site); Protection of surrounding noise sensitive buildings (improving sound insulation in these buildings and/or screening by purpose built barriers)
2. Lay-out: adequate distance between noise source and noise sensitive properties or area, screening by natural barriers, other buildings, or non –critical rooms in a building;
3. Administrative: limiting operating time of noise source; restricting activities allowed on the site; specifying an acceptable noise limit.

TAN11 Annex B refers to the assessment of noise from different sources and Paragraph B17 refers to noise from industrial and commercial sources.

The likelihood of complaints is indicated by the difference between the noise from the new development and the existing background noise. The Standard (BS 4142) states that, “A difference of around 10dB or higher indicates that complaints are likely. A difference of around 5dB is of marginal significance”. Since background noise levels vary throughout a 24 hour period it is necessary to assess the acceptability of noise levels for separate periods (e.g. day and night) chosen to suit the hours of operation of the proposed development. Similar considerations apply to developments that will emit significant noise at the weekend as well as during the week.

With regard to construction noise, paragraph B20 of Annex B states:

“B20. Detailed guidance on assessing noise from construction sites can be found in BS 5228, parts 1-4. In particular, Part 1: 1984, “Code of practice for basic information and procedures for noise control” will be useful because as well as giving general advice it describes a method of predicting noise from construction sites.”

BS5228, Part 1, 1984 has been superseded by the 1997 version but the same principles apply. Within BS5228, Annex 4 provides ‘EXAMPLES OF PLANNING CONDITIONS’ with Annex 5 providing guidance on ‘SPECIFYING NOISE LIMITS’. BS5228 further advises that consideration should be given to the type of limit, the noise index, monitoring points and meteorological conditions to ensure that limits are set sensibly in accordance with appropriate guidance and best practice for monitoring.

Officers consider that sufficient controls can be secured through planning conditions and the EPR process.

Other legislative controls and guidance

The Control of Pollution Act 1974 (CoPA)/Environmental Protection Act 1990 (EPA)

There are various standards and legislation applicable to construction activities associated with a development of this type and these are outlined below.

Section 60, Part III of Chapter 40 of the CoPA – Control of noise on construction sites. This provides legislation by which a LA can control noise from construction sites to prevent disturbance occurring.

Section 61, Part III of Chapter 40 of the CoPA – Prior consent for work on construction sites. This provides a method by which a contractor can seek consent to undertake construction works in advance of their commencement. If consent is given, and the stated method and hours of work complied with, then the LA cannot take action under Section 60.

Section 79, Part III of Chapter 43 of the EPA – Statutory nuisances and inspections thereof. This defines statutory nuisances with regard to noise and other aspects and determines that a LA, in this case the Unitary Authority, are under a duty to inspect their areas to detect such nuisances. This section also considers and defines the concept of ‘Best Practicable Means’ (BPM) which originates from Section 72, Part III of Chapter 40 of CoPA where BPM is defined as “reasonably practical having regard, among other things, to local conditions and circumstances, to the current state of technical knowledge and to the financial implications”.

Section 80, Part III of Chapter 43 of the EPA – Summary proceedings for statutory nuisances. This provides Local Authorities with powers to serve an abatement notice requiring the abatement of a nuisance or requiring works to be executed to prevent their occurrence.

The following British Standards and guidance were used in assessing the impact from both noise and vibration.

- BS4142 ‘Method for Rating Industrial Noise affecting Mixed Residential and Industrial Areas’ 1997.
- Calculation of Road Traffic Noise (CRTN), Department of Transport (Welsh Office) 1988.
- BS5228: Noise and Vibration Control on Construction and Open Sites (Part 1: 1997).
- BS7445: Description and Measurement of Environmental Noise, 1991.
- BS6472: Pt I: Guide to Evaluation of human exposure to vibration in buildings: Vibration sources other than blasting, 2008
- BS7385: Evaluation and measurement for Vibration in Buildings Part 1: 1990 and Part 2:1992
- BS5228: Noise and Vibration Control on Construction and Open Sites (Part 4: 1992).

Elements of the proposed facility will operate on a continuous 24 hours a day, seven

days a week basis. However, HGV and vehicle movements will be restricted to the daytime working hours to be controlled by planning condition. Within the scope of the application it is proposed to operate a high energy use within a structure located on the north western part of the Site. The future user is not yet established and therefore any cumulative effects, apart from transport, cannot be considered at this stage. The HEU is scheduled for phase 2 of the proposed development and a separate noise assessment is recommended at this stage.

The potential for noise nuisance from the Site construction, operations and associated transport movements has been assessed in the ES. A selection of potentially sensitive receptors was identified and a noise monitoring exercise identified the current background noise at these locations. Information regarding the likely noise levels from the proposed development was incorporated into the model and enabled the prediction of the likely noise levels during daytime and night-time activities at each of the chosen monitoring points. The potentially noise sensitive receptors were Ty Cwplau Farm (west of the site), Reservoir House and Trebanog Uchaf (residential to the north) and Ty Newydd Hotel (hotel to the east).

Modelling demonstrated that the short-term effects of site construction operations could result in effects of varying significance at the closest monitoring points, dependent upon the works being undertaken at the time and the area in which they occur. Daytime operations at the site were predicted to result in a neutral impact and night time operations were predicted to have a neutral to slight impact. Noise associated with the proposed traffic flows of the development would have neutral effects on the existing traffic noise levels of the area.

These have been predicted having had regard to construction phase, operational phase of waste recycling and energy recovery facility, traffic associated with both waste recovery and the B1/B2 Unit. The prediction includes noise attenuation on the enclosed buildings in the waste resource recovery operations, with enhanced attenuation on the Fuel Preparation Area building and Pyrolysis building. With regard to sensitive receptors north and east of the site it is not considered necessary that further detailed mitigation measures would be required above those specified within the mitigation section in the ES. However, with regard to the farmhouse Ty Cwplau to the west, it is considered prudent that additional control measures may be required within the design of the B1/B2 Unit. In the absence of the B1/B2 Unit in the longer term, a further noise survey is recommended to assess potential noise impact. This can be controlled by condition or as part of a legal agreement relating to absence of B1/B2 Unit although the Applicant is confident that the B1/B2 Unit/HEU will be in place as it is an integral part of the proposed development.

The proposed mitigation has the effect of reducing the predicted noise generated to acceptable daytime and night time limits. Since noise is controlled by the EPR process through the EAW and will be limited by appropriate noise abatement built into the buildings, including that in the B1/B2 Unit including its screening effect, RCTCBC Environmental Health have raised no objections in principle. A planning condition relating to noise control will be imposed should planning permission be forthcoming for a situation where the proposed B1/B2 Unit does not come to fruition in the short term and with regard to piling at the construction phase. RCTCBC Environmental Health has requested notification if piling is to take place.

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RCTCBC Environmental Health has raised no adverse comments regarding noise and vibration aspects of the proposed development regarding impact to nearby residential properties but has requested that a further noise survey is undertaken if the B1/B2 Unit/HEU does not materialise.

Facilities can produce noise both inside and outside buildings. Intermittent and sustained operating noise, such as vehicle reversing alarms, may be a problem if not kept to acceptable levels, particularly if night-time working is involved. It will often be necessary to impose planning conditions relating to the suppression of noise during operations, and limiting times of operation.

Notices should be displayed at any site where a nuisance might be caused, particularly by vehicle movements, machinery or the depositing of materials, to encourage their use only during limited hours. This applies particularly to large waste management facilities but noise can be locally obtrusive at some small facilities such as container banks, especially those for the deposit of glass.

The aim should be to control noise impact at source to minimise impacts at places where people work and live. This is more appropriate than setting noise limits at site boundaries or prescribing minimum distances between sites and noise sensitive properties.

Since noise is controlled by the EPR process through EAW and will be limited by appropriate noise abatement built into the buildings, including that in the High Energy User including its screening effect, RCTCBC Environmental Health have raised no objections in principle. A planning condition relating to noise control will be imposed should planning permission be forthcoming for a situation where the proposed High Energy User does not come to fruition in the short term. Officers have suggested further conditions affecting noise potential at the Site by controlling deliveries, construction and prevention of external storage.

The relevant planning policies applicable are UDP Policy G3 (v) and LP Policy G3 (vii) and (viii) which are concerned with development not having an unacceptable impact on the amenity of the area, nearby properties and the general public.

In summary, it is considered that the proposed development will not result in significant noise effects on the surrounding community or area and is therefore commensurate with UDP Policy G3 (v) and LP Policy G3 (vii) and (viii).

Dust and Other Emissions including Odours

Relevant local planning policies include UDP Policy G3 (v) and LP Policy G3 (vii). Both policies are concerned with protecting the amenity of the area, adjacent properties and the general public. Air quality is discussed in detail in Chapter 9 of the ES.

Annex C TAN21 Dust and Other Emissions states:

“Dust, particulates and other emissions such as methane generation, are amenity, air quality and health issues that persist outside of operating hours. The potential issue

of toxins or pathogens from proposed waste management facilities are matters of major public concern. Such matters are normally controlled under pollution control legislation or permit conditions, both the responsibility of the Environment Agency. The nature of dust particulate from waste management facilities will depend on the type of facility. Dust production can be minimised through use of appropriate and well-maintained equipment and careful design of a facility. Air quality issues will normally be raised at the planning stage and can be a material planning consideration as well as a pollution control issue.

Dust emissions should be controlled, for instance by regular water spraying, by adequate covering of waste storage areas or deposited wastes in landfill sites, or by modifying air outflows from buildings or incinerators. It may be appropriate to impose a planning condition that requires waste operators to prepare a scheme, or to indicate what measures will be undertaken, to suppress dust on site. Care should be taken, however, that any planning condition does not duplicate a condition imposed through a waste management licence or Pollution Prevention and Control Permit (PPC).”

Annex C TAN21 Odour states:

“Waste management facilities can produce unpleasant odours that can result in recurring nuisance to local residents and other neighbours, and this should be given full weight in the consideration of planning applications. Odours can be minimised by using techniques such as negative pressure in facility housings, and good site practices, such as the daily covering of waste at landfill sites. Small facilities such as container banks should not generally present a problem although they should be emptied and cleaned frequently.

Draft working plans to explain operating procedures should be included in the planning application to set out the details of how offensive odours can be minimised and these should be properly implemented. The potential for odour generation and likely dispersion patterns, taking account of topography and weather conditions should be fully investigated in considering planning applications. Effective odour control should be demonstrated including contingency plans for odour incidents. Unless appropriate mitigation measures are included, permission should be refused. The Environment Agency should advise the local planning authority on the pollution control provisions and specify those issues that the licence or permit will deal with to avoid duplication of controls.”

The Applicant stated its aim is to use waste as a resource, segregating materials on entry to the plant and promoting recycling where possible. Thereafter the materials are processed through an integrated series of facilities designed to extract the energy potential of the wastes. Most of these facilities are sealed or contained units, with no release to atmosphere, however key processes which could have a potential impact on air quality are:

- Releases from operational buildings, the preferred route for which is as combustion air for engines, thereby ensuring any odour is removed through combustion, however any surplus which does not provide combustion air to the engines will be discharged to atmosphere, passing through carbon or bio

- filters to control the emission of odours;
- Emissions from the gas and oil engines which create the electricity;
- Emissions from the emergency flares;
- Fugitive emissions from around the site; and
- Emissions from road transport

An air quality assessment has been undertaken and includes an odour management plan. When considering potential developments and the protection and improvement of air quality, PPV states that:

“The potential for pollution affecting the use of land will be a material consideration in deciding whether to grant planning permission. Material considerations in determining applications for potentially polluting development are likely to include:

- location, taking into account such considerations as the reasons for selecting the chosen site itself;
- impact on health and amenity;
- the risk and impact of potential pollution from the development insofar as this might have an effect on the use of other land and the surrounding environment (particularly if the development would impact on an Air Quality Management Area or a SAC);
- Prevention of nuisance;
- Integrated Pollution Prevention and Control Permit”.

Planning policies and proposals must therefore contribute to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems. In particular, planning should seek to ensure that development does not produce irreversible harmful effects on the natural environment. The conservation and enhancement of statutorily designated areas and of the countryside; the conservation of biodiversity, habitats, and landscapes; the conservation of the best and most versatile agricultural land; and enhancement of the urban environment all need to be promoted.

The Applicant states the development is designed to promote environmentally effective recycling and reduce the requirement for landfill. The development is located on a brownfield site, within an existing industrial estate which has good transport links. They state that site emissions and the environmental impact of operations will be minimised and controlled. As such, the Applicant considers that the development will not produce irreversible, harmful effects in the environment and should result in a minimal environmental impact on the local area.

Potential Effects

Chapter 9 of the ES considers air quality impact from the development. It includes the following table of primary potential releases to atmosphere.

Process	Primary Potential Releases to Atmosphere
Construction	Dust from earth movement works, aggregate handling, foundation piling and site traffic on paved and unpaved roadways

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Road traffic; during construction and operation	Combustion emissions from vehicle engines: Benzene 1,3 Butadiene Carbon Dioxide Carbon Monoxide Oxides of Nitrogen Particulate Matter Sulphur Dioxide, Volatile Organic Compounds
Waste Acceptance, Sorting and Pre-treatment Ventilation from process buildings	Materials are off-loaded and handled within the feedstock preparation area. Sealed buildings with controlled ventilation and double doors will minimise releases from areas with high odour creation potential. Ventilation discharges via the engines as combustion air, or through carbon or biofilters. The potential does still exist for the release of odour, however this should not be significant.
Sealed transportation of feedstock and fuels around site	Sealed and covered systems, and thus no release to atmosphere.
Anaerobic Digestion	Sealed processing tanks with feedstock and gases pumped in and out. A very occasional requirement to enter the tanks for maintenance will be proceeded by a rigorous pre-clean, and hence the potential for odour release will be minimised.
Biomax Separator	No emission point, and operation is contained within a process building with controlled ventilation and double doors. Ventilation will discharge as combustion air to engines, if this is acceptable to the regulating State Veterinary Service, and / or via carbon or biofilters. The potential does still exist for the release of odour, however this should not be significant.
Plasma Conversion	No emission point, plant is a series of sealed reactor vessels located externally. The only potential odour point is the feed inlet which is a contained design. The potential does still exist for the release of odour, however this should not be significant.

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Pyrolysis Plant	No emission point, and operation is contained within a process building with controlled ventilation. Ventilation will discharge as combustion air to engines and / or via carbon or biofilters. The potential does still exist for the release of odour, however this should not be significant.
Emergency Flares	The flares will constitute point source releases to atmosphere and are designed to ignite should an emergency release of gas be required from the process or storage vessels. Emergency flares are designed to combust excess gas in order to ensure the safety of systems from overflowing or excess pressure. Flares are designed with specific residence times and temperature control ensuring adequate combustion, however emissions to atmosphere will still comprise: Carbon Dioxide Carbon Monoxide Oxides of Nitrogen Unburned Hydrocarbons
Fugitive Emissions	Controlled handling and processing of the in coming materials should minimise the potential for fugitive releases of odour or litter, and as all operational areas of the site are to consist of impervious hardstanding, it is unlikely that large quantities of dust will be created by the site.

The proposed development has the potential to impact on air quality in the following ways:

- Dust emissions (construction phase)
- Traffic emissions (construction and operational phases)
- Engine exhausts (operational phase)
- Potential odour emissions (operational phase)
- Flare exhausts (short term start up or emergency conditions only)

Dust Emissions

Dust emission from the Site will occur predominantly during construction. The main sources of dust include that generated from land stripping and excavation, piling and foundation works, aggregate and materials handling and preparation, and traffic movements across the site which will, periodically at least involve movement across open ground.

A Construction Method Statement to be agreed between the Applicant and the LPA would form part of the planning permission. The statement shall include:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials

- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from construction works.

It is proposed that the measures to control the emission of dust and dirt during construction will include the use of a water bowser and wheel washing facilities for vehicles leaving the Site as necessary.

Once operational, the Site will be covered in hardstanding and landscaped areas therefore the dust creation potential will be negligible. All materials handling operations will be undertaken within enclosed buildings incorporating negative pressure ventilation systems, and thus dust creation through operational practices will also be negligible.

Officers consider that it is inevitable that dust will be caused during construction. The suggested planning condition relating to the Construction Method Statement aims to manage and minimise dust emissions during the construction phase to an acceptable level in the interests of complying with Policy G3 in both the UDP and LP. Officers are therefore satisfied that dust emissions can be adequately controlled.

Odour Emissions

Feedstock materials would be delivered in RCVs, if a LA contract is in place and/or other deliveries via articulated Lorries. It is stated that all vehicles must be covered when arriving at the Site, such that the refuse collection vehicles have the back doors closed and articulated lorries are fully sheeted. Materials are accepted under contract and as such most deliveries will be scheduled to occur at staggered periods throughout the day, resulting in a well controlled delivery and acceptance operation. Sheeting of vehicles can be further controlled by condition.

In the event of the feedstock material arriving at the Site, following a successful waste authority contract, being municipal solid waste the RCVs will deliver newly collected waste twice per day, five days per week. This results in the material being stored within the collection vehicle for up to approximately four hours prior to controlled tipping into the fuel preparation area. Thus, although the collected material will likely have begun to decompose over the course of the preceding week or fortnight (since any earlier collection), the transportation of the refuse vehicles along the roadway and into the Site, should give no greater rise to odours than during the waste collection round. Since the vehicle will remain closed until within the enclosed tipping area, the odour from the refuse vehicles will generally be less than that generated during the street collections.

Other Feedstocks

Other feedstocks have a higher potential for odour generation, specifically the food and animal by-products material associated with the Biomax plant. The main source of this material will be from food preparation plants within the region, and thus the deliveries will consist largely of fresh food and meat waste which have travelled for

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only a short distance. However, some of the material arriving at the Site may have travelled further distances or may not be of the same quality (i.e. non-food grade). The material will generally have been loaded directly into an open topped articulated vehicle prior to being fully covered for transportation. Alternatively, deliveries may arrive in smaller covered Eurobins which are transported within an enclosed vehicle. All deliveries into the Biomax building will be unloaded into a temperature controlled storage area and processed within 48 hours.

Material accepted at the Site would be dealt with as soon as possible. The fuel preparation area is designed to accept four simultaneous deliveries, and the Biomax area can accept two. The delivery process includes material acceptance checks and weighing etc, and a waiting area is provided for the delivery vehicles.

The Applicant states with the exception of the material acceptance checks, all waste handling operations will be within enclosed buildings served by a negative pressure ventilation system. Two rapid action doors on each unloading/loading bay for the fuel preparation area and the Biomax plant ensure that a vehicle is enclosed prior to accessing the operational area. Ventilation extracted from all fuel handling areas will be used preferentially as combustion air within the site engines. Any additional ventilation air will pass via carbon or biofilters prior to release to atmosphere. Either route will ensure effective control of emissions of odour. All filtration systems will be fully maintained in accordance with manufacturers guidance, however daily checks at key locations around the site will also be undertaken to ensure that any signs of deterioration of the abatement effectiveness are noted and acted upon promptly.

Once accepted into the process, the Applicant confirms that materials will remain in enclosed buildings or processes. The Site has a fuel preparation storage area capable of holding sufficient feedstock for four days' operation. The Applicant states that under no circumstance would feedstock material be stored externally. Materials pass through the processing system on conveyors within enclosed buildings or through pipework. In the unlikely event that the movement of other materials may be required (e.g. movement of solids from one process building to another), this will be undertaken in a sealed container or sealed sack. The prevention of external storage of feedstock can be controlled by planning condition and under the EPR Permit issued and controlled by EAW.

Combustion emissions from flares and the engine exhausts would be released at height and are controlled for optimum combustion thereby controlling the odour of the emissions. The main engine release stack is 40m in height above ground level and will incorporate continuous monitoring systems for emissions concentrations. The flares are much lower at 16.5m, however these are designed to function only during start up, shut down or emergency conditions and thus their use will be minimised. Neither type of combustion gas release point should have a noticeable odour creation potential. Again this aspect is controlled under the EPR Permit issued and controlled by EAW.

Process Exhausts

The proposal includes several emission points to atmosphere. These consist of three engine exhaust flues, routed up a single 40m chimney stack to serve the tallow

engines, the fuel preparation area pyrolyser, and the anaerobic digestion gas (methane) engines.

Additionally, there are four flares at the Site which will operate on an infrequent basis to ensure safe conditions. The flares will operate during engine start up: where it is necessary to ensure stable conditions within the engines prior to the introduction of the site-produced fuels; during shut down to maintain controlled conditions; or during emergency conditions: where an engine suddenly fails; or due to an uncontrollable quantity of gas which is excess to requirements and requires venting for safety reasons. Of the four flares, three serve the engine and Pyrolysis processes and the fourth provides a safety release for the gas holder tank. Flares will be 16.5m in height.

Prediction of Potential Impacts

An air dispersion modelling exercise was undertaken (report presented in Appendix 6) in order to assess the likely pattern of dispersion of pollutants from the stacks, and to ensure that the stack height promotes effective dispersion such that the resultant ground level concentrations of pollutants from the process are within the appropriate guidelines for the protection of human health and the ecosystem.

The Applicant's summary of results demonstrates that all pollutant concentrations, including those which incorporate a background concentration, are within the Air Quality Objective, Environmental Quality Standard, National Objective or Environmental Assessment Level assigned to them.

The Applicant proposes a stack height of 40m resulting in a lower process contribution and lower predicted environmental concentration. In employing a stack of this height, the Applicant claims that the resultant improvements in dispersion would ensure that the emission levels remain within acceptable limits.

The Applicant's modelling outputs indicate that concentrations of pollutants at all identified sensitive receptors were below the assessment levels, and thus, in their view, the potential impact on sensitive sites can be considered to be low.

The Applicant states "The air quality objectives discussed within the modelling report have been set by the various relevant authorities at levels which are considered to present no or minimum risks to human health." The Applicant therefore concludes that since "since the total predicted concentration of each of the modelled substances at ground level was less than the respective air quality objective...the atmospheric emissions from the engines at the Site are unlikely to have any adverse effect on human health."

It is noted that both emissions and odour from the plant will be controlled under an EPR Permit issued and controlled by EAW. Also, the Applicant is proposing a site management plan which aims to control aspects at the construction and development phase on natural features and local ecology, emissions of noise and odour, traffic movement and management, energy and water use and the production of waste. There is also a Construction Method Statement proposed to be controlled by planning condition as indicated above.

Traffic Emissions

The operation of the Site will increase the volume of traffic visiting the Hirwaun Industrial Estate. Vehicles emit many types of pollutants. In most situations, industrial and domestic pollutant sources, together with their impact on air quality, tend to be steady-state or improving over time. However, this is not always the case for traffic pollution, due to the increase in vehicle use exceeding the improvements due to better engine performance.

The transport assessment applied various analysis and modelling techniques to determine the impact of the increase in traffic and the Design Manual for Roads and Bridges (DMRB) Screening Method was applied to two of the local link roads to determine the likely levels of pollutants likely to be experienced at local receptors.

The DMRB assessment considered the current traffic flow rates at two locations along the A465, and one of these rates was also assumed to apply to the junction with the A4060, for which Annual Average Daily Traffic flow data was also available. The assessment considered the base traffic flow in 2008, subsequently increased to represent flows during 2010 and 2025. Predicted vehicle movements from the construction of the Site were applied to the 2008 data, and operational traffic was included with the 2010 and 2025 data in order to determine the predicted contribution of the development traffic flows to the 'no change' situation of the current road loadings and their potential growth rates.

The contribution of the proposed development was thus demonstrated for each year assessed, and which generally showed no change in any of the pollutant concentrations, with increases being consistently less than 1µg m⁻³. As such, the impact of the proposed development traffic on local air quality is not considered significant.

Proposed Mitigation

Construction

A Site Management Plan is proposed by the Applicant for the Site preparation and construction stage which will ensure that full consideration is given to potential nuisance such as the creation of noise, dust or odour. Appropriate measures could include:

- Undertake a daily assessment of potential odour and other nuisance at the Site boundary during construction activities;
- Inform local businesses, residential and recreational facilities of any likely odour that cannot be avoided or other nuisance which may affect them. Information will be provided in advance where possible to include details of the likely timescales and mitigation measures in place;
- Consideration of weather conditions prior to undertaking potentially dusty works, and the provision of suitable mitigation techniques such as damping down;
- Sheeting raw materials or stock piles as necessary to control dust emissions;

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- The creation of hardcore and/or paved roadways around the Site at the earliest opportunity;
- The creation of a transport plan which considers the safest and most direct routes across the Site, safe site speed limits and the routing of delivery vehicles.
- Record and investigate any complaints of odour or dust nuisance;
- Notify the Developer, either directly or through the Principal Contractor, of any complaints received and the results of any investigations.

In addition to the Applicant's offer of a Site Management Plan Officers suggest planning control be exercised over the construction phase by condition to secure a Construction Method Statement (draft Condition 13).

Operation

Mitigation for operational air quality impact is inherent in the design of the facility and comprises a combination of abatement systems such as:

- Negative pressure ventilation in potentially odorous areas, discharging via the engine air intake or through carbon and/or biofilters;
- All operations which may have an impact on odour generation will be undertaken internally, and any movement of materials which may be potentially odorous, which cannot be piped or conveyed internally, will be moved within a closed container or sealed sack;
- No external feedstock storage;
- Frequent and regular observations of odour at key locations to identify any processing or maintenance issues promptly;
- An adequate stack height to promote effective dispersion;
- Good on-going management and housekeeping practices.

As a result of the inherent abatement and management systems proposed, it is not anticipated that any of the current air quality objectives or similar assessment levels will be jeopardised, and the potential for odour nuisance around the site and beyond the site boundary is limited. It is anticipated that a management plan will be prepared and implemented for the operation which will take the form of a certified environmental management system. Good management and working practices will be employed at the site, and the systems implemented during the construction phase could be continued into the operational phase if considered appropriate, or until such time as these are superseded by any other operational procedures. A Pre-Operational Odour Management Plan is presented in Air Quality Appendix 4 and identifies how it is proposed to minimise the risk of odour issues.

In planning terms Officers would highlight to Members that there are a number of suggested planning conditions to control deliveries to and operation of the plant in addition to the non-planning controls under EPR.

Air Quality Conclusion

Officers understand that Air Quality is an emotive issue with concerns expressed through letters of objection relating to the effect of emissions on human health and the environment. The Applicant has undertaken an assessment of the main releases

to atmosphere from the development to determine the likely impact of the proposed development on the local air quality and presented its findings in the ES and supporting documentation. Information on the current background levels of pollutants in the area has been presented, including a modelling exercise to assess the overall pollutant concentrations that will result from the combined background and process related emissions.

The ground level concentrations of the modelled pollutants were within the relevant assessment level for the protection of human health and for the protection of vegetation and ecology.

An assessment of the contribution to air quality pollutants from the increased traffic movements was also undertaken and these were considered to have a negligible effect on local air quality.

Consideration has been given to issues of nuisance from the Site in the form of dust or odour. There is a temporary low negative impact potential for emissions of dust during the construction of the Site, and a short term, medium negative impact potential for odour risk. This level of impact is only likely to occur during abnormal conditions such as the failure of the normal mitigation measures, which will be subject to preventative maintenance systems to minimise such risk.

Overall it is concluded that constructional activity and operational activity are capable of satisfactory control by both planning condition and by the EPR Permit enforced by EAW. Such control will limit any short term or long term impact on residential amenity or local flora and fauna regarding air quality. Similarly, Officers consider the impact on the special qualities of the National Park will not be compromised. The concerns raised by objectors will be controlled mainly by the EPR Permit issued and controlled by EAW and by planning condition controlled by the LPA. Consequently the air quality impact of the development is not considered to conflict with Policy G3 in either the UDP or LP.

4. ANALYSIS OF OTHER CONSIDERATIONS.

Archaeological conservation.

PPW at 2.3.2 states that an objective is to “Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity.” PPW at chapter 6 emphasises the importance of the historic environment encompassing archaeology and ancient monuments, listed buildings, conservation areas and historic parks, gardens and landscapes. In so doing PPW seeks to ensure that the historic environment is preserved and enhanced, specifically, in this case any archaeological remains, which are a finite and non-renewable resource that may be discovered on the site.

No standalone TAN refers to the historic environment but in relation to this waste management development TAN21 does refer to archaeological conservation as a specific planning consideration to be considered in the determination of a waste planning application. Glamorgan Gwent Archaeological Trust (GGAT) and Cadw (the WAG's historic environment division) were consulted prior to submission of the

planning application. The applicant, (within the ES Chapter 14) has provided a summary of the historical aspects of the area stating “Information has been obtained from both Cadw...and...GGAT, as to the likely presence of archaeological artefacts or cultural heritage features at the site which would require consideration.”

Cadw responded that, based on the mapping supplied, which highlighted the proposed site and identified its general location within the industrial estate, no designated historic assets fall within the area of interest. Cadw noted that they only hold records on designated sites such as Scheduled Ancient Monuments; Listed Buildings; Registered Parks and Gardens; World Heritage Sites and Historic Landscapes, and advised that GGAT be approached to provide information on non-designated archaeological/historical sites in and around the Hirwaun area.

GGAT were contacted and confirmed that the Historic Environment Record showed a number prehistoric cairns in the wider area, although no known sites within the proposed development area. The proposed development site was confirmed as the site of the former Royal Ordnance Factory built in the 1940's, although this had been effectively removed from the site over subsequent years, leaving little trace, and the installation of the herringbone drainage system would effectively leave little likelihood for the survival of any other archaeological or historical features.

GGAT concluded therefore, that should proposals for the development of this site be submitted they would be unlikely to recommend a requirement for any archaeological condition to be attached to any consent granted nor would there be a need for an archaeological input into an ES/EIA.

The Cynon Culture website provides some detail of the history of Hirwaun, famous during the 18th and 19th century for its ironworks.

The Battle of Hirwaun 1086

In 1086, Rhys ap Tewdwr the allegedly last King of South Wales, had a grievance with Iestyn ap Gwrgant who was Lord of Glamorgan. The battle started at Aberdare, ending up on Hirwaun Common and involving a tremendous loss of life. Rhys ap Tewdwr's army was driven to the upper reaches of Rhigos/Penderyn, where there are still vestiges of this great conflict in such places as Cwm Cadlan and Bodwigiad. In the Cadlan Valley there are numerous mounds or carneddau and several of these are reputed to be memorials of the men who fell in the battle e.g. Carn y Frydwr (Battle Cairn) & Maes y Gwaed (Field of Blood). On the Rhigos side, and originally passing through the proposed development site, there is a brook called 'Nant-yr-Ochain' which tradition tells, is associated with the groans of men mortally wounded in battle. The brook was diverted at some point in the early 1970s when the railway was removed and the A465 and Fifth Avenue were developed.

Detailed Listings

The Historic Wales Website presents historic environment information held by the Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW), the National Museum of Wales and Cadw. The portal allows the simultaneous

searching of hundreds of thousands of records relating to archaeological monuments, historic buildings and artefacts held by different organizations across Wales. A search was undertaken of the area in the vicinity of the proposed development. The nearest recorded finds/listings are within the Hirwaun Industrial Estate, however they are not located on or in the immediate vicinity of the site and thus the proposed development will have no impact on them.

Historical Sites

The nearest historical attraction sites of interest have been viewed on the Cadw website. However as none were within 20km of the proposed development, there will be no significant impact on these sites.”

GGAT have been consulted on the application and have raised no objections.

UDP policies G3, Q10, Q11 and Q12 are relevant as are LP policies CL8, CL9 and CL10 in the LP. These policies seek to avoid development that would have an adverse effect on historic landscapes, features of local cultural importance, and preserve the remains or settings of historic and nationally important sites of archaeological interest and Scheduled Ancient Monuments.

Whilst there is clearly an historic interest in the vicinity GGAT have considered the historical information submitted, the site location, its previous development and reviewed historic records in the area and confirmed that, in the absence of recorded features and finds in the vicinity they have no objection to the positive determination of the application. The Site was previously used as an ordnance factory and has been further engineered to create a suitable site for industrial development.

It is therefore concluded that there is no adverse effect on features of historic interest or importance near to the Site and there is unlikely, due to previous use and reengineering, to be any notable features contained within the site. It is concluded that the proposed development does not conflict with UDP policies G3, Q10, Q11 and Q12 are relevant as are LP policies CL8, CL9 and CL10 in the LP.

Rights of Way.

The enhancement of the FPI5 is commensurate with WAG sustainable transport and health objectives and local planning policy sustainable transport policies.

FPI5 is a public right of way affected by the development. FPI5 is located to the rear of the Site. The Site is clearly visible from the footpath at the base of the Penderyn reservoir embankment. FPI5 adjoins the residential area of Woodland Park and northern parts of Penderyn. It passes by the Blaen Cynon Penderyn SAC and the Cors Bryn-y-Gaer and Woodland Park/Pontpren SSSIs in control of CCW. Interpretation

The enhancement of the public right of way FPI5 is commensurate with WAG sustainable transport and health objectives and local planning policy sustainable transport policies. The installation of interpretation boards would inform the public of right of way route(s) in the vicinity and involvement of Applicant in compensation

and mitigation biodiversity enhancements of such similar land affected by development linking with educational objectives of Enviroparks. FPI5 could be used as part of the educational aspects by the company in visiting SAC areas. Employees could use FPI5 for walking to work from Penderyn or for recreational/health purposes in breaks during shifts. The Community benefit derived from this right of way improvement accords with requirements of BBNPA Planning Obligations Strategy.

Heads of Terms to include financial contribution of £10,000.00 to BBNPA for Rights of Way use in relation to FPI5 improvement/enhancement and provision of interpretation boards.

Design.

MIPPS 01/2008 Planning for Good Design produces a revised PPW section 2.9 (Promoting sustainability through good design)

MIPPS 01/2009 Planning for Sustainable Buildings produces a new PPW section 2.12 to be read alongside the MIPPS 01/2008 (revising PPW section 2.9)

This updated policy guidance in PPW, by MIPPS 01/2008 Planning for Good Design and 01/2009 Planning for Sustainable Buildings emphasises how good design needs to consider and deliver sustainable development, with the design process contributing to tackling the causes of climate change. Good design can protect and enhance the environment. Climate responsive developments should mitigate the causes of climate change by minimising carbon and greenhouse gases that are associated with their design, construction, use and eventual demolition. For certain non residential planning applications, received after 1st September 2009 there is a requirement to meet the Building Research Establishment Environmental assessment Method (BREEAM) “Very Good” standard and to achieve the mandatory credits for “Excellent”.

Detailed Design guidance to local authorities and applicants is contained in TAN12 Design. The TAN reflects the revisions inserted into PPW by the MIPPS 01/2008 Planning for Good Design and 01/2009 Planning for Sustainable Buildings.

The WAG is keen that LPAs move away from reliance on prescriptive standards to focus on meeting objectives of good design in accordance with TAN12 Design and UDP Policy G6.

An assessment of how the proposed development meets the principles of good design, and a full account how it responds to its setting, is set out in the DAS accompanying this application. This document discusses how the proposed development has arrived at the design solution having considered:

- Environmental Sustainability to include landscape setting, habitat connections, biodiversity, energy and resource efficiency, water and waste management,
- Access and Movement to include inclusive design and transport integration and connectivity,
- Appearance and Character to include layout of the development, scale of the development, density and mix of the development, architectural design, external

spaces, adjacent uses, and public safety and security.

It is accepted by BBNPA Officers that the above issues are adequately captured in the DAS and further appraisal is provided under the heading TANI2 Design below.

TANI2 Design

The Applicant has set out an assessment of how the proposed development meets the principles of good design, and a full account of how it responds to its setting is presented in the DAS accompanying this application. A DAS communicates how the application proposal accounts for the objectives of good design and responds to access issues and is a material consideration in considering a planning application.

In setting the Design objectives the following six key principles of sustainable design as identified in Guidance for Sustainable Design in the National Parks of Wales (2008) (revised June 2009) have been considered as follows:

- Energy
- Materials and resources
- Water use
- Landscape and biodiversity
- Place and local distinctiveness
- Robust building

Energy

The aims of the proposed development have been stated by the Applicant to treat diverse streams of waste materials as a resource and to recycle material and recover energy in the most efficient and controlled manner. The proposed development seeks to maximise energy efficiency using industry leading technologies in energy recovery. This is a significant feature of the proposal.

The Applicant states “Inherent to the selection of the site and the design of the scheme has been the concept of trading electricity and heat produced during the resource recovery process back to a high energy-use business on the park. The approach of co-location enables optimal efficiencies. Surplus electricity would be exported to the local electricity distribution network as a renewable source of energy.”

The scheme has also been designed to meet the BREEAM ‘excellent’ standard so that its own energy footprint is further reduced. Officers conclude that the development could address energy consumption and gas emissions in a way that reflects the key principles of sustainable design.

Materials and resources

Development of the Site will be seen within the context both of the existing Hirwaun Industrial Estate and the surrounding landscape with the proposed materials taking account of the broader natural setting whilst recognising the function of the buildings and purpose. Officers will work closely with the Applicant to ensure that

materials are locally sourced from sustainable renewable sources and that recycled materials and secondary aggregates are used. The proposed materials include timber, metal and sedum roof to parts of the scheme. Colours and final choice of materials would be controlled by planning condition having regard to the setting and which takes account of seasonality, weathering and contrast with its built and natural surroundings. The proposed materials will be selected to compliment the modern well designed buildings and will enhance the current appearance of this part of the Hirwaun Industrial Estate and that of the industrial estate generally.

Water use

The scheme intends to use water saving devices, to recycle water as much as possible and to install a sustainable drainage system. However, there will still be significant discharges of water from the plant and processes controlled by separate consent regimes. Water use is further considered under the Energy Resource and Efficiency heading below.

Landscape and biodiversity

Landscape – the Applicant recognises that the Site lies partly within the protected landscape of the National Park and its visual impact is an important consideration. The scheme seeks to improve the quality of the landscape in this part of the Hirwaun Industrial Estate within the National Park. The immediate views into the Site are limited by surrounding vegetation, topography and buildings. More distant views of the Site are partially screened by intervening vegetation. The distant views are from rural areas in both the National Park and RCT; they are seen within the context of a developed valley floor, including the village of Hirwaun and its associated industrial estates, the village of Rhigos to the west and the remaining infrastructure of Tower Colliery and other former mining operations.

A key objective of the proposal is that the design reduces the visual and landscape impact by minimising the scale of the buildings and structures as far as is practical for efficient operation of the scheme; use of appropriate materials and sensitive colour palette; and provision of appropriate landscape screening and softening elements.

The development scheme includes a variety of soft landscaping measures that will promote some local biodiversity interests and contribute in part to the mitigation of recorded biodiversity losses.

It is proposed that there will be planting and landscape works on the Site boundaries. This will act as a natural buffer to the Site, softening the angular lines of the built form. Planting will be also provided within the Site, including along the boundary between the energy and waste sector of the site to the southeast, and the B1/B2 UNIT to the northwest. Landscape treatment is proposed along the frontage of Fifth Avenue, incorporating native planting and water features. This will soften the key public-facing boundary of the Site in an attractive manner. The visitor centre is proposed to be set within extensive landscaping at the south-eastern corner of the Site in order to provide an attractive focal point in a prominent position. Landscaping details will be controlled by planning condition.

Place and local distinctiveness

It is recognised that development proposals should be responsive to context and local distinctiveness. However, this is difficult in this case as the design of the current industrial estate buildings lack positive design cues and are neither buildings of high quality nor of a special or locally distinctive character. Similarly, the wider rural environment does not lend itself to be easily echoed in a functional industrial development proposal. Nevertheless Officers will ensure that the development design and landscaping proposals set a positive directional change in this industrial location through control of the development by planning condition.

Robust building

Any new buildings must be designed to cope with climatic change, future needs and uses. The site and its built structures must be capable wherever possible of change and improvement over time. The DAS discusses how the proposed development has arrived at the design solution having considered:

- Environmental Sustainability to include landscape setting, habitat connections, biodiversity, energy and resource efficiency, water and waste management;
- Access and Movement to include inclusive design and transport integration and connectivity;
- Appearance and Character to include layout of the development, scale of the development, density and mix of the development, architectural design, external spaces, adjacent uses, and public safety and security.

Habitat connections and Biodiversity

Ecological studies supporting the application are contained within Chapter 13 Ecology of the ES. Measures to promote habitat and species connectivity within the proposed development include:

- Landscape areas within the Site will be designed to enhance existing and adjacent habitats;
- Appropriate zones of habitat transition or will be established in the landscaped areas around the edges of the Site. This would provide a natural gradation from intensely-managed amenity habitat to more natural habitats;
- Appropriate native species and species of local provenance are proposed;
- The proposed development will have a landscape buffer strip along boundaries which will potentially provide foraging opportunities for bats.

Chapter 13 Ecology in the ES assessed the effects of the proposal on habitats. Measures have been proposed which seek to protect, promote or introduce native species where possible. In so doing it is expected this will enhance the biodiversity value of the area and provide attractive screening. Such measures include:

- Approximately 0.3ha of grassland habitats will be created, which will accommodate native species.
- Existing habitats areas along the northern and western boundaries (totalling approximately 0.9ha) will be retained and enhanced.
- Landscaped areas will provide approximately 0.7ha of woodland and scrub

- planting,
- An area of 0.17ha of open water and associated reed bed/marginal aquatic vegetation will be created within the southern landscape area.
- The inclusion of a sedum green roof on the visitor centre will provide additional habitats within the Site. Sedum green roofs provide habitat for a range of invertebrate species.

Energy and resource efficiency

The development is proposed to be inherently sustainable, recovering as much energy and material resources as practicable from the waste stream. In addition, the clustering of resource recovery technologies on a single site reduces the need for partly-processed or unrecycled materials to be transferred between sites by road.

The proposed development is to be situated on a recovered brownfield site that is allocated for industrial development, which is energy and resource efficient in terms of promoting settlement patterns that minimise land-take and urban sprawl. The application indicates buildings have been designed to meet the BREEAM 'excellent' standard so that its own energy footprint is reduced. Officers propose a planning condition to ensure implementation of such standards.

Rainwater will be collected for use in the resource recovery and energy production process, and this represents a renewable resource, minimising the requirement for mains-sourced water.

Water and waste management

The proposed development aspires to provide a positive approach for sustainably managing water and waste. Mitigation measures proposed in order to control the potential impacts on water quality and quantity include:

- process waters will be re-circulated where possible, and surface water runoff will be collected and used;
- adequate storage for surface water runoff will be provided, with the provision of tanks for clean roof run-off and a SUDS system with holding pond for other waters;
- abatement techniques such as interceptors and reed beds will ensure that potentially dirty run-off water is cleaned prior to entering the holding pond;
- high-performance effluent treatment systems will be provided to enable the Site to re-use water where possible, or to discharge within any potential consent;
- comprehensive impermeable hard standing will be provided in operational areas, whilst landscaping in non-operational areas will be retained;
- where possible, grey water from the reed beds will be re-used for flushing toilets.

Access and Movement

Inclusive Design

The proposed development has been designed to provide a fully inclusive and accessible environment in accordance with British Standards and Part M of the

Building Regulations.

New vehicular and pedestrian/cycle routes will be introduced, and these will integrate with existing infrastructure in Hirwaun Industrial Estate. All new pedestrian routes will be 1.8m wide in order to facilitate the passing of wheelchairs, and these will provide unobstructed level access. Wherever possible, the gradient of external areas and pedestrian areas will not exceed a gradient of 1:21, in order to reduce the need for ramped access. A ramped access will, however, be required at the gatehouse due to its elevated nature. The primary entrance to each building will be prominent and have a visual relationship with its surroundings.

All paving will be slip-resistant and reasonably smooth, and tactile paving will be used at crossing points in order to highlight dropped kerbs, and to warn of hazards generally. Disabled parking for the proposed development will be provided in compliance with BS 8300:2001 at a minimum of 2% of the overall parking capacity, and this will cater for both employees and visitors. There will be a 1200 mm zone between all disabled parking spaces and roadways within the site.

Disabled parking is to be provided close to entrances with a level approach no steeper than a ratio of 1:21. All external entrance doors are to be provided with flush thresholds and clear openings in excess of 850mm. The fenestration and ironmongery will be fully compliant with the current Building Regulations Approved Document Part M (2004). Entrance doors will be fitted with powered openers.

Internally, all entrance lobbies will be provided of a size sufficient for a wheelchair user to turn in. Entrance lobbies will be provided with ambulant disabled stairs, with lifts or platform lifts where required. Stairs will have handrails and colour-contrasting treads and risers.

Disabled toilet facilities will be accessible from lobby areas and provided in accordance with BS 8300:2001. All internal doors will contrast visually other wall and floor surfaces, and doors will have a 300mm leading edge where required. Manually-opening doors will have an opening force not in excess of 20 Newtons at the leading edge. All ironmongery to internal doors will be visually contrasting. Vision panels will be fitted to internal doors on circulation routes in compliance with Building Regulations Approved Document Part M (2004).

Appearance and Character

Layout of the development

Siting and layout are essential considerations in any development, affecting whether proposals can be integrated into their surroundings, contributing to and enhancing the local sense of place. The proposed development is intended to integrate into Hirwaun Industrial Estate and its existing infrastructure, reflecting the building lines of adjacent development. Officers hope that in its appearance and quality, the proposed development will have a potential regenerative effect within this poor quality existing built environment.

The Site will be split into two areas: the waste-to-energy site, which will include all

parts of the process, and the B1/B2 Unit, which will accommodate conventional Use Class B1 or B2 industrial uses. Each of the two areas are proposed to have a separate entrance and a shared exit. It is intended that the sites are separated with fencing set into a landscape buffer between the sites. This is designed to ensure security whilst softening the centre of the Site visually.

The Site is situated adjacent to Fifth and Ninth Avenues, and the proposed visitor centre would be located beside the intersection of these roads in order to provide a point of visual interest on the main approach to the Site. This interest would be enhanced by a scheme of landscape and planting along the frontage of Fifth Avenue, incorporating native planting and water features.

The main entrance to the Site would be situated adjacent to the visitor centre off Ninth Avenue. When entering the Site, car users (staff and visitors) would be directed to the landscaped parking area opposite the entrance. Works vehicles would use the separate main service route through the Site, which would be a one-way system. This layout ensures safety, security and convenience.

The proposed buildings are situated around the service route in an order reflecting the various requirements of the resource recovery processes. The fuel preparation and Biomax areas are the two buildings that would stand adjacent to the Site entrance, behind the gatehouse. These will receive deliveries of feedstocks for the waste-to-energy processes.

The process units have been positioned so that wherever possible they are inward-facing. In being so arranged, this provides a visual buffer from the daily working activities, as well as an acoustic buffer to the areas adjacent to the Site. This arrangement furthermore enhances natural surveillance and improves site security. However, additional landscape screening within the Site may be necessary in the absence of the implementation of the B1/B2 Unit. This will be controlled by planning condition.

Scale of development

The scale and height of the buildings in the proposed development are intended to maintain similar proportions to existing buildings on the Hirwaun Industrial Estate, in order that the massing of the proposed development is coherent with its neighbours, including the Eden Industries complex immediately to the east.

The variety of building sizes in the proposed development would provide visual interest within the Site and articulate its use. The spacing of the units would provide visual breaks, to create interest and break down the massing of the larger built units.

The scheme includes a centrally located chimney at 40m tall by 2.5m wide from ground level. The chimney will be a prominent part of the development. Views and visual impact of the chimney are minimised by screening by buildings within the Site, topography of surrounding landforms which would act as a backdrop to the chimney reducing its prominence and the urbanized setting of the Hirwaun Industrial Estate.

Density and mix of development

The density of the Site is high, both in order to make best and most efficient use of the land and to co-locate as many resource recovery processes as possible. Furthermore a fairly dense arrangement of buildings and processes in the resource recovery element of the scheme allows the area within the north western part of the Site, reserved for a HEU, to be as large as possible. This provides additional flexibility for that user. The mixture of development has been determined by the Enviroparks concept, which encompasses a broad range of resource recovery and energy production processes within a single site. The inclusion of a visitor centre is integral to the concept, seeking to promote education in the field of sustainability, energy and the environment.

Architectural design

The proposed development seeks to establish a scale and massing that responds to the topography and buildings in the locality, whilst connecting the proposals to its immediate surroundings in a manner that will create a sense of place.

The following materials have been selected in order to suit the modern industrial function of the scheme whilst reflecting the Site's position in relation to the National Park:

- cedar boarding (external walls)
- metal cladding, both smooth and profiled (external walls)
- metal standing seam roof
- green roof sedum (visitor centre)

This design of the proposed development involves employed quality and innovative site planning, architecture and landscape design to render the Enviroparks proposal a visually self-contained development, responsive to its setting whilst meeting operational requirements.

The design and layout of the proposed development has sought to respond to, and improve upon, the environment and setting of Hirwaun Industrial Estate. The proposals are designed to be less visually prominent and more integrated into the landscape than existing developments and structures in the locality.

The proposed development is intended to be innovative and modern, and characteristic of a high technology business or light industrial user. It aims to set new high standards of building design and sustainability for industrial and waste development industry.

Development of the Site will be seen within the context both of the existing industrial estate and the surrounding landscape with the proposed materials, to be agreed by planning condition, taking account of the broader natural setting whilst recognising the function of the buildings and purpose. The materials include timber, metal and sedum roof to parts of the scheme. Colours and final choice of materials would be controlled by planning condition having regard to the setting and which takes account of seasonality, weathering and contrast with its built and natural surroundings. The proposed materials aim to compliment the modern well designed

building(s) and will enhance the current appearance of this part of the industrial estate and that of the Hirwaun Industrial Estate generally.

In the course of the review of the proposals and Landscape Visual Impact Assessment (LVIA) an assessment has been made on the visual effects of the development. The potential for and magnitude of adverse effects on the BBNP, and concerns and queries about some elements of the design, phasing and on the quality of the LVIA, have been considered. The effects on landscape and visual receptors is considered, together with the different sensitivities of, for example, users of footpaths, open areas, residents etc. Visibility and context are assessed, especially in terms of the existing industrial buildings and the quite restricted closer public viewpoints, and wider views which are influenced by distance and limited visibility. The most sensitive viewpoints within the BBNP are generally at a distance at which the development forms a small part of a wider view. The open access land areas on the foothills of the BBNP are not considered to be key destinations for visitors to the Park. Those areas with views of the development can also usually see the substantial parts of the Hirwaun Industrial Estate and other built forms in the valley including open cast workings, pylons and the A465 traffic.

The bulk of the development is seen in the context of nearby and adjacent industrial development of a similar character as well as being allocated for an industrial use. The most prominent element, the 40m chimney stack, will not break the skyline from most BBNP viewpoints which look down and it will be seen against or 'below' other industrial development. Closer publicly accessible viewpoints are limited. The chimney is an isolated, high, vertical, simple structure and is more solid and visible than the higher pylons nearby.

Design conclusion

The landscape impact and design has been assessed by independent landscape consultant. His findings concluded that the proposed design of the buildings would be appropriate in this context.

In summary, Officers consider that whilst there are some concerns about the potential for harmful visual impacts from a development of this type and scale, overall it is considered that the landscape visual impact, subject to control by appropriate landscape and material conditions, will not significantly detract from the special qualities of the National Park warranting refusal of planning permission on the visual impact of the development on the National Park. The judgement to be made rests upon the relative weight to be given to issues of material importance when assessing the land use factors such as site allocation, location, scale, landscaping and design matters. In this case the judgement allows a recommendation to be made that supports the grant of permission subject to relevant and reasonable planning conditions and the heads of terms for a Section 106 Agreement that are noted towards the end of this report.

Social Objectives

PPW objectives relate to community, wellbeing and quality of life. Paragraph 2.3.2 of PPW states:

“Promote access to employment, shopping, education, health, community, leisure and sports facilities and open and green space, maximising opportunities for community development and social welfare.”

“Contribute to the protection and, where possible, the improvement of people’s health and well-being as a core component of sustainable development. Consideration of the possible impacts of developments – positive and/or negative – on people’s health at an early stage will help to clarify the relevance of health and the extent to which it needs to be taken into account.”

In conformity with the above objectives, the Applicant states the proposals would substantially benefit the local area in economic and social terms, through the significant investment in the local economy and employment market, creating up to 200 new jobs within one of the most economically underperforming parts of Wales. More specifically, the proposals would have a significant ‘greening effect’ on vistas through the Hirwaun Industrial Estate, through the landscaping and planting that is proposed on the boundary of the Site, and no negative health impacts are anticipated from the development. A visitor centre proposed on the Site would contribute to educational needs.

Sustainable Community Energy

The proposed development promotes sustainable waste resource recovery and energy production as supported by national and local policies. The sustainable use of energy by households is strongly supported by the WAG. However, the Applicant considers that the delivery of heat and electricity, directly to households in the residential communities surrounding the site, was never identified as a realistic option.

For such households, as defined within approximately a 10 mile radius of the application site, measures to reduce the energy loss/use at dwellings (contributed to by the proposed development) provides community benefit to those in need, is directly related to the development and has wider social benefits in line with policy and strategy objectives, thus satisfying the BBNPA Approved Planning Obligations Strategy insofar as the community of Penderyn is concerned.

The Section 106 agreement Heads of Terms include a financial contribution, based on a formula relating to tonnage of waste arriving at the Site, for initiatives that reduce carbon emissions and energy consumption for domestic properties and community facilities, the generation and use of sustainable energy for community benefit, the promotion and delivery of education and training into the communities of Penderyn, Rhigos and Hirwaun (outside the Enviroparks development) to support the objectives of reducing energy usage, sustainable energy generation plus increasing local environmental awareness. It will be administered via an asset locked body and specifically the applicant/developer will make a financial contribution of 25 pence per tonne of waste, as measured at the Site weighbridge, towards a programme to secure sustainable energy community benefit for the communities of Penderyn, Rhigos and Hirwaun (outside the Enviroparks development) to a total contribution of £600,000. The delivery mechanism will be agreed with BBNPA and RCTCBC

prior to the issuing of any permission.

Surplus Heat

The proposal aims to be an exemplar development and highly sustainable, with B1/B2 Unit element as part of development. Without B1/B2 Unit/HEU the sustainable credentials of the project diminish, since heat may be lost at half/full capacity. There is no guarantee that the B1/B2 Unit/HEU will materialise and the excess heat that is unable to be used elsewhere would be lost from potential beneficial use.

In such a circumstance, the Applicant has agreed to provide a heat exchanger (i.e. connection point) on the Site boundary in the event that no B1/B2 Unit/HEU is established within three years of the first weighbridge ticket being issued, and to submit for approval a strategy for the alternative use of the heat resource such that it will be realistically and commercially available for use by others in the locality.

5. TRANSPORT

Paragraph 2.3.2 of PPW encourages LPAs to:

“Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity. In general, developments likely to support the achievement of an integrated transport system should be encouraged.”

“Locate developments so as to minimise the demand for travel, especially by private car.”

“Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone which the development of land and buildings provides. This includes helping to ensure that development is accessible by means other than the private car.”

The Site lies within an established employment area, which is accessible by various means other than the private car. Regular bus service 7/8/9 serves Hirwaun Industrial Estate during commuting hours, and the route provides links to many of the settlements where the workforce for the facility may live, including Hirwaun, Aberdare, Penywaun, Glynneath and Rhigos. The Site is accessible to these communities for commuting by bicycle. The Applicant has indicated that a positive employment practice regarding the nearby settlements would be employed. This however is governed by employment law and it is inappropriate for the planning system to seek to control.

TANI8 Transport

The strategic objectives of TANI8 are to reduce the need to travel and promote less polluting transport choices.

By bringing together a series of resource recovery processes on to a single,

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accessible site, the proposed development purports to seek to minimise the need to convey recycled materials between remote locations. The Site lies close to the envisaged catchments from which most waste would be sourced. The Applicant has stated that the waste needed for the proposed development would mostly be sourced from within a 30km radius to the Site. Some waste would come from further afield and the National Park will secure, by Section 106 agreement, that waste supplied to the plant comes from an agreed geographical area covering the National Park, the South East Wales Regional Waste Area and part of that of the South West Wales Regional Waste Area in line with the Proximity Principle contained in TAN21. The proposals would divert an amount of waste-related traffic away from relatively minor roads such as those serving the nearest landfill sites, to which most local waste is currently transported. These landfill sites are Bryn Pica near Llwydcoed, Aberdare, Trecatti in Merthyr Tydfil and Silent Valley in Blaenau Gwent.

As the transport and access chapter of the ES demonstrates, it is considered that the proposed development is in accordance with TAN18, strategically and in terms of sustainability.

Chapter 8 of the ES relates to transport implications of the development.

The Applicant has undertaken a Transport Assessment (TA) in consultation with RCTCBC Highways. In addition public exhibition events were held in the local area in order to inform interested parties and to receive comments on the proposals. The following transport and access concerns were raised:

- How many vehicles will be attending site?;
- Which route will they take – specific concern that HGVs would use Rhigos Road to travel west from the site?; and
- What will the resultant levels of air pollution and/or nuisance be?

The transport baseline analysis of the current situation identifies the location of the development off Fifth Avenue on the Hirwaun Industrial Estate. It is suggested that the Estate appears to be underutilised at present and has seen the recent closure of Tower Colliery in 2008. The nearest neighbour to the Site is Eden Industries located to the east with DCC located to the west across Fifth Avenue and to the north at the rear of the Site. Other units on Fifth Avenue largely appear vacant or are currently in minimal use.

The transport network in the area largely consists of the highway linkages. The local road network is considered good, with the A465 Heads of the Valleys road and the A470 providing routes for national through traffic across Wales.

The nearest railway station to Hirwaun is at Aberdare, approximately 9km from the proposed development, although other stations are available at Treherbert and Merthyr Tydfil. Each of these lines originates in Cardiff. The Aberdare railway station is served by a bus to Rhigos which passes the Hirwaun Industrial Estate. Trains run to and from Cardiff and Aberdare or Treherbert half hourly on weekdays and hourly to Merthyr Tydfil.

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Limited buses pass through the industrial estate, and those which do would not currently be available to the proposed shift workers, with changes of the 12 hour shifts being at 06:00 hours and 18:00 hours.

Pedestrian footpaths and streetlights are available within the estate and out towards Rhigos, however these do not extend up Rhigos road towards Hirwaun. Sustrans are working towards extending the Valleys Network, and the proposed cycle route will include a section from Aberdare and through Hirwaun, onto Rhigos and beyond. This route should be in place within 5 years. It is noted that the proposed route runs past the site.

The proposed development will accept waste materials for recycling and processing, the material becoming a feedstock for the site energy producing processes. All of the incoming material and any out-going products or residual waste will be transported along the road network. This is due to:

- The requirement for the material to be collected and transported in suitable containers, e.g. skips, lorries or refuse vehicles;
- The availability of good highway links for deliveries, avoiding the requirement to use smaller roads on the network;
- The lack of other suitable freight facilities in the area.

Depending on the nature of the waste, the vehicle trips created by the movement of feedstock to the Site will be diverted from other facilities, however for the purpose of the TA, all trips are assumed to be new to the network. This ensures that the TA provides a robust assessment of the worst case traffic impacts from the development.

The development will result in a total number of daily traffic movements of 428, for the Site (not including B1/B2 Unit/HEU). These are two way vehicle movements and account for all deliveries and staff. Consideration has been given to the likely distribution across the highway network, based on information provided by the Applicant. Although some vehicles will travel from the west of the Site along the A465 towards Neath, it is anticipated that most will originate from, and return to, the east.

Staffing distribution is currently unknown, although an estimated split has been provided for the purpose of the TA. This suggests that staff will come from areas such as Neath, Rhigos, Penderyn, Pen-y Waun and Hirwaun, as well as from slightly further afield, from areas such as Merthyr Tydfil and Aberdare. Local staff are expected to use local routes to and from their place of work, however all delivery and collection vehicles will be strictly instructed to enter and exit the Hirwaun Industrial Estate via the nearest A465 junction. This is proposed to be controlled by legal agreement. The one exception to this will be local refuse collection vehicles which currently use alternative routes and would continue to do so.

Facilities are expected to operate on a 24 hour, 7 day week basis, although vehicle movements are expected to occur between 05:00 and 19:00 hours. The earliest and latest movements between these hours will be associated with staffing only, material deliveries and product/waste removals only proposed to take place between 08:00

and 18:00 Monday to Friday.

Assuming the Site is operating at full capacity, a maximum of 214 vehicles will visit the Site daily (including B1/B2 Unit/HEU). These will consist of a total of 105 staff trips and 109 Refuse Collection Vehicles (RCVs) or Heavy Goods Vehicles (HGVs). As noted above, this equates to a total of 428 movements.

Weekend movements will be greatly reduced, consisting of two shifts (up to 64 staff and therefore 128 vehicle movements), and 13 deliveries (26 movements). The trip rates and distribution created by the development are detailed within the TA and assumes that all movements are by road.

All vehicles will have to enter the Site via the estate roads. The estate roads are in relatively good condition and are currently under utilised, ensuring that the additional flows created by the development can be easily accommodated. The junctions have been designed for full and easy access by staff directly into the car park, and deliveries into the waiting area. A cycle lane is also provided at the main entrance to the Site.

The estate has pedestrian footpaths and street lighting, and thus there is the ability for some staff to walk to work, although it must be noted that there is no full footpath out towards Hirwaun, with the path stopping at the entrance to/exit from the Hirwaun Industrial Estate.

The nearest bus stops to the proposed development site are located on Rhigos Road, approximately 700m from the site.

Proposed modifications to the public highway comprise the provision of three new Site access points, two from Ninth Avenue and one from Fifth Avenue. As an operational site, the proposed development will not generally be open to the public, and the Site will be fenced and, as required, gated. Security facilities will be provided and the Site will be a 24 hour, 7 day week process, thus staff are always on-site.

The Site does include a Visitors Centre which will be used for educational purposes, with groups from schools, colleges and other interested parties welcome to visit the site by arrangement, for tours and information on the processes. It is anticipated that these visits may occur up to once per fortnight, and suitable parking facilities for a coach or minibus is available directly at the Visitors Centre entrance.

The Site layout provides suitable and sufficient parking for staff and visitors, and the calculation for this is presented in the TA. Adequate provision of disabled parking spaces has been made available to accommodate staff or visitors who may require additional room to access or leave their vehicle, and these are located at the nearest point to the building they serve. Disabled parking spaces are available by the Visitors Centre/Offices, the Biomax plant and the B1/B2 Unit. All parking is in the immediate vicinity of a key building, predominantly the Visitors Centre/offices. The B1/B2 Unit also has dedicated parking.

The reception area will be clearly signed from the parking areas. Dropped kerbs are available along the walkways of the site, and consideration will be given to the

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internal layout of buildings to facilitate access to all areas by all who may require it, with a lift to access the first floor of the Visitors Centre/Office building. A disabled toilet and shower room is also available.

The operation of the Enviroparks Site including the B1/B2 Unit is expected to require 214 vehicle trips per week day, which equates to 428 vehicle movements. The precise nature of the B1/B2 Unit has not yet been finalised and therefore a reasonable judgment has been made on the likely staffing and transport requirements of the unit. Although there is some uncertainty associated with this, the assessment has been undertaken on the basis that the energy production of the Enviroparks Site is working at maximum capacity, and therefore can be considered robust.

The TA considered the likely impact on the network based on the proposed vehicle movements, with all materials and staff movements considered as additional trips. An assumption has been made that all staff travel in single occupancy cars. The calculation therefore represents a worst case assessment. However, the promotion of a Green Travel Plan will promote alternative travel options and would form part of any forthcoming planning permission.

The proposed development will result in an increased traffic loading on the local highway network, and the majority of the movements will be undertaken during the day. The potential does exist for an increase in collisions, based purely on the additional volume of traffic. However, there is no proposed change to the highway layout apart from the creation of three access points to the Site.

As there is no proposed change to the highway layout, the impact on pedestrian safety will be minimised. However not all areas are served with pedestrian walkways to and from the proposed development, and the increase in vehicle movement close to the Site, may mean that pedestrians have to take additional care to consider vehicles on the roadways. The modal split of traffic is insignificant and thus there is unlikely to be an increase in pedestrian fear or intimidation. The impact on pedestrian safety can therefore be considered negative and minimal.

Enviroparks intend that all RCV (if a local authority contract is successful) and HGV movements would use the main A465 to the junction with the A4059 and A4061 (unless as part of their route, an RCV travels along the A4061 from the Rhondda Valley). However, public consultation revealed local residents' concerns that vehicles may travel towards Rhigos and on to the A465 in the west. In response, the Applicant has offered a commitment that neither RCV nor HGV will travel along that route for the purpose of accessing or leaving the Site. Whilst the traffic generation of the proposed development is relatively small when considering the available highway links and capacity in the area, mitigation measures will control vehicle access routes into the industrial estate in order to minimise the chance of nuisance to local residents.

Although within the TA the presumption is that all staff will travel by in single occupancy cars, the promotion of more sustainable transport options through an agreed Green Travel Plan should reduce the impact on the highways and the Site junctions.

Once operational, the Green Travel Plan, for the Site will promote car sharing, alternatives to car use and walking/cycling buddies. With staff facilities including 40 cycle stores and showers with changing facilities, this will encourage alternative methods of travel. It is notable that provision of a Sustrans cycle route running directly into the Hirwaun Industrial Estate is proposed.

In addition, consideration will be given to the extension of the current bus service so that it can be used by shift workers, or the provision of a staff shuttle bus. Further investigation into these options will be necessary once the Site is operational, and an assessment can be made of the needs of staff, specifically their home location, and the available facilities at the time as part of the green travel plan as an evolving document.

Development Plan Policies

Relevant development plan policies include UDP policies S13, G3 (vii), (ix), (xi), G6 (vi) and LP policies G3 (iv), (v), and R12. These policies relate to highway transport and access issues. The Applicant is willing to enter into a planning obligation regarding site HGV traffic not using Halt Road and Rhigos Road which links to Glynneath following concerns raised at the public exhibitions and by officers of BBNPA. It is unlikely for HGV traffic to travel via Glyn Neath bank (old road) unless RCT/Neath Port Talbot deliver waste directly from Rhigos or Glynneath area and collecting from along that route. It is considered most likely that traffic would use the better road links and access the Site via Hirwaun roundabout off the A465 Trunk Road. In so doing the main access to the site just past the former Tower Colliery entrance would be nearer and likely to be used. Having said this there may be occasions (road works, accidents etc) when the access via Halt Road would need to be used to service the Industrial Estate. This however, would apply to all businesses on the estate. No control exists over other industrial estate users using Halt Road access at present.

The Applicant has agreed, as promoted by national and local sustainable transport policies, to the use of a Green Travel Plan for employees with the detail to be agreed between the LPAs and the Applicant before planning permission is issued. A traffic assessment was undertaken in liaison with RCTCBC Highways as the relevant Highway Authority. RCTCBC Highways have raised no objections on highway grounds subject to planning conditions and legal agreement. Similarly neighbouring Highway Authorities have not objected nor has the WAG Highways and Transport Department.

Officers are therefore satisfied that subject to the satisfactory conclusion to the above legal agreements and highway planning conditions the proposal satisfies the transport and access requirements of UDP policies S13, G3 (vii), (ix), (xi), G6 (vi) and LP policies G3 (iv), (v).

As an allocated site within an established industrial area, the Site has good road access, capable of accommodating the transport needs created by the proposed development. As explained in the Transport Chapter 8 of the ES, the Site has an appropriate standard of highway access for the uses proposed.

By bringing together a series of resource recovery processes on to a single accessible site, the proposed development seeks to minimise the need to convey recycled materials between remote locations. The Site lies close to the envisaged catchments from which most waste would be sourced. The proposed development would also divert a considerable amount of waste-related traffic away from relatively minor roads such as those serving the Bryn Pica landfill site, to which most local waste is currently transported.

Bus stop provision

In line with sustainable transport policies at national and local level (to improve the chance of public transport being used to enable employees and visitors to attend the Site) the Highway Authority require a financial contribution for upgrading and maintenance of 2 nearby bus stops and provision of a further two bus stops as part of Green Travel Plan financial penalty for non compliance with targets set out within.

Heads of Terms to include the developer to make a financial contribution, at an agreed time, of £16,000.00 towards improving and upgrading existing public transport infrastructure in relation to 2 nearby bus stops including the provision of raised kerbs, shelters, flagpoles etc. and their future maintenance (£7,000.00 plus £1,000.00 future maintenance for each stop).

Green Travel Plan

In the absence of waste materials arriving at Site other than by road and in line with sustainable transport policies at national and local level the developer is required to provide a Green Travel Plan for implementation by both waste recovery and B1/B2 Unit employees. The Applicant has stated in line with RCTCBC Strategic Policy on transport aims to

- Reduce the need to travel by car
- Support and enhance public transport: walking and cycling provision.

The Section 106 agreement will secure the mechanism and timetable for implementation of the Green Travel Plan. The Green Travel Plan will include proposals and targets together with timescales, to limit or reduce the number of single occupancy journeys to the site and to promote travel by sustainable modes of travel (bus, cycle route (Sustrans) and walking) that are acceptable to the LPA. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary of the date of the planning consent to the Highway Authority. The financial penalties to be applied for non-compliance with the targets set out in the Green Travel Plan would be £90,000.00 regarding enhancing public transport provision to the Site excluding bus stop. This money would facilitate the bus service passing nearer to and stopping at the Site.

Consideration will be given to the proposed operating hours of facilities in order to mitigate impacts of noise, lighting and traffic movements. A condition setting out the hours of working and hours of traffic movement may need to be applied to a waste management facility. If a site is located close to residential or other sensitive land-uses, it would normally be inappropriate to allow operations or traffic movement to

take place at night, during Sundays, or on Bank Holidays or public holidays. However, Officers recognise that certain activities may need to operate at other times. Maintenance of plant, facilities to control or collect gas emissions, or surface water pumping may require 24-hour operation. At particularly sensitive sites there may need to be more stringent restrictions on hours of operation. Planning and licensing controls relating to hours of work should be complementary.

The Applicant has sought to work the plant 24 hours a day, 7 days a week, in two shifts. However, traffic deliveries to and exports from the Site will be limited to normal daytime working hours. The Applicant has sought 0700 to 1900 hours for construction and operation. BBNPA consider that the hours should be 0800 to 1800 hours and 0800 to 1300 hours on Saturdays and at no time on Sundays, Bank Holidays and public holidays. Such control would be secured by planning condition.

6. SECTION 106 AGREEMENT

Negotiations have taken place with the Applicant regarding the use of legal agreements under Section 106 of the Town and Country Planning Act 1990 (as amended). In so doing, regard has been had to the guidance contained in Welsh Office Circular 13/97 Planning Obligations, PPW, and BBNPA development plans including the BBNPA approved Planning Obligations Strategy.

Below is a summary of the Heads of Terms relating to a proposed Section 106 agreement between BBNPA, Enviroparks (Hirwaun) Ltd, RCTCBC, DCC and WAG (as landowner):

I. Dwr Cymru Welsh Water – Penderyn Reservoir Definitions

“Air Quality Objectives” means the National Air Quality Objectives for the protection of human health in so much as they relate to Wales as stated in The Air Quality Strategy for England Scotland Wales and Northern Ireland published by The Stationery Office in July 2007 reference ID 561119407/07 (and includes any subsequent alteration or amendment thereto).

“Plan” means the plan annexed hereto showing Penderyn Reservoir and water treatment works, the sampling area indicated by the dotted circle and sampling points 1, 2, 3, 4 and 5.

Protection of DCC assets

In the S.106 Agreement

- 1.1 The Applicant to confirm to DCC that air emission levels from the proposed operation of the plant shall not be such as to cause an exceedence of those levels set out in the Air Quality Objectives
- 1.2 The Applicant to consult with DCC prior to the submission to Environment Agency Wales of any application for an Environmental Permit under the Environmental Permitting (England and Wales) Regulations 2007/3538 and to confirm to RCTCBC and BBNPA that such

consultation has taken place.

- 1.3 The Applicant to notify DCC in writing without delay once any such application referred to in 1.2 above is lodged with Environment Agency Wales.
- 1.4 The Applicant to notify DCC of the full details of the operational process as defined by the Environmental Permit.

2. Water Quality Monitoring and Mitigation Scheme

2.1 Prior to Commencement of Development

- 2.1.1 Historic Data. DCC to provide the Applicant with any existing historic water quality monitoring data relating to the water in Penderyn Reservoir taken from sampling points 4 and 5 as shown on the Plan (together with any other relevant data (if any) held by DCC) within 1 month of planning permission for the whole of the Development being obtained by the Applicant.
- 2.1.2 Nature, Extent and Location of Water Quality Monitoring. The Applicant to agree with DCC within 2 months of planning permission for the whole of the Development being obtained by the Applicant, the nature and extent of any Water Quality Monitoring Measures required at Penderyn Reservoir beyond those which DCC is already carrying out. The water sampling locations are presented on the Plan annexed to this document. The Applicant will furnish RCTCBC and BBNPA with a copy of the Water Quality Monitoring Measures within 1 month of them being established.
- 2.1.3 Initial Sampling to Establish Baseline Water Quality Standard. The data from the Water Quality Monitoring Measures to be collated during a minimum period of 12 months by sampling and analysis every two weeks to provide a Baseline Water Quality Standard against which future monitoring data can be compared. The Applicant to notify RCTCBC and BBNPA of the Baseline Water Quality Standard within 1 month of it being established. In addition, two sets of silt core samples will be taken from within the sampling area as shown on the Plan at the commencement of the Water Quality Monitoring Measures. One set from each sampling point will be stored frozen for future reference while the other set from each sampling point will be analysed and dated and used to help set the Baseline Water Quality Standard.
- 2.1.4 Identify Parameters. The parameters to be measured in accordance with the Water Quality Monitoring Measures to be identified and agreed between the Applicant and DCC.
- 2.1.5 Funding of Water Quality Monitoring Measures. DCC to procure and the Applicant to fund provision of the Water Quality Monitoring Measures.

2.2 Prior to Commencement of the Operation of the Plant

- 2.2.1 Additional Sampling. The data from the Water Quality Monitoring Measures to be collated after the initial 12 month period by sampling and analysis every month up to the Commencement of Operation of the plant to maintain and confirm the Baseline Water Quality Standard.
- 2.2.2 Water Quality Monitoring Plan. The Applicant to agree with DCC a Water Quality Monitoring Plan (incorporating provisions for review) to be implemented by DCC on Commencement of Operation of the plant for the purpose of establishing any contamination of the water in Penderyn Reservoir derived from air emissions from the operation of the plant and for the purposes of establishing trigger points for undertaking any subsequent Mitigation Measures. The Applicant will furnish RCTCBC and BBNPA with a copy of the Water Quality Monitoring Plan and any subsequent amended Water Quality Monitoring Plan resulting from review within 1 month of it being agreed.
- 2.2.3 Hydraulic Study. DCC will consider whether a study of the Penderyn Reservoir hydraulics would assist the process of identifying any Mitigation Measures. If DCC considers that such a study would be appropriate then DCC will procure and the Applicant will fund that study and the results thereof will be taken into account in the identification of any Mitigation Measures to be implemented.
- 2.2.4 Mitigation Measures. The Applicant to agree with DCC Mitigation Measures (which could include (but are not limited to) (1) a new inflow and outfall for the reservoir; (2) new infrastructure to allow pumping from neighbouring network; and (3) changes in the water treatment process) in respect of water quality at Penderyn Reservoir should the data collated in accordance with the Water Quality Monitoring Plan indicate that the quality of the water from within Penderyn Reservoir has reached any of the agreed trigger points indicating deterioration from the Baseline Water Quality Standard attributable to air emissions from the operation of the plant. The Applicant will notify RCTCBC and BBNPA of the nature of any Mitigation Measures within 1 month of them being agreed.
- 2.2.5 Funding of Water Quality Monitoring Plan. Prior to Commencement of Operation DCC to procure (and the Applicant to fund throughout the duration of the operation of the plant) the Water Quality Monitoring Plan.

3. During the Operation of the Plant

- 3.1 Air Emissions Data. The Applicant to provide DCC, RCTCBC and BBNPA with air emissions data (as provided to Environment Agency Wales pursuant to the Environmental Permit) in respect of the operation of the plant at agreed regular intervals from the

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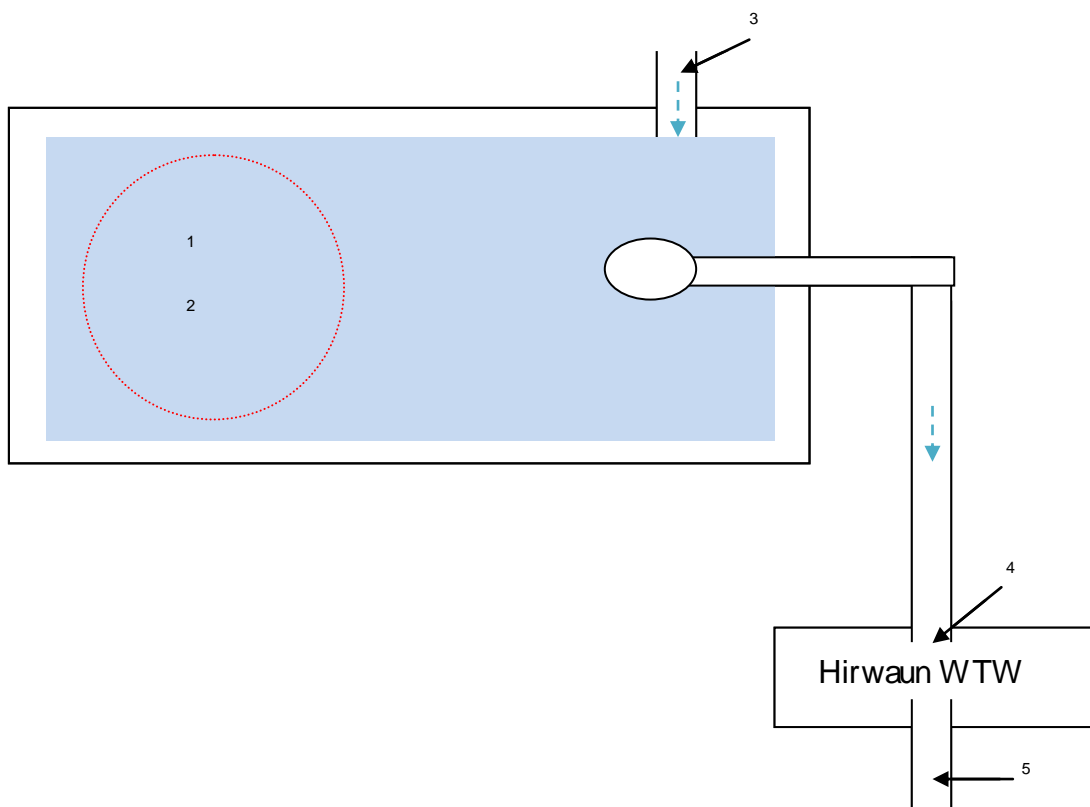
Commencement of Operation on site until the cessation of those operations.

- 3.2 Implementation of Water Quality Monitoring Plan. DCC to implement the agreed Water Quality Monitoring Plan from the Commencement of Operation until the cessation of those operations.
- 3.3 Sharing Data. DCC to provide the Applicant and RCTCBC and BBNPA with the results of the monitoring in accordance with the Water Quality Monitoring Plan from Commencement of Operation of the plant until cessation of those operations.
- 3.4 Notification of Trigger Point Recognition. DCC to notify the Applicant and RCTCBC and BBNPA within 1 month of recognising that any agreed Water Quality Monitoring Plan trigger point has been reached.
- 3.5 Notification of Mitigation Measure Requirement. Within 1 month of a notification under section 3.4 DCC and the Applicant to agree the Mitigation Measures to be implemented and to notify RCTCBC and BBNPA of the nature of the Mitigation Measures.
- 3.6 Implementation of Mitigation Measures. DCC to procure and implement the required Mitigation Measures.
- 3.7 Funding of Mitigation Measures. The Applicant to fund any of the required Mitigation Measures.

4. Dispute resolution

- 4.1 Appropriate dispute resolution provisions via an independent arbiter to be funded by the Applicant to deal with any technical disputes between the Applicant and DCC will form part of the Section 106 agreement. Detailed method of dispute resolution to be agreed prior to Commencement of Development.

“the Plan”



- POINT 1 LOCATED WITHIN AN AREA OF THE WESTERN SIDE OF THE RESERVOIR AT THE SURFACE SHOWN BY A DOTTED CIRCLE ON THE PLAN
- POINT 2 LOCATED WITHIN AN AREA OF THE WESTERN SIDE OF THE RESERVOIR APPROXIMATELY MID WAY BETWEEN SURFACE AND BOTTOM SHOWN BY A DOTTED CIRCLE ON THE PLAN
- POINT 3 LOCATED AT THE INFALL PIPE INTO RESERVOIR TO MONITOR WATER GOING IN TO THE RESERVOIR
- POINT 4 LOCATED AT INLET TO THE WATER TREATMENT WORKS BEFORE WATER TREATMENT.
- POINT 5 LOCATED AT WATER TREATMENT WORKS DISCHARGE I.E. POST TREATMENT

2) **Biodiversity Compensation and Enhancement**

- (i) Enviroparks (Hirwaun) Limited will make a financial contribution of £205,031.00 to be used to deliver a Biodiversity Compensation and Enhancement Scheme.
- (ii) The Biodiversity Compensation and Enhancement Scheme will operate to a habitat management brief within a 5 kilometre radius of the centre of the planning application site.
- (iii) The Biodiversity Compensation and Enhancement Scheme will secure the management of a minimum of 14 hectares of marshy grassland habitat as compensation. Additional biodiversity enhancement will be secured over a further 14 hectares to achieve a maximum area of habitat management totalling 28 hectares.
- (iv) The Biodiversity Compensation and Enhancement Scheme will seek to secure the habitat management of a minimum area of 14 hectares within a period of five years. The remaining area to be secured within a further period of 5 years, providing a total project timeframe of 10 years.
- (v) Setting up of steering group comprising representatives of the LPAs, Enviroparks (Hirwaun) Limited and Butterfly Conservation.

3) **Waste Catchment Area**

90% of waste will originate from catchment areas from within the National Park, Southeast and Southwest Wales Regional Waste area south of the National Park as defined by geographical plan.

4) **Bus stop provision**

Financial contribution of £16,000.00 towards improving and upgrading existing public transport infrastructure in relation to 2 nearby bus stops including the provision of raised kerbs, shelters, flagpoles etc. and their future maintenance (£7,000.00 plus £1,000.00 future maintenance for each stop).

5) **Green Travel Plan**

The Applicant will provide and implement a Green Travel Plan for both waste recovery and HEU employees to promote sustainable modes of transport.

Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary of the date of the planning consent to the Highway Authority. The financial penalties to be applied for non-compliance with the targets set out in the Green Travel Plan would be £90,000.00 payable to the Highway Authority for the enhancement of public transport provision to the Site (excluding bus stops).

6) **Rights of Way**

Financial contribution of £10,000.00 to BBNPA for the improvement and enhancement of Footpath 15 together with the provision of interpretation boards along the route.

7) **Surplus Heat**

The Applicant will provide a heat exchanger (i.e. connection point) on the Site boundary in the event that no B1/B2 High Energy User is established within three years of the first weighbridge ticket being issued and will also provide a strategy for the alternative use of the heat for approval by each of the planning authorities. The strategy should identify the timescales and means of delivery/implementation, including any requirements to secure planning permission.

8) **Sustainable Community Energy**

Financial contribution of 25p per tonne of waste (to a total of £600,000.00) to be paid to an asset locked body for the benefit of the communities of Penderyn, Rhigos and Hirwaun. Detailed mechanism and timescale of delivery of funding and implementation of the contribution to be agreed prior to the issue of the planning permission.

IN CONCLUSION.

In arriving at this recommendation to Members, consideration has been given to the information contained within the Environmental Statement, consultee responses, concerns and issues raised by members of the public and national, regional and local planning policies including the departure from Local Plan policy.

The planning Acts require decision makers to determine planning applications in

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accordance with their adopted planning policy unless other material considerations indicate otherwise. The National Park designation gives added dimension to planning policy in terms of the special purposes and duty of national parks.

In this particular application, Officers consider the proposals must be considered both in terms of Local Planning Policy, but also within the wider national and international policy framework as well as the locational aspects and the merits of the scheme. In coming to a decision, Members will need to weigh the balance of considerations given in the detailed report above.

There is clearly a need to reduce reliance upon landfill as a means of dealing with waste. This proposal hopes to divert waste away from such landfill and in addition looks upon such waste as a resource to recover a higher proportion of recyclable material and harness the embodied energy in the remaining waste resource for power and fuel generation.

The development within phase 2 of the scheme, of an adjacent B1/B2 high energy industrial user will give further sustainability benefit by using surplus heat generated from the waste processes. Safeguards are built into the Section 106 agreement to secure that a scheme is brought forward to use this surplus heat energy elsewhere on the industrial estate should the high energy user fail to materialise within a given time.

Your primary Unitary Development Plan policy for determination of waste development is Policy S13 indicates that waste developments of regional significance can be permitted in exceptional circumstances subject to compliance with the policy criteria. Whilst national policy would not support the designation of large waste facilities within National Parks, the Regional Waste Plan echoes this but also contains the proviso of exceptional circumstances and acknowledges there may be allocated B2 sites on the edge of or within National Parks where such development would be suitable. On balance and with reference to the analysis against the detailed policy criteria above in the Policy section of this report, Officers consider this to be such a site with an industrial allocation and on the very edge of the National Park.

The design of the buildings is considered of high quality for industrial type development and detail material and colours will be controlled by planning condition in order to limit any adverse impact due to the size and scale of the development. Officers obtained specialist landscape consultants advice in assessment of the visual impact of the proposals which concluded there to be no significant harm to warrant refusal of the scheme bearing in mind the existing context, to the special qualities of the National Park in terms of visual impact. From within the National Park, the viewpoints are generally from higher ground where the development will be seen against the backdrop of the surrounding existing industrial development and the wider industrial landscape of colliery workings beyond. From views into the National Park, your officers consider the development should again be seen in the industrial context as a logical part of the industrial estate with the National Park mountains rising beyond.

From an environmental and ecological perspective, the National Park's specialised ecology officers have liaised with Countryside Council for Wales with reference to

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impacts on the nearby Special Areas of Conservation Sites of Special Scientific Interest and on protected species and advised upon assessment of likely significant effect. Substantial biodiversity mitigation and gain is contained within the proposed Section 106 agreement and consultation response from Environment Agency Wales and Countryside Council for Wales gives comfort that harm can be prevented through the Environmental Permitting Process separate to the planning process.

The Site is considered well accessed via a primary road network (Heads of the Valleys road) which is the logical route for the waste streams travelling to the site. The development will be controlled by a Section 106 agreement so as to address the proximity principle and to limit potential impact upon the National Park by preventing waste being sourced from beyond the Northern boundaries of the Park or further afield into England. The Section 106 agreement Heads of Terms have been drawn up with significant input from Dwr Cymru Cyfngedig to ensure monitoring and protection of the adjacent water infrastructure and a planning condition will also control the plant from receiving hazardous wastes (see condition 39).

Into the balance of considerations must also go the sustainability benefits of the enviropark concept, dealing with waste by a means other than landfill and energy generation as a substantial by-product. The regeneration effects of such new development in terms of physical form and job potential creation in the current economic climate together with the community benefits possible through the Section 106 agreement to secure further investment funding, possibly through Heads of the Valleys Initiative (HOVI), to practical delivery of carbon reduction and sustainable energy within the communities of Penderyn, Rhigos and Hirwaun, awareness and training programs for such beyond the Enviroparks development.

Having considered the issues raised, relevant planning policy and other material considerations, Officers consider that on balance, planning permission should be granted subject to planning conditions and agreement incorporating the above Heads of Terms under Section 106 of the Town and Country Planning Act 1990 (as amended) and subject to referral to WAG as a departure from planning policy under Departure Regulations.

RECOMMENDATION: Minded to permit subject to referral to WAG under the Departure Regulations and subject to a Section 106 agreement covering the above heads of terms and the following planning conditions;

Conditions and/or Reasons:

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 The development shall be carried out in accordance with the following site layout plans and elevation drawings, (to be inserted NPI -19) subject to appropriate minor amendment as may be agreed in writing with the local planning authority
- 3 The developer shall notify the Local Planning Authority in writing within 7 days of the dates of the following:
 - i) Implementation of this planning permission;

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- ii) Commencement of a new phase of development;
- 4 Notwithstanding the provisions of parts 4 and 8 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, replacing or re-enacting that Order) no plant or machinery, building, structures and erections shall be erected, extended, installed or replaced externally within the site without the prior approval in writing of the Local Planning Authority.
 - 5 No obstruction or planting when mature, exceeding 0.9 metres in height shall be placed within the required vision splay areas.
 - 6 No development shall take place until a programme for the phasing of development on the site is submitted to and approved in writing by the Local Planning Authority. This scheme shall include access roads, pedestrian access and car parking provision necessary to serve the buildings proposed in each phase of the development plus any planting/landscaping necessary to screen each individual phase of the development. The phasing programme shall indicate the implementation of Use Class B1/B2 (High Energy User) at the northern part of the site. Should the B1/B2 unit not have been implemented within 3 years of issue of the first weighbridge ticket at the site then the phasing programme shall include measures for undertaking a revised noise survey and implementation of additional noise mitigation measures and additional landscape screening necessary as a result of not having this building on site.
 - 7 No development, site clearance or machinery brought onto site shall commence until a detailed plan, showing existing and proposed site levels including longitudinal and transverse cross sections (with reference to a datum point outside the site) indicating proposed buildings has been submitted for approval in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.
 - 8 No development shall commence until a written external lighting scheme is submitted to and approved in writing by the Local Planning Authority regarding both temporary lighting at construction/site clearance stage and permanent lighting at the operational stage. The agreed scheme shall include the technical specification, position, luminosity and hours of operation for lighting, the means of control on site, and measures proposed to control or avoid light pollution in areas outside the site. The agreed scheme shall avoid conflict with bat flight lines and foraging activity and activity of potentially other protected species at existing and proposed habitat/landscaping on the northern and western edges of the application site by minimising light (pollution) spill to these areas. The approved scheme shall be fully implemented in accordance with timescales agreed in writing with the Local Planning Authority. The agreed lighting scheme to be implemented during the construction and operation of the development hereby approved shall be carried out in accordance with the agreed scheme unless otherwise agreed in writing with the Local Planning Authority.
 - 9 No development or site clearance, or machinery or materials brought onto site shall commence until a mitigation and monitoring plan to conserve and enhance the habitat for slow worms within the site has been submitted to and agreed in writing by the Local Planning Authority (in liaison with the Countryside Council for Wales).

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- 10 No materials or substances shall be burnt or incinerated within the application site during constructional or operational development.
- 11 No removal of trees shall take place between 1st March and 31st August inclusive in any year unless otherwise approved in writing by the Local Planning Authority.
- 12 There shall be no external waste/recyclate sorting/screening, shredding and crushing of material on the site at any time, any agreed sorting/screening, shredding and crushing of material shall take place solely within building(s) on site unless previously agreed otherwise in writing by the Local Planning Authority.
- 13 No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period unless otherwise agreed in writing with the Local Planning Authority. The Statement shall provide for:
- i). the parking of vehicles of site operatives and visitors;
 - ii). loading and unloading of plant and materials;
 - iii). storage of plant and materials used in constructing the development;
 - iv). the erection and maintenance of security hoarding and subsequent removal;
 - v). wheel washing facilities;
 - vi). measures to control the emission of dust and dirt during construction;
 - vii). a scheme for recycling/disposing of waste resulting from construction works.
 - viii). noise and vibration abatement scheme;
 - ix). provision for the monitoring and review of the Construction Method Statement
- 14 Construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 15 Within 6 months of commencement of development details and samples of materials to be used externally on walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.
- 16 No development shall take place until phased scheme details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. Hard landscape details shall include proposed finished levels or contours, car park layouts, parking and access for other vehicles, pedestrian access, hard surfacing materials, and the means of enclosure for pipework, cables and ducts. Soft landscape works shall include existing trees, shrubs and hedge features proposed for retention, planting matrix diagrams, schedules of plant species, numbers and densities, and the programme for implementation. The landscape scheme shall incorporate a range of wildlife habitats to promote biodiversity as agreed in writing with the Local Planning Authority. Landscape scheme and works shall be carried out as approved with the Local Planning Authority in accordance with an agreed implementation timetable unless otherwise agreed in writing with the Local Planning Authority.
- 17 No development shall take place until a schedule of landscape maintenance, in

- relation to the phased development of the site, for an establishment period of five years is submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for implementation. Development shall be carried out in accordance with the approved schedule. Any plants that die or become diseased shall be replaced in accordance with details and timescales for implementation to be agreed in writing with the Local Planning Authority.
- 18 No development shall take place until a detailed scheme for the design, construction and maintenance of the green roof on the main administration building, and the green wall around the plasma converter compound, as shown on approved plans **XXX**, is submitted to and approved in writing by the Local Planning Authority. The scheme shall included full planting details. The approved scheme shall be fully implemented in accordance with a timescale to be agreed with the Local Planning Authority. Any plant failures shall be replaced in accordance with details and timescales for implementation to be agreed in writing with the Local Planning Authority.
- 19 None of the existing trees within the site shall be removed, felled lopped or pruned or damaged in any way without the prior consent of the Local Planning Authority.
- 20 No development shall commence until trees to be retained have been identified and agreed in writing by the Local Planning Authority.
- 21 No development shall be commenced on the site or machinery or materials brought onto the site for the purpose of development, or otherwise, until adequate measures have been taken to prevent damage to those trees which are to be retained. Measures to protect those trees shown must include:
- (a) Fencing, of a type and form agreed in writing with the Local Planning Authority, must be erected around each tree or group of trees. This fencing must be at least 1.25 metres high and at a radius from the trunk defined by the canopy spread.
 - (b) No excavations, site works, trenches, channels, pipes, services, temporary buildings used in connection with the development or areas for the deposit of soil or waste or for the storage of construction materials, equipment or fuel or other deleterious liquids shall be sited within the crown spread of any tree without the prior written consent of the Local Planning Authority.
 - (c) No burning of any materials shall take place within 6 metres of the furthest extent of the canopy of any tree or tree groups to be retained.
 - (d) There shall be no alteration of soil levels under the crown spread of any tree or group of trees to be retained.
22. No development shall take place until details of the implementation; maintenance and management of the site sustainable urban drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i). a timetable for its implementation, and
 - ii). a management and maintenance plan for the SUDS system.
- 23 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in

writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

- i). A preliminary risk assessment which has identified:
these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv). A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 24 Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
- 25 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.
- 26 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 27 A scheme for piling or any other foundation designs using penetrative methods shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.
- 28 Within 6 months of the commencement of development, details of covered secure cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the first receipt of waste materials on the site for processing and prior to the first use of the B1/B2 unit.
- 29 Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container’s or containers’ total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls.

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- 30 Repair, maintenance and refuelling of plant and machinery only take place on an impervious surface drained to an appropriate interceptor. The detailed design of the interceptor and drainage system and the area of impervious surface shall be submitted to and approved in writing by the Local Planning Authority before development begins.
- 31 No waste deliveries to the site shall take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.
- 32 No materials exported from the site shall take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.
- 33 There shall be no external operational storage including waste materials or by-product from the processing of waste stored outside buildings and there shall be no external storage associated with the operation of the B1/B2 unit unless first agreed in writing with the Local Planning Authority.
- 34 No goods, plant, material or machinery shall be deposited or stored outside the buildings hereby permitted unless otherwise agreed in writing with the Local Planning Authority.
- 35 Prior to the first receipt and processing of any waste to the site, an Odour control management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Odour Control management plan shall be fully implemented throughout the life of waste delivery and processing and energy generation operations at the site.
- 36 Development shall not begin until full details of any boundary treatment, means of enclosure and any entrance/exit security barrier or building has been submitted to and approved in writing by the Local Planning Authority. The details thus approved shall be fully implemented prior to first use or operation of the development.
- 37 Unless otherwise agreed in writing by the Local Planning Authority, all buildings to be erected on site shall achieve a BREEAM Excellent rating as indicated in the application hereby approved.
38. Before construction commences, full elevation colour and design details of any external plant and static machinery, or structure (including water treatment buildings/operations) shall be submitted to and approved in writing by the Local Planning Authority.
39. No waste materials defined as hazardous in the list of wastes (Wales) Regulations 2005 (Sl. 2005 no.1820) shall be received and processed in the development hereby approved.
40. No development shall take place until a Wildlife Protection Plan for construction has been submitted and approved in writing by the local planning authority. The plan shall include:
- a) An appropriate scale plan showing “Wildlife Protection Zones” where construction activities are restricted and where protective measures will be installed or implemented:
 - b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction.
 - c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as nesting bird season, hibernating and breeding amphibians and reptiles, etc)
 - d) Persons responsible for:

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- i) Compliance with legal consents relating to nature conservation;
- ii) Compliance with planning conditions relating to nature conservation;
- iii) Installation of physical protection measures during construction;
- iv) Implementation of sensitive working practices during construction;
- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
- vi) Provision of training and information about the importance of the “Wildlife Protection Zones” to all construction personnel on site.

All construction activities shall be implemented with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority”.

Reasons:

- 1 To comply with Section 91 (as amended) of the Town and Country Planning Act 1990
- 2 To enable the local planning authority to regulate and control the development of the site.
- 3 To enable the Local Planning Authority to control development and to monitor the site to ensure compliance with the planning permission.
- 4 There is an exceptional need to secure control over additional plant and machinery, in the interests of visual impact in relation to views from and into the Brecon Beacons National Park.
- 5 To ensure that adequate visibility is maintained, in the interests of highway safety.
- 6 To promote the orderly development of the site and the timely provision of vehicular and pedestrian access and parking, in the interests of local amenity and provision of B1/B2 High Energy User.
- 7 In order to define the permission and ensure that the development is of a scale and height appropriate to the site and views from the Brecon Beacons National Park.
- 8 In the interests of visual amenity and to prevent light pollution in the Brecon Beacons National Park and other areas around the site with regard to protecting fringe habitats and protected species.
- 9 In the interests of protected species.
- 10 To safeguard residential amenity and prevent pollution
- 11 To ensure breeding birds are not disturbed by removal of habitat.
- 12 In order to minimise noise and dust to other industrial users and residential amenity at nearby properties and to protect the special qualities of the Brecon Beacons National Park.
- 13 To protect the amenity of the locality and special qualities of the Brecon Beacons National Park.
- 14 In the interest of residential amenity and the special qualities of the Brecon Beacons National Park.
- 15 In the interests of visual amenity and special qualities of the Brecon Beacons National Park
- 16 In the interests of visual amenity and biodiversity.
- 17 In the interests of visual amenity.
- 18 In the interests of visual amenity and biodiversity.

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- 19 In order to preserve the character and amenities of the area.
- 20 In order to preserve the character and amenities of the area.
- 21 To ensure adequate protection to existing trees which are to be retained, in the interests of the character and amenities of the area.
- 22 To ensure the implementation and maintenance of a SUDS system in the interests of effective surface water management and the implementation of a bio diverse landscape treatment around the edges of the site.
- 23 Contamination is known or strongly suspected at the site due to the previous land uses, and as the Local Planning Authority considers that the controlled waters at this site are of high environmental sensitivity due to its close proximity to several surface water features, the risk of polluting controlled waters must be managed.
- 24 To demonstrate that the remediation criteria relating to controlled waters have been met, and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.
- 25 To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.
- 26 Given the nature of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated. This condition would manage this risk to controlled waters.
- 27 There is an increased risk of pollution of controlled waters from inappropriate methods of piling. This scheme will manage this risk.
- 28 To ensure the encouragement of alternative methods of transport to use the site in accordance with local plan policy.
- 29 To minimise the risk of pollution of watercourses and aquifers.
- 30 To minimise the risk of pollution of watercourses and aquifers.
- 31 To protect the amenity of the locality.
- 32 To protect the amenity of the locality.
- 33 To safeguard the environmental health, visual impact and special qualities of the Brecon Beacons National Park.
- 34 To protect the appearance of the area visual impact and special qualities of the Brecon Beacons National Park.
- 35 To safeguard the environmental health and amenity of the locality.
- 36 In the interests of visual amenity.
- 37 In the interests of Achieving high quality and sustainable design.
- 38 In the interests of visual amenity and security.
39. In the interests of public health and environmental amenity.
40. For the protection of wildlife and to accord with Policy Q4 of the BBNPA Unitary Development Plan

Informative Notes:

I Informative

Notwithstanding the ecological survey submitted with the application the developer/applicant is advised to undertake a precautionary screening survey for protected species prior to site occupation (including machinery and/or

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materials brought onto site) or site vegetation clearance in consideration of the requirements of the Wildlife and Countryside Act 1981 (as amended) and the European Habitat Conservation Regulations 1994 (as amended).