



## **PLANNING & DEVELOPMENT COMMITTEE**

**25 MARCH 2021**

### **REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

#### **PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/0986 - Construction and use of a stack with associated pipework and a continuous emissions monitoring systems gantry with ladder access, Fifth Avenue, Hirwaun Industrial Estate, Hirwaun

#### **1. PURPOSE OF THE REPORT**

Members are asked to consider the determination of the above planning application.

#### **2. RECOMMENDATION**

That Members consider this report in respect of the application and determine the application having regard to the advice given.

#### **3. BACKGROUND**

This application was originally reported to the 4<sup>th</sup> March 2021 meeting of the Planning and Development Committee with a RECOMMENDATION of APPROVAL.

A copy of the original report is attached as **APPENDIX A**.

Members resolved to refuse the application as it was considered that the erection of a 90-metre-high stack would constitute "*an incongruous and inappropriate development which has an adverse, detrimental and unacceptable visual impact on the landscape and compromises the visual amenity*"

As a consequence, it was resolved to defer determination of the application for a further report from the Director of Prosperity and Development to highlight the potential strengths and weaknesses of taking a decision contrary to officer recommendation.

#### **4. PLANNING ASSESSMENT**

Committee is advised that, as was stated in the original report, issues of “visual amenity” are considered to be more of a valued judgement than many of the more technical issues that are often set out in a report.

In that respect, the debate that led to the resolution considered all aspects of the proposal and concluded that the impact of the stack on this area, having regard to its position at the western gateway to the County Borough and in such close proximity to the Brecon Beacons National Park is considered to be reasonable (in the Planning sense of the term).

To support such a decision it is recommended that the reason offered by Committee supplemented having regard to the specific policies within the Local Development Plan namely AW5 (New Development), AW6 (Design & Placemaking) and AW10 (Environmental Protection & Public Health), It is also recommended that the reason for refusal cites the impact in respect of its sensitive location within the County Borough and the Brecon Beacons National Park.

Should Committee ratify its original condition it is suggested that the following reason may be appropriate:

**The erection of a 90 metre high stack would constitute an incongruous and inappropriate development which has an adverse, detrimental and unacceptable visual impact on the landscape and compromises the visual amenity at this key gateway location to the County Borough and the southern edge of the Brecon Beacons National Park. As such it considered to be out of accord with Policies AW5, AW6 & AW10 of the Rhondda Cynon Taf Local Development Plan.**

In reaching a decision, Committee are reminded of the consultation responses from both the BBNPA and NRW as well as the independent landscape and visual assessment carried out by White Consultants. While none of these actually suggest in any way that the erection of a 90-metre-high stack makes a positive contribution to the area, none of them actually objected in respect of this aspect of the proposal.

It is likely that these responses will be put forward by the applicant (at appeal) in support of the development and it is unlikely that NRW or the BBNPA would give evidence at a Public Inquiry to support the Council’s decision (although their opinion will be sought should Committee decide to refuse the application)

It is respectfully suggested that Committee has regard to the balanced judgements referred to in this report (and the previous report) however, if Members are still minded to refuse the application, then the suggested reason given above is considered to be appropriate.



**PLANNING & DEVELOPMENT COMMITTEE**

**4 MARCH 2021**

**REPORT OF: DIRECTOR PROSPERITY AND DEVELOPMENT**

**PURPOSE OF THE REPORT**

Members are asked to determine the planning application outlined below:

**APPLICATION NO:** 20/0986/10 (CHJ)  
**APPLICANT:** Enviroparks (Wales) Limited  
**DEVELOPMENT:** Construction and use of a stack with associated pipework and a continuous emissions monitoring systems gantry with ladder access.  
**LOCATION:** FIFTH AVENUE, HIRWAUN INDUSTRIAL ESTATE, HIRWAUN  
**DATE REGISTERED:** 29/09/2020  
**ELECTORAL DIVISION:** Rhigos

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**RECOMMENDATION:** Approve subject to a S106 Agreement

**REASONS:** The only change proposed by this application relates to a minor relocation and increase (doubling) in height of the stack and some ducting associated with the revised location. All other aspects of the development remain unchanged and are not under consideration.

The application falls to be determined under two principal criteria namely (a) emissions and (b) visual amenity.

In respect of emissions, this is something that is wholly governed by NRW and will be the subject of an application under the Environmental Permitting Regulations (EPR). NRW have advised that, for the purposes of the planning application, the emissions modelled by the applicant are acceptable (and is actually lower than modelling for the scheme granted planning permission in 2019 suggested). EPR will cover all aspects of both human health and that associated with flora and fauna that can be susceptible to changes in atmospheric conditions (in particular, the Marsh Fritillary Butterfly and Devil's Bit Scabious within the Blaen Cynon SAC). Without an approval under EPR, the development cannot become operational (and is therefore unlikely to be constructed / completed).

In respect of visual amenity, neither NRW or BBNPA have objected to the impact and an independent Landscape Consultant (White Consultants) has concluded that the impact, while being significant, is also acceptable. The applicant's proposal to "grade" the colour of the stack and its location on the bottom of the valley floor means that the majority of views will be seen against the elevated landforms rather than the skyline, so any impacts are minimized.

**There are understandable concerns expressed by the letters received in objection, however these concerns relate largely to issues that have previously been considered (and approved) by both RCT and the BBNPA on two separate occasions.**

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#### **REASON APPLICATION IS BEING REPORTED TO COMMITTEE:**

The nature of the development (including previous consents at the site), the level of objection received in respect of the proposal and the assurances given to the local Members (and the local MS & MP) is such that a Committee decision is considered appropriate / necessary.

#### **BACKGROUND INFORMATION**

In 2008 EWL (then called Enviroparks (Hirwaun) Limited) submitted planning applications to both Rhondda Cynon Taf County Borough Council (RCT) and the Brecon Beacons National Park Authority (BBNPA) for planning permission for the following development:

*“Development of a sustainable waste resource recovery and energy production park comprising 27,562 sq.m. of buildings and structures, including a 10,240 sq.m. building for Use Class B1/B2 us: 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 gas holding tanks; 30,352 sq.m. of internal roads and hardstandings; vehicular parking; external security lighting; 17,497 sq.m. of landscaping; vehicular ingress and egress from Fifth and Ninth Avenues, and associated utilities infrastructure.”*

Planning applications were made to both RCT & BBNPA as the administrative boundary bisects the site (the larger proportion of the site being within the BBNPA administrative area). Both LPAs approved the development through their respective Planning Committees (RCT Reference 08/1735 & BBNP Reference 08/02488) on different dates but consent was issued upon completion of a Section 106 Agreement on 21<sup>st</sup> December 2010.

Since this consent, the developer has implemented the scheme through the construction of the first phase. However, since the original scheme design was prepared in 2008, advances in waste recovery technologies and a *“much-changed policy and commercial landscape for waste recovery and renewably energy generation”* resulted in a review and a focus on waste gasification technology, with the associated process plant being contained within a single large building.

In 2017, a revised planning application (again to the two respective LPAs) was submitted for the following development:

*“Amended Phase II development and operation of a sustainable waste resource recovery and energy production park, comprising the consolidation of the approved gasification yard and pyrolysis building into a 6,270.43 sq.m. gasification hall; an emissions stack measuring 45 m in height and 3.5 m in diameter; a 2,102.86 sq.m. fuel storage hall and a 378 sq.m. turbine hall for electricity generation; and a 4,824 sq.m. open service yard containing ancillary structures including air-cooled condensers for the gasification plant, ancillary*

*fire water tanks and a fire pumphouse, effluent pumps, gas boosters, transformers and a standby diesel generator and fuel tank, with boundary landscape planting.”*

Again, both of these applications (RCT Reference 17/0249 & BBNPA Reference 17/14587) were approved by the respective LPAs, with consents being issued upon the signing of a revised S106 Agreement, in February 2019.

Committee is advised that an “Enviroparks Evolution” plan showing the various iterations of this scheme has been included as APPENDIX 1 and serves as a useful guide to the history of this proposal.

## **APPLICATION DETAILS**

Since the last approval in 2019, the applicant has reviewed the Phase II proposals in response to further modelling of the anticipated emissions from the gasification process. The applicant has decided to seek planning permission to relocate the main stack within the Enviroparks site and to increase the height of the structure from 45 m (as currently consented) to 90 m *“in pursuit of a superior operational and environmental performance”*.

The revised stack, including its access from the public highway, is now located (for the first time) wholly within the jurisdiction of RCT (as the LPA) and Committee is informed that this proposed change is only being submitted to RCT for determination, with the BBNPA being a consultee to the application.

The proposed development that forms the subject of the current planning application relates solely to the provision for an amended main stack. **No other elements of the previously consented (and implemented) schemes are proposed to be altered.**

The current proposal is for a 90 metre high stack which will be 3.95 metres in diameter. This is a change from the consented scheme which proposed a 45 metre high stack at a 3.50 metre diameter. The stack would move a short distance from its approved location (within the BBNPA) where it would have *“occupied the verge between the northern side of the Gasification Hall and an internal spine road”* (which is already constructed).

The increase in height of the stack follows further studies on the emissions of the Enviroparks plant, particularly in relation to acid and nutrient deposition on the nearby Special Area of Conservation (SAC).

To facilitate access for emissions monitoring (in conjunction with NRW) a Continuous Emissions Monitoring System (CEMS) gantry is proposed around the stack at a deck height of 18.5 metres above the adjoining ground level. Access to the CEMS gantry would be by means of a permanent steel frame ladder.

The CEMS gantry would be a cantilevered platform 10.5 metres in diameter, meaning that it would overhang the existing access road if it was to be located at the stack’s currently consented location. Given the space restrictions, the applicant has decided to relocate the stack itself to the service yard on the eastern side of the Gasification Hall. The applicant has advised that this location *“would provide more space in which to maintain the stack and promotes the mutual safety of access road users and staff working on the stack”*.

The stack is proposed to be finished in a smooth, flangeless, external cladding with a “graded” colour scheme reflecting a technical assessment of local landscape colours to help minimise any visual impact. No visible aviation lights are proposed (any that may prove necessary would be infra-red and invisible to the human eye). The adjacent Gasification Hall would be connected to the stack by means of pipework located above head height and below the level of the gantry.

The stack would stand on an impermeable reinforced concrete slab. The stack components would be brought to the site in modular sections and erected by crane. The applicant has advised that it would take approximately one month to complete but it is likely to be done in association with the construction of the development as a whole.

The applicant has advised: *“there is inherent environmental benefit in the proposal in respect of the dispersion of emissions to the atmosphere and the reduced potential for nutrient nitrogen deposition on protected habitats. However, this comes at the price of a taller structure and an important design consideration was how this would be accommodated in local and distant views, including views from local residential properties and from the Brecon Beacons National Park.*

*The brief was thus to find a design solution for the taller stack that meets operational, air quality and habitat protection objectives whilst presenting an acceptable landscape and visual solution”.*

Committee is advised that an assessment of the impact of the stack is discussed, in detail, in the **PLANNING CONSIDERATIONS** section of this report (and appendices).

## **SITE APPRAISAL**

The application site itself (the subject of this application) comprises a relatively small area of land within the wider (approved) Enviroparks development. As stated above, all of the current application site is now located wholly within the RCT LPA administrative area. None of the application site is located within the BBNPA LPA administrative area although the broader site sits within both – the larger proportion of which is within the BBNP.

The Enviroparks site lies within the Hirwaun Industrial Estate, which lies to the north of the A465 (Heads of the Valley) trunk road, close to its junction with the A4059 / A4061 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, which leads onto Fifth Avenue. The site has existing road accesses from Fifth Avenue to the south and Ninth Avenue to the east. These are currently sealed to deter unauthorised access.

The nearest large settlements in the area are Merthyr Tydfil 11 km to the east, and Aberdare, 7 km to the south-east. Local settlements include Hirwaun, 2 km to the south-east of the site, the village of Penderyn 2 km to the north-north-east, and Rhigos, which lies 1.7 km to the south-west of the application site. There are isolated smaller dwellings closer to the site, and two hotels.

The site is located in an area of varied terrain. Whereas the Hirwaun Industrial Estate occupies a generally level area of land, the land rises gently to the south and east, and more steeply to the east and north, into the National Park.

Established land uses in the locality are also diverse, with a variety of manufacturing, storage and waste reclamation activities taking place on the industrial estate itself, and with a large area to the south-east of the industrial estate occupied by the (now largely complete) workings of the former Tower Colliery.

Across Ninth Avenue from the application site stands a large industrial complex operated by Eden Industries. On the southern side of Fifth Avenue to the south-east of the site are other industrial sheds and storage yards. The area to the north and west of the planning application site is more rural in character, comprising woodlands and well-defined fields used for pasture.

Water storage, transfer and treatment facilities are a notable feature of the locality. Immediately to the north of the planning application site is the Penderyn reservoir, a lake formed by high artificial embankments. The reservoir is used for fishing by the Mountain Ash Fly Fishers Association (MAFFA). In addition to the reservoir there are operational pumping station and treatment facilities at the northern end of Ninth Avenue and on both sides of Fifth Avenue to the south-west of the application site.

The Enviroparks site itself contains a first phase of development with the following built elements.

- A large building, known as the Fuel Preparation Hall, in the south-east part of the site, with a gatehouse, temporary construction laydown and parking areas and foul and surface water drainage works.
- Internal site access roads, running from the site entrance on Ninth Avenue, westwards across the central area of the site and then southwards to Fifth Avenue at the south-western corner of the site.

Other areas of the site are covered in grass with some trees and shrubs inside the northern and western site boundaries.

The Enviroparks site is in a transitional position between the National Park to the north and the Hirwaun Industrial Estate to the south and east. The wider landscape to the south of the site contains a range of structures with a vertical emphasis, mainly including electricity pylons and wind turbines. Structures of an industrial appearance are to be expected in a large and long-established employment area. The wider landscape to the north (within the BBNP) has, understandably, fewer such structures.

While the whole Enviroparks site itself does not contain any environmentally protected areas, there are in the vicinity of the site, several areas of land that are protected for nature conservation purposes. These include:



- the Blaen Cynon Special Area of Conservation (SAC), which encompasses the Cors Bryn-y-Gaer Site of Special Scientific Interest (SSSI)
- the Woodlands Park and Pontpren SSSI.
- the Coedydd Nedd a Mellte SAC, which encompasses the Coedydd Nedd a Mellte SSSI
- Dyffrynoedd Nedd a Mellte a Moel Penderyn SSSI
- Seven Ancient Woodlands are located within 2 km of the site.

## **PLANNING HISTORY**

**08/1735/10:** Development of a sustainable waste resource recovery and energy production park **Decision: 21/12/2010, Grant**

**15/1346/10:** Erection of a building measuring 2,368.47 square metres to enclose apparatus of consented gasifier unit (under planning permissions BBNPA 08/02488/FUL and RCT 08/1735/10) on the Enviroparks Hirwaun site to form an extension and continuation to the consented Fuel Preparation Area Building. Landscaping and external gasifier plant equipment. **Decision: 25/01/2016, Grant**

**15/1361/39:** To add a new condition to planning permission 08/1735/10 to include the plans originally submitted to accompany the planning application as a set of approved plans.

The list of originally submitted plans to be included as approved plans is:

- Drawing Ref: 8016 PL 001 'Site Location Plan'
- Drawing Ref: 8016 PL 002 'Existing Site Survey'
- Drawing Ref: 8016 PL 010 'Existing Site Sections'
- Drawing Ref: 8016 PL 011 Rev C 'Proposed Site Sections'
- Drawing Ref: 8016 PL 051 Rev B 'Engine House Elevations'
- Drawing Ref: 8016 PL 050 Rev B 'Engine House Floor Plans'
- Drawing Ref: 8016 PL 081 'High Energy User Elevations'
- Drawing Ref: 8016 PL 080 'High Energy User Floor Plans'
- Drawing Ref: 8016 PL 041 Rev A 'Fuel Preparation Area Elevations'
- Drawing Ref: 8016 PL 040 Rev A 'Fuel Preparation Area Floor Plan'
- Drawing Ref: 8016 PL 030 'Visitors Centre Floor Plans'
- Drawing Ref: 8016 PL 031 'Visitors Centre Elevations'
- Drawing Ref: 8016 PL 071 'Pyrolysis Elevations'
- Drawing Ref: 8016 PL 070 'Pyrolysis Floor Plan'
- Drawing Ref: 8016 PL 020 'Gatehouse Floor Plan, Section and Elevations'
- Drawing Ref: 8016 PL 060 Rev A 'Biomax Floor Plan'
- Drawing Ref: 8016 PL 061 Rev A 'Biomax Elevations'
- Drawing Ref: 8016 PL 003 Rev I 'Proposed Site Plan'

**Decision: 14/06/2016, Grant**

**15/1351/15:** To vary the condition relating to a set of approved plans by replacing the following approved plans: • Drawing Ref: 8016 PL 011 Rev C 'Proposed Site Sections' • Drawing Ref: 8016 PL 051 Rev B 'Engine House Elevations' • Drawing Ref: 8016 PL 050 Rev B 'Engine House Floor Plans' •

Drawing Ref: 8016 PL 071 'Pyrolysis Elevations' • Drawing Ref: 8016 PL 070 'Pyrolysis Floor Plans' • Drawing Ref: 8016 PL 003 Rev I 'Proposed Site Plan' With the following plans: • 'Proposed Site Layout Plan' Drawing Ref: 10455-2020 • 'Proposed Site Sections' Drawing Ref: 10455-2021 • 'Pyrolysis Elevation Plan' Drawing Ref: 10455-2022 • 'Pyrolysis Floor Plan' Drawing Ref: 10455-2023 • 'Engine House Elevation' Drawing Ref: 10455-2024 • 'Engine House Floor Plan' Drawing Ref: 10455-2025. **Decision: 01/02/2019, Grant**

**15/1353/39:** To include FPA Phase II Drawing Ref: 10455-2004 as an approved plan attached to Planning Permission 08/1735/10 to allow minor changes to the external appearance of the Phase II section of the FPA Building to reconfigure the elevations and roof light configuration to match Phase I non-material amendments and allow uniform integration with proposed Gasifier Building elevations. **Decision: 14/06/2016, Grant**

**16/1189/38:** Revised Temporary Wildlife Protection Area - Completion of Mitigation Works. **Decision: 21/12/2016, Grant**

**17/0232/39:** This non-material amendment seeks to relocate the HV (High Voltage) substation from its approved location on the eastern site boundary fronting Ninth Avenue to a new south eastern location within the site fronting Fifth Avenue. **Decision: 30/03/2017, Grant**

**17/0249/10:** Amended phase II development and operation of a sustainable waste resource recovery and energy production park, comprising the consolidation of the approved gasification yard and pyrolysis building into a 6,270.43 m<sup>2</sup> gasification hall; an emissions stack measuring 45 m in height and 3.5 m in diameter; a 2,102.86 m<sup>2</sup> fuel storage hall and a 378 m<sup>2</sup> turbine hall for electricity generation; and a 4,824 m<sup>2</sup> open service yard containing ancillary structures including air-cooled condensers for the gasification plant, ancillary fire water tanks and a fire pumphouse, effluent pumps, gas boosters, transformers and a standby diesel generator and fuel tank, with boundary landscape and planting (Additional information relating to the Environmental Statement received 19/09/17). **Decision: 01/02/2019, Grant**

## **PUBLICITY**

As the proposals qualify as a major application, the applicant undertook pre-application consultation and a Pre-Application Consultation Report was submitted with the planning application.

Once submitted the application was publicised by Notices being placed in the vicinity of the site (and surrounding area) and by a notice being placed in the Press (Western Mail). The publicity exercise undertaken was exactly the same that was undertaken in respect of previous applications at this site.

It is understood that some local residents may have also undertaken additional publicity using the Council's "official" Notice and through Social Media.

As a result of this exercise 217 letters of objection / concern were received in addition to 4 petitions including 4,004 signatures – most including a specific reason for that objection.

Letters were also received from Beth Winter MP and Vikki Howells MS.

Committee is advised that not all of the reasons given for objection are under consideration in the determination of this application. Further clarification of this will be given in the **PLANNING CONSIDERATIONS** section of this report. However, in the interests of completeness and as a courtesy to those people who have taken the time and trouble to make representations, a summary of the comments received is included below for Committee's information.

Committee is advised that the volume of letters received have some nuance in their specific concerns but have been grouped into themes however the material planning considerations therein remain the same:

- It would have a detrimental effect on the environment
- It would be like the Phurnacite plant was (pollution / air quality)
- It would impact on deprived communities (Welsh Index of Multiple Deprivation)
- It would be contrary to the Well Being of Future Generations (Wales) Act 2015 and Article 8 of the Human Rights Act 1998.
- It would be a pollution risk to the Penderyn Reservoir (water supply)
- Emissions would affect the local communities and wider area dependent on weather conditions and the prevailing wind (affecting air quality).
- The volume of traffic and pollution would increase greatly due to the HGVs delivering to the site / roads are already congested.
- The erection of the stack would be a monstrosity / eyesore within the landscape and not compatible with the surrounding area / character.
- The stack would result in a loss of visual amenity.
- The pollution would affect the "dark skies" / impact on the "planetarium" proposal.
- It would affect tourism / regeneration plans for the area.
- The pollution would be a significant worry for both the elderly and children (with 3 schools in the vicinity) as well as people with respiratory problems / it would affect air quality.
- It would affect the viability of the existing Industrial Estate and deter firms from coming / affect surrounding farms.
- The people of this area have suffered enough with heavy industry in the past which is now coming to an end and want to see more "clean" developments being undertaken (including tourism).
- The development would affect the value of homes in the area.
- The development would result in wind-blown waste.
- There is an unacceptable cumulative effect on the landscape (with the wind turbines).
- The development would result in offensive smells (and in one specific regard may affect the viability of the Penderyn Distillery Warehouse).
- The stack will have an unacceptable impact on the Brecon Beacons National Park (views to and from).

- The stack would affect enjoyment of the surrounding areas (being used for recreation).
- A previous application for a single (67m) wind turbine was refused on the grounds of impact on the BBNP so how can a 90m high stack be allowed?
- The butterflies (Marsh Fritillary) are afforded more protection than humans.
- The height of the stack could affect the bird population.
- RCT Planning has designated this area as a dumping ground for the County Borough and may not be considered in a more affluent area.
- It is in a Special Landscape Area / would affect the beauty of the surrounding area.

## **CONSULTATION**

As part of the application process the following were consulted. A brief precis of responses has been included for Committee's information. Members are advised that in the determination of this application, some responses will have a greater weight in the decision-making process and greater detail has been included in the **PLANNING CONSIDERATIONS** section of this report.

**Mountain Ash Fly Fishers Association** – object to the development due to the potential for pollutants from the stack to harm the fish population and potable water supply

**RCT Highways** – no objection

**RCT Public Health & Protection** – no objection

**RCT Countryside, Landscape & Ecology** – no objection

**BBNPA** – has “some concerns” over the impact on the proposal on the setting of the National Park but does not object.

**Neath Port Talbot County Borough Council** – initially objected due to the impact on environmentally designated sites within its boundary but subsequently removed the objection upon further clarification from the applicant.

**Rhigos Community Council** – object to the development on the grounds of visual impact and the health and well-being of residents of Rhigos and the wider community.

**Hirwaun & Penderyn Community Council** – object to the development on the grounds of pollution and damage to the environment, visual impact, tourism, resident's health & wellbeing, increased traffic and congestion, and the development being at odds with the Well-being of Future Generations Act. They also highlight the role of the Community Council to represent local residents and object to developments that may cause harm.

**Dwr Cymru / Welsh Water** – no objection (subject to a S106 Agreement)

**Coal Authority** – no objection

**National Grid** – no objection

**Civil Aviation Authority (CAA)** – no objection

**National Air Traffic Services (NATS)** – no objection

**Natural Resources Wales (NRW)** – has “significant concerns” in respect of the development and its potential impact on the Blaen Cynon SAC (emissions) but confirm that the proposed development would be subject to an application / consideration under EPR.

NRW suggest conditions that, if included, result in no objection in respect of the impact on the landscape and the BBNP.

**White Consultants (Independent Landscape Advisors)** - Notwithstanding the adverse effects, it is considered that, with appropriate colour mitigation, the effect of the stack is likely to be minimised, especially seen in the context of the developed valley bottom and against a backcloth of higher upland landforms to the north and south. A full copy of this report has been included as **APPENDIX B**.

## **POLICY CONTEXT**

Committee is advised that the Policy considerations listed below are similar to those that formed part of previous applications, save for an updated PPW and the introduction of the (over-arching) National Development Framework (Future Wales: National Plan 2040).

Whilst the policies are universally relevant, Committee is advised that any consideration of the context should relate only to the specific development under evaluation and not the development of the site as a whole (for which a detailed and implemented consent exists).

Further clarification will be given in the **PLANNING CONSIDERATIONS** section of this report.

### **Future Wales: National Plan 2040.**

Future Wales is the National Development Framework for Wales and will have a legal status as a Development Plan as of 24<sup>th</sup> February 2021 and therefore must be taken into account in making a decision.

As the name suggests it sets out a framework for development within Wales. It is a 20-year plan (2020-2040) “*for shaping the future growth and development of our country*”.

It is a development plan “*for addressing key national priorities through the planning system including sustaining and developing a vibrant economy, achieving decarbonization and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities*”.

Future Wales does not contain statements on all land use planning issues set out in Planning Policy Wales. It has policies on issues where the Welsh Government considers them a national priority at this time or matters which are distinctly spatial and require national leadership.

Decisions on planning applications must be taken in accordance with the development plan.

**National Parks:** National Park Authorities are unique planning entities with a specific remit to reflect the distinctive characteristics of their areas. National Parks are at the heart of resilient ecological networks and have a key role to play in Strategic Development Plans as part of the sustainable management of natural resources, protecting Wales's cultural heritage and promoting health and well-being.

Future Wales policies respect the functions of National Parks in terms of their statutory purposes. At the regional scale, where National Park Authorities will be considered in the context of a wider spatial region, their statutory duty must inform Strategic Development Plans. Planning Policy Wales sets out the wider planning policy context for National Parks.

**Our Natural Environment:** We have numerous designations for our natural environment throughout our land and seas. These are important sites and networks for habitats and species, from the local to the international scale. We must ensure they are protected and enhanced now and for future generations.

**Natural Resources:** Wales has a rich variety of nature conservation sites, covering a diverse range of important and unique habitats and protected species. Ecosystems underpin our well-being, health, economy, culture and identity. We depend on them to provide us with food, raw materials and clean water, and to regulate our climate and air quality. The need to reverse biodiversity decline and assist nature recovery is of imperative importance in its own right. Environmental pressures are causing global biodiversity declines at rates not previously encountered in human history and the rate of species extinctions is accelerating.

Many of our key industries such as agriculture, forestry, fisheries, energy, water and tourism rely on healthy, functioning ecosystems to prosper and to support communities across Wales. We must align the response to the climate emergency with the need to address the twin challenge for biodiversity. Ensuring the resilience of our ecosystems will reverse biodiversity decline and provide an opportunity to promote green growth and innovation to create sustainable jobs, sustain a more resource efficient economy and maintain healthy, active, sustainable and connected communities.

**Renewable energy:** Policy 17 of Future Wales 'strongly supports the principle of developing renewable and low carbon energy from all technologies and at all scales to meet our future energy needs' and encourages the effective use of waste heat. The consented Enviroparks development that the proposed stack would serve would use an advanced gasification technology to generate renewable electricity and heat from waste, and could supply this energy to consented industrial units on the northern part of the Fifth Avenue site.

## **Planning Policy Wales (Edition 10)**

Chapter 3: "*Strategic and spatial choices*" contains guidance on the definition of good design.

Paragraph 3.8 states that *‘addressing environmental risks can make a positive contribution to environmental protection and improvement, addressing land contamination, instability and flood risk and providing for biodiversity, climate protection, improved air quality, soundscape and water resources benefits’*.

Section 5.4 concerns economic development.

Paragraph 5.4.13 advises local planning authorities to *‘deliver physical regeneration and employment opportunities to disadvantaged communities’*.

Paragraphs 5.4.16 - 5.4.18 proceed to promote the development of business clusters.

Section 6.3 highlights the importance of valued and protected landscapes including national parks.

Paragraph 6.3.6, *‘In National Parks, planning authorities should give great weight to the statutory purposes of National Parks, which are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for public understanding and enjoyment of their special qualities. Planning authorities should also seek to foster the social, economic and cultural well-being of their local communities’*.

Section 6.4 draws attention to the ‘section 6 duty’ to enhance biodiversity and protect ecosystems introduced by the Environment (Wales) Act 2016. The duty is of particular relevance in the context of statutorily protected wildlife sites such as the Blaen Cynon SSSI and SCA and other designated areas in the locality.

### **Technical Advice Note 12: Design (March 2016)**

TAN12 elaborates upon the design advice in PPW.

*‘The purpose of this TAN is to equip all those involved in the design of development with advice on how ‘Promoting sustainability through good design’ and ‘Planning for sustainable building’ may be facilitated through the planning system’*.

### **Rhondda Cynon Taf Local Development plan (the LDP)**

**AW5** – New Development

**AW6** – Design & Placemaking

**AW8** – Protection & Enhancement of the Natural Environment.

**AW10** – Environmental Protection & Public Health

**AW12** – Renewable & Non-Renewable Energy

**NSA14** – Employment Allocations in the Northern Strategy area (includes Hirwaun Industrial Estate)

**CS9** - confirms that Hirwaun Industrial Estate is an appropriate location for in-building waste management uses of the type consented in the current application.

## **Technical Advice Note (TAN) 5: Nature Conservation and Planning**

TAN 5 advises on the consideration of applications affecting a Special Area of Conservation (SAC) and Sites of Special Scientific Interest (SSSI) – as well as other sites of nature conservation interest.

**1.6.1** *“Biodiversity conservation and enhancement is an integral part of planning for sustainable development...The use and development of land can pose threats to the conservation of natural features and wildlife...But development can also present significant opportunities to enhance wildlife habitats and the enjoyment and understanding of natural heritage”.*

**2.4** *“When....deciding planning applications that may affect nature conservation, local planning authorities should:*

- *ensure that appropriate weight is attached to designated sites of international, national and local importance.*
- *ensure that all material considerations are taken into account and decisions are informed by adequate information about the potential effects of development on nature conservation*
- *adopt a step-wise approach to avoid harm to nature conservation, minimise unavoidable harm by mitigation measures, offset residual harm by compensation measures and look for new opportunities to enhance nature conservation...”*

**4.5.1** *“Environmental Impact Assessment is a process intended to identify and assess the likely significant environmental effects of a proposed development, in order to inform decision making. It should ensure that the impacts of projects likely to have a significant effect on the environment are thoroughly investigated, understood and considered before deciding whether or not to grant consent”.*

Sections 4.6 and 4.7 advise on the use of conditions and planning obligations (S.106 Agreements) when granting planning consent.

**5.3.1** *“Local Planning Authorities should follow the procedures....for development which might affect European sites....and, more generally, should have regard to the requirements of the Habitats Directive in the exercise of their planning functions”.*

**5.4.4** *“The Assembly Government expects 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;*
- *adopt the highest standards of management in relation to SSSIs which they own; and*
- *as owners, or otherwise, take positive steps, wherever possible, to enhance the special interest features of a SSSI where their activities may*



*be affecting it, or where opportunities arise in the exercise of their functions.”*

**6.3.1** *“Under the Habitats Directive...a licensing authority cannot issue a license to enable development to be carried out unless it is satisfied that:*

- *there is “no satisfactory alternative” to the derogation, and*
- *the derogation is “not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.*

SACs are sites of international importance and are designated by the Welsh Ministers in light of recommendations made by NRW.

SSSIs are nationally important sites. They are notified by NRW and may be designated on any area of land of special interest by reasons of its flora, fauna, geological or physiographic features. The purpose of designation is to protect the special features of the site.

Development proposals in or likely to affect a SAC or SSSI must be subject to special scrutiny.

### **Brecon Beacons National Park Management Plan 2015-2020**

BBNPA's Brecon Beacons National Park Management Plan 2015-2020 defines the Special Qualities of the Brecon Beacons National Park as follows:

- 1. A National Park offering **peace and tranquillity** with opportunities for quiet enjoyment, inspiration, relaxation and spiritual renewal.*
- 2. A feeling of **vitality and healthfulness** that comes from enjoying the Park's fresh air, clean water, rural setting, open land and locally produced foods.*
- 3. A **sense of place and cultural identity** - “Welshness” - characterised by the use of the indigenous Welsh language, religious and spiritual connections, unique customs and events, traditional foods and crafts, relatively unspoilt historic towns, villages and family farms. The continued practices of traditional skills developed by local inhabitants to live and earn a living here, such as common land practices and grazing.*
- 4. A **sense of discovery** where people are able to explore the Park's hidden secrets and stories such as genealogical histories, prehistoric ritual sites, medieval rural settlements, early industrial sites, local myths, legends and geological treasures.*
- 5. The Park's **sweeping grandeur and outstanding natural beauty** observed across a variety of harmoniously connected landscapes, including marvellous gorges and waterfalls, classic karst geology with caves and sink holes, contrasting glacial landforms such as cliffs and broad valleys carved from old red sandstone and prominent hilltops with extensive views in all directions.*

**6. A working, living “patchwork” of contrasting patterns, colours, and textures** comprising of well-maintained farmed landscapes, open uplands, lakes and meandering rivers punctuated by small-scale woodlands, country lanes, hedgerows, stone walls and scattered settlements.

**7. Extensive and widespread access to the Park’s diversity of wildlife and richness of semi-natural habitats**, such as native woodlands, heathland and grassland, natural lakes and riparian habitats, ancient hedgerows, limestone pavement and blanket bogs including those of international and national importance.

**8. In the context of the UK, geographically rugged, remote and challenging landscapes.**

**9. Enjoyable and accessible countryside** with extensive, widespread and varied opportunities to pursue walking, cycling, fishing, water-based activities and other forms of sustainable recreation or relaxation.

**10. An intimate sense of community** where small, pastoral towns and villages are comparatively safe, friendly, welcoming and retain a spirit of cooperation.

## **REASONS FOR REACHING THE RECOMMENDATION (PLANNING CONSIDERATIONS)**

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material planning considerations indicate otherwise.

Furthermore, applications that are not in accordance with relevant policies in the plan should not be allowed unless material planning considerations justify the grant of planning permission.

Committee is advised that Future Wales 2040 is now considered to be a Development Plan (from 24<sup>th</sup> February 2021) which must now also be taken into account when reaching a decision.

Committee is advised that many of the objections / concerns raised as part of this application largely relate to the development of the site as a whole and not to the specific proposal under consideration. While the majority of the comments made are material planning considerations (insofar as they relate to genuine planning issues), these issues have been previously considered as part of the two principal consents granted at this site for the development of an “energy from waste” facility and are not directly relevant in the consideration of this specific application and can therefore only be given very little weight in reaching a decision.

It is considered that the principal issues in the consideration / determination of this application are:

- Emissions (especially any impact on public health and ecologically important designations) and,
- Landscape / Visual Impact (including any impact on the “special qualities” of the BBNP, impacts on residential areas, the surrounding countryside and the potential for it to impact on tourism).

### **Emissions**

Committee is advised (reminded) that the consideration of emissions emanating from the stack is fully regulated and controlled under legislation outside of the Planning system. Regardless of whether the applicant be successful with this application or construct the previously approved scheme (which included a 45 metre high stack), a separate consenting regime exists to deal with any emissions. **Separate consent will need to be sought (and granted) from NRW under the Environmental Permitting Regulations (EPR) before the development can be brought into any beneficial use.**

NRW has provided a consultation response that offers “*significant concerns*” as a result of this development. Discussions with NRW have highlighted that these largely relate to the uncertainty over the impact of the development, as a whole, on sensitive habitats. This will be addressed under EPR and NRW is content for the current application to be approved subject to the retention of relevant planning conditions from the 2019 Enviroparks planning permission and the agreement of a Deed of Variation to the existing S106 agreement. The remaining comments / conditions relate to the landscape and visual impact and will be addressed in the next subject heading. A copy of this consultation response is provided as **APPENDIX C**

Some objections have suggested that Enviroparks had previously applied to NRW for consent under EPR (and implied that it had been turned down). This was specifically raised with NRW who has advised that they had previously received an application from Enviroparks at this site but it was subsequently withdrawn.

NRW’s recommendation (in their consultation response) was that the applicant should have “twin-tracked” the Planning application and the application under EPR. However the applicant has not done this and indeed there is no requirement for any developer to do it in that manner. Committee is advised that this has no direct relevance to the consideration of this application (on its own merit).

As part of this application, the applicant has advised that there will be no new emissions as a result of this proposal. Whether a 90 metre or 45 metre stack is constructed, the consideration of “emissions” from the plant will remain the same as those approved under previous applications. There is some public concern that emissions will be increasing or are likely to increase in the future (albeit with no specific evidence to substantiate this view). Whether the applicant is correct or the objectors are correct, Committee is advised that it is a matter for NRW to determine and consider under the EPR.

The applicant has stated that the increase in height is required “*in pursuit of a superior operational and environmental performance*” but that does come at a

price of a greater visual impact. It is for Committee to decide whether that impact is acceptable or not.

Committee is advised that the principal consideration relative to emissions is the potential for impact on the Blaen Cynon Special Area of Conservation (SAC). This SAC is home to the Devil's-Bit Scabious which is a food plant for the (declining) Marsh Fritillary Butterfly population, which is a protected species under European Legislation and classed as a "priority species" under the UK Post-2010 Biodiversity Framework.

There are, understandably, very strong feelings amongst objectors about the potential for this development / stack to impact on human health and many have cited the proximity of nearby schools (and villages). Emissions, and any associated impact they may have, is clearly a material planning consideration of some considerable weight, however, the arbiter of any dispute lies not only outside of the Planning system but also outside of the Council.

Committee needs to be satisfied that, in determining this application, proper regard will be had to the issue of emissions through an appropriate regulatory body. NRW have responded (in their consultation response) "*We have completed a high level review of the submitted air quality assessment and as a result of this review, we are satisfied that the dispersion modelling methodology is appropriate for the purposes of informing the planning application*". They further add "*.....it would only be when full details of modelling and technology is provided and considered as part of an EPR application, that NRW's permitting function would be in a position to properly verify the data*"

It is considered that NRW are the appropriate body, and if emissions are largely the same, the Council (as LPA) is in no different a position than it was when approving previous applications at this site (although NRW notes that emissions in respect of "*nutrient nitrogen deposition*" and "*acid deposition*" are actually **lower** than previously considered),

Any concerns, whether from an ecological or human health standpoint will be investigated (with equal diligence according to the appropriate levels set out in National legislation) and considered as part of an application that must be made under the Environmental Permitting Regulations.

In a similar vein, concerns (objections) have been raised in respect of the likelihood of emissions from the stack affecting the water supply at the nearby reservoir (also used by the Mountain Ash Fly Fishers). Committee is advised that this issue was considered in detail as part of the original application. In response to the current planning application, Dwr Cymru / Welsh Water required some further clarification from the applicant. Following the submission of this information DC/WW advised that they were now satisfied that appropriate safeguard would be in place and offered no objection. This would be the subject of the same requirements attached to a S106 Agreement that establishes a baseline evaluation (before the plant is in operation), regular monitoring (while the plant is in operation), and an Action Plan (to effectively deal with any incidents should they occur). In light of the comments from DC/WW it is considered that any concerns have been appropriately addressed.

In light of the above comments it is considered that the proposal complies with Policies AW5, AW6, AW8, AW10 & AW12 of the Rhondda Cynon Taf Local

Development Plan, and that the significant volume of concerns expressed will be properly addressed through that process.

### **Visual Impact / Visual Amenity**

The applicant proposes a 90 metre high by 3.95 metre wide stack along with some ancillary ducting and a monitoring platform (described in **APPLICATION DETAILS**).

The stack is twice the height (and slightly wider) to that previously approved and will form a significantly visible feature in the landscape.

The applicant proposes to “grade” the colour of the stack using various colours and shades to help minimise the impact when viewed against the landscape (rather than provide it in one solid colour – usually grey). They have provided a range of options before concluding that one of the options (3) performs better than the others. These options / visuals will be provided as part of the presentation to Committee.

Members are advised that it is not possible to hide a structure of this size and scale however, it must be acknowledged that in certain instances, especially on industrial developments and on industrial estates, features such as the one being proposed are sometimes necessary.

**The key question for Committee is whether the provision of such a structure is acceptable in this location having regard to all of the circumstances surrounding the proposal and taking into account the views (sic) of the key players in evaluating any impacts.**

Committee is advised that, in applications such as this, there are **two principal consultees** upon whose written responses, the Council (as LPA) must give due weight and consideration.

Firstly, **NRW** are Welsh Government’s Landscape Advisors and also have, within that, a remit for assessing the impact on Statutory Designations, which in this case is the National Park.

Secondly, the **Brecon Beacons National Park Authority** advise on the development and its potential to impact on the “special qualities” of the Park and to ensure that the determining Authority has regard to them in reaching a decision.

Both NRW and BBNPA consultation responses are included for Committee’s information as **APPENDIX C & D** and are referred in detail to later in this Section.

In applications such as this, there is no requirement of the determining authority to carry out an independent assessment of the information submitted by an applicant to evaluate the impact on landscape and visual amenity (although there is a need to determine whether the LPA actually agrees with the conclusions that an applicant has reached).

Landscape Assessment can be a complicated discipline and the Council no longer has the ability to provide this type of assessment in-house. The Council is also mindful of the need to assess applications in the context of the statutory purposes of National Park designation and the special qualities of the Brecon

Beacons National Park specifically, as identified earlier in this report. Given the large public response (exclusively in opposition) to the proposal and following a question / request from a local Councillor, it was decided to commission an independent assessment of the impact of the proposed stack on the landscape. This report was to undertake two related, but separate tasks:

- Firstly, it was to review the information submitted by the applicant to see if it was fit for purpose and,
- Secondly, to independently assess the impact and provide an opinion on its acceptability (solely in relation to landscape and visual impacts), having regard amongst other things to the statutory purposes and special qualities of the Brecon Beacons National Park.

It was decided to use White Consultants (based in Cardiff). Some Members may recall that White Consultants were used to assess all of the large windfarm applications that have been submitted in RCT (Pen y Cymoedd, Mynydd Bwllfa, Maerdy, Abergorkii, Fforch Nest, etc). In the case of the Mynydd Bwllfa wind farm, White Consultants also acted as an expert witness in the Planning Inquiry (Appeal) at which the Council was successful in defending its decision. White Consultants were also used by the BBNPA to assess the landscape and visual impact of the original Enviroparks proposal on the National Park. White Consultants also have 30 years' experience in this discipline. A full copy of the report has been included for Committee's information as **APPENDIX B**.

#### NRW's Response

NRW are the Welsh Government's statutory landscape advisors. In respect of the potential for the scheme to impact on the BBNP, they state:

*"We note that the proposal would result in an increased adverse visual effect on the adjacent landscape of the National Park. There would be an increase in the areas of the National Park from which the proposed stack is visible as a result of the increase in height from 45m to 90m. The proposed stack would include a metal gantry & ladder at approximately 18.5 metres and would be metal clad in a smooth finish with a graded colour scheme intended to be visually recessive.*

*The majority of the views of the proposed stack from and towards the National Park are from high ground, with the exception of close views from Penderyn Reservoir and the backdrop of the landform, rather than against the sky in silhouette.*

*We have reviewed the updated "Environmental Statement Addendum – Chapter Eight-Appendix 8.3 prepared by Enviroparks dated September 2020". We agree that the changed colour scheme (Option 3) is more sensitive to its context and would better integrate the stack in views from and towards the National Park"*

In light of the above comments, there are **no objections from NRW** in respect of the landscape impact and impact on the BBNP subject to the applicant undertaking the "graded" finish put forward in their application.

#### BBNPA Response

On 5<sup>th</sup> November, the BBNPA replied to the consultation (as part of the application process). Their response was caveated insofar as it was their “Officer” response and was subject to change when it was reported to their respective Planning Committee. This meeting took place on 15<sup>th</sup> December 2020 after which time it was subsequently confirmed that the comments contained within the original consultation response were ratified by BBNPA Committee and now constituted their formal response.

A copy of the BBNPA response has been included as **APPENDIX D**.

The consultation response sets out the policy and legal context that gives special consideration to the National Park and also the requirements of any Authority in making a decision to have regard to this and assess the impact of a development on the “special qualities” of the Park and the functions it performs.

Committee is reminded that the location of the proposed stack is now located outside the boundary of the BBNP although the greater proportion of the Enviroparks development site **as a whole**, is still located within the BBNP area.

The response concludes:

*“The Brecon Beacons National Park Authority have some concern over the landscape and visual impacts of the proposed 90m stack and the impacts this then has the statutory purpose of the National Park – “to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park”. The NPA also have concerns that the proposal will adversely impact on two of the Special Qualities of the Park – its sweeping grandeur and outstanding natural beauty” and the “working, living “patchwork” of contrasting patterns, colours and textures”. It will be for the determining local planning authority to give due regard to these impacts in the determination of this planning application”.*

#### White Consultants Response

The assessment carried out by White Consultants was carried out in 3 stages:

- The first stage (in October 2020) was a preliminary review of visualisations (submitted as part of the application). It was responded to by Enviroparks’ Landscape Consultants.
- The second stage, completed in November 2020 was a review which considered the proposals and associated LVIA and other information submitted, after which further clarification was sought from Enviroparks’ Landscape Consultants; and
- The third stage considers all of the information submitted to reach a conclusion (and recommendation to the LPA).

In this assessment, White Consultants have particular regard to the impact of the development on the “special qualities” of the BBNP in making the recommendations. These include:

- Scenic quality and sense of place
- Landscape quality and integrity
- Perceptual qualities

The relevant sensitivities of the above “special qualities” include built or other developments which may detract from the sense of tranquility and remoteness, and also visual impacts including night-time light pollution associated developments beyond the National Park boundary.

Rather than summarise the whole report (and potentially miss some of the balanced judgements that have been made in reaching a recommendation), **a full copy of the report is attached for Committee’s consideration**. A copy of this report has also been placed on the Council’s website to enable the public (especially the objectors) to have sight of it prior to the application being reported to Committee. For ease of reference, White Consultants’ “Conclusions and Recommendation” are made in Chapter 9.

White Consultants have concluded that the applicant’s consultants may have understated the levels of effects of the increased height of the stack from some locations, although that is primarily a matter of professional judgement. It is also critical that some of the photomontages and key photographs submitted by the applicant are not adequate as the sole guide for choosing the colours to be used in the grading of the stack. In order for this to be effective, it is considered critical in requiring an on-site visit with an official RAL Colour Chart to verify the optimal colours. It is recommended that, if the application is approved, that this should form the basis of a condition.

A number of objections received refer to the plumes of smoke that would be emitted from the stack (referring to it as an incinerator) and the potential for pollution. The applicant has confirmed that there will not be any plumes of smoke associated with the operations (as it is not an incinerator). This was queried by White Associates (from a landscape and visual perspective) as part of the assessment insofar as the impact of a 90 metre high stack would be magnified if it is increased (albeit temporarily) through the release of emissions (a “plume”). Notwithstanding the applicant’s response, White Consultants suggest that it is inevitable that during certain weather conditions some emission (whether as steam or other vapour) is likely to be noticeable – so has also taken this into account in the assessment. As highlighted earlier in the report the content of any emission is solely a matter for, and regulated by, NRW.

White Consultants also advise that the LVIA assessment on landscape character are somewhat limited. While the assessment of impacts is accepted it also considers that the spread of these effects is wider than stated. It has also been found that the applicants submitted assessment did not find significant effects on the BBNP special qualities and that White Consultants find that there are significant effects on a limited southern part of the Park in regards to the qualities of “sweeping grandeur and outstanding natural beauty” and “peace and tranquility”.

White Consultants conclude that there will be 5 viewpoints undergoing significant effects at Year 15 rather than the 2 stated by the applicant. The significance of this is that White Consultants consider that the significant effects intrude further into the National Park than the LVIA suggests. Notwithstanding this however, White Consultants note that *“the spread of effects into the National Park still appears to be relatively limited due to the location of the development within a developed valley bottom and seen against a large-scale landscape backcloth”*.



It also concludes that there is one likely significant effect on a dwelling (Trebanog Uchaf), but that “*no dwellings are likely to breach the threshold for unacceptable effects*”.

While White Consultants suggest that the applicant has an “*opaque*” way of determining cumulative effects, it is considered that the outcome is reasonable. The proposed development does combine with existing industrial development and windfarms to erode the scenic qualities and tranquility of this edge of the National Park.

White Consultants concludes that “*notwithstanding the adverse effects found...it is considered that, with appropriate colour mitigation, the effects of the stack is likely to be minimised, especially seen in the context of the developed valley bottom and against a backcloth of higher upland landforms to the north and south*”

### Conclusions (LVIA)

Committee is advised that it is not possible to hide a large (90 metre) structure and that it will form a significant intrusion into the landscape (where no structure currently exists at the site).

The increase in height of an additional 45 metres magnifies the impacts considered in previous applications (acknowledging that the stack, until now, fell wholly within the BBNPA LPA area). **The key consideration for Committee in determining this application is whether this increase in height is acceptable having regard to the information submitted and the consultation responses received (including objections received from residents of nearby villages).**

The applicant’s own submission assesses the potential for any impact and concludes that, while there will (obviously) be some significant effects, these effects are limited and are not of such significance so as to warrant the refusal of the application. It is not unexpected that an (any) applicant’s assessment would conclude that the impact of a development is acceptable, so it is of paramount importance in the consideration of this application to balance such a view against other responses received.

NRW have “significant concerns” (but don’t object) in respect of the development however, within the field of landscape and visual, they consider the applicant’s proposal to grade (colour band) the external surface of the stack essential in minimising any impact and require a condition to be added in order to secure this.

The BBNPA have “some concerns” (but don’t object) in respect of the development. They remind the determining authority (RCT) about the requirement to consider any impact upon the “special qualities” of the Park in the decision-making process. Given the proximity of the proposed development to the boundary of the National Park, it would not be unreasonable to conclude that, if it was thought that the erection of a 90m high stack in such close proximity was considered unacceptable, that this would result in an objection or a consultation response worded more strongly.

White Consultants report assesses both the applicant’s submission and assesses the proposal in its own right. While they have some concerns over

some of the information submitted and the amount to which the applicant relied on this information to make an assessment of the impact, it still concludes that with the appropriate mitigation being put forward by the applicant (to grade the colour of the stack) that any impact is minimised because the majority of the views will be set against a background of higher upland landforms. White Consultants are critical of the methods used in their proposal to grade the stack in line with a “preferred” option. However, this is largely a matter of procedure that, when it comes to agreeing the actual colours that will be used, a RAL Colour Chart must be used in the identification of the colours used.

While public concern over the impact of the increased height may be a “blot on the landscape” and an inappropriate inclusion within the landscape at this “gateway to RCT / NPT / edge of the BBNP” location it is considered that the consultation responses from the statutory bodies (and the assessment therein) suggest that the impact is acceptable and would be a significant material planning consideration in the determination of this application.

In light of the above comments / consultation responses it is suggested that the impacts on the landscape, residential areas and the “special qualities” of the BBNP are acceptable and that the proposed development is in accord with Policies AW5, AW6 and AW8 of the Rhondda Cynon Taf Local Development Plan.

### **Third Party Objection Received**

In terms of the other main concern in respect of the impact of the development, a significant concern is the potential for the development to impact on tourism. Many of the concerns expressed relate to the impact for the development as a whole rather than the impact of the stack itself. Committee is again reminded that the site as a whole is fully consented (in Planning terms) and is not under consideration.

None of the submissions, while being passionately argued, contain any evidence on which to base a decision. It would be critical in making a decision (especially in an appeal situation) that it is based on factual evidence that it will be a deterrent rather than a suggestion that it could be. In reaching a decision, Committee will be mindful that it has recently approved the Zip World Coaster Kart application (December 2020) and that construction of the zip wire ride is well under construction (nearing completion). Both the approval of the Coaster Kart application and the start of construction on the zip wire were done within the life of the Enviroparks application for the stack and knowledge of the wider development in excess of 10 years.

The Zip World attraction is between 4 km to 2.5 km distant from the Enviroparks site. At that range the proposed stack, which has a width of under four metres, would appear as a thin structure, visible behind existing and consented buildings and structures on Hirwaun Industrial Estate and two rows of electricity pylons. No objection has been received from Zip World (who are aware of the extant consent / current proposal). While Zip World have their own agenda, which is not related in any way to the Enviroparks development, it would, perhaps, suggest an alternative view to the one being advanced by objectors (that it has not deterred a tourism related / reliant business). As an example, it is not conclusive but it is something, that given the lack of evidence given in the

objections, would undoubtedly be put forward by the applicant at any appeal situation, and the lack of evidence would put the Council in a difficult position to defend such an assertion.

In respect of other issues raised, the proposed development would generate an insignificant number of construction traffic movements and no operational traffic additional to that associated with the main development that already has planning permission. Issues of traffic / highway capacity and highway safety have previously been considered. Any concerns must be related to the construction of the stack itself. Other than some additional movements associated with bringing in component parts for the increased height, all construction will take place within the application site and will not impact on the local highway network.

A number of objections relate to property prices being affected if this development goes ahead (although no evidence has been provided). Committee is reminded that this is not a material planning consideration and cannot be taken into account.

There are clearly (understandable) concerns that the development (both as a whole and as the proposal under consideration) would be detrimental to human health. Committee is advised that no evidence has been provided by objectors. However, the Courts have held that the perception of fear *is* a material Planning consideration that must be taken into account. In response to this, Committee's attention is drawn to comments made by NRW (earlier in this report) which clearly state that "emissions" will be the subject of a separate consenting regime (EPR) where full regard will be had to any emissions and the impact that they could have. In light of this regime it is considered that any fears would be addressed and, only if the development complies with National standards, could the development proceed. In light of this, it is considered that an appropriate mechanism exists such that any concerns have been addressed (in so far as the Planning process requires). It is also relevant to highlight that the purpose of the application for a taller stack is to achieve better emissions dispersion.

Some concerns have been expressed about the Enviroparks development being a deterrent to future investment on the Estate. There is no evidence to suggest that either the construction of the Enviroparks development (or specifically the increase in height of the stack) will deter future / continued investment in the Estate (or the Tower Plateau as part of the NSA8 allocation) but Members are reminded that, part of the overall vision for the Enviroparks development was its ability to attract a "high-energy" user to a plot of land to the rear (within BBNP) of the site that would benefit from cheaper electricity / heat that the Enviroparks development would provide (resulting in approximately 200-250 jobs as a whole). Members may also wish to note that, as part of a Regeneration scheme for the Estate, there was almost 100% occupancy (pre-Covid) of the units on the Estate, which given the date of the original consent and the partial construction of the development, would suggest that it is unlikely be a consequence of this development.

A specific query has also been raised at to the Council's refusal of a 67m high single wind turbine at Cefn Farm in Rhigos due to its impact on the landscape and the BBNP and questions whether, in light of this decision, the Council can

approve a request for a single 90m high stack. Members may wish to note that a key consideration in the determination of that application was the independent review of the proposed development by White Consultants and the consultation response from NRW. It was considered that the isolated turbine would occupy the space between two larger groups of existing turbines thereby extending the spread and influence of wind turbine development within the landscape and therefore magnifying its impact on the BBNP. Given the comments of both White Consultants and NRW as part of this application, it is considered that the approach to considering developments in this location has been entirely consistent.

There is reference to the development affecting the “dark skies” and the potential for it to affect the “planetarium” proposal. Committee is advised that discussions were held several years ago with Dark Skies Wales for a development that would include a “planetarium” however it is understood that the developer has undertaken a feasibility study but no application (or meaningful pre-application discussions) has been forthcoming. The site in question was around the land that formed part of Tower Colliery’s environmental mitigation (so is unlikely to be available for development), would be close to an existing Industrial Estate, 86 acres of land identified in the LDP as part of development plateau, an enhanced roundabout as part of the dualling of the A465 and the potential to extend the passenger rail line from Aberdare to Hirwaun. While it may be an exciting prospect, it is not considered to be a material consideration of any weight in the assessment of this application, which, at worst, would only provide some infra-red lights should it be required in the interest of aviation safety.

A number of objections also refer to the proposal not being in compliance (or within the spirit of) the Wellbeing of Future Generations Act (and Human Rights Act). No specific examples of how the proposal is out of accord has been submitted but it is presumed that such concerns relate to the wider development (of an Energy from Waste facility) which is not under consideration. As a decision maker, it is considered entirely reasonable to conclude that the application made under EPR will properly assess any impact from emissions that could be construed to be out of accord with the Acts and the comments from NRW, the BBNPA and White Consultants all suggest that the visual impact (in its various forms) are acceptable – although Committee is perfectly at liberty to arrive at a different conclusion. However, in light of this, it is considered that, as an LPA (and therefore the decision maker) proper regard has been had to the requirements under these Acts in making a

## **RECOMMENDATION.**

### **Other issues**

Committee will note from the **PUBLICITY** section of this report that responses have been sought and received from both the Civil Aviation Authority (CAA) and National Air Traffic services (NATS) in respect of any potential for the height of the stack to impact on the aviation industry. Both bodies replied offering no objection. The applicant has advised that infra-red lights (not visible to the human eye) will be incorporated into the stack if required.

### **Overall Conclusions**

Clearly, this application has caught the attention of the local population and has resulted in a significant number of objections. Unfortunately, many of these objections relate to broader issues that have been considered previously by Committee. These concerns are understandable and clearly heart-felt. However, Committee is advised that any concerns that refer or relate to any issue other than the increase in height of the stack and its minor relocation within the Enviroparks site should not be afforded weight in the consideration of this application.

Many of the concerns relate to emissions and their propensity to impact on everyone and especially the most vulnerable (children / elderly / those with respiratory problems / etc). Emissions from the stack is clearly a material planning consideration. However, it is not for the Committee (the LPA) to determine matters that are properly the remit of another public body. The Environmental Permitting Regulations (EPR) exist to ensure that any emissions are taken into account before a development can proceed. The EPR will take into account both human health and the ecologically important designations at nearby sites. Neither takes priority over the other. Emissions will need to satisfy both. NRW have advised that the modelling submitted by the applicant is acceptable to satisfy their requirement in so far as the Planning application relates, but detailed consideration will be given as part of the EPR process. In light of the information received from NRW, this aspect of the Planning application is considered acceptable.

The other principal consideration is one of “visual amenity”. This is a broad-brush term for assessing the impact that the erection of a 90 metre high stack will have on the immediate area, the wider area (including any cross-Authority borders) and in particular any detrimental impact (the degree of) that the erection of this structure will have on the setting and “special qualities” of the BBNP above and beyond that which the 45 metre high approved scheme would have. It is clear that the stack would have a detrimental impact and that such an impact is significant in landscape and visual terms. Landscape and visual assessment is complicated and is not an exact science and does involve an element of valued judgement (what one person considers totally unacceptable may be something which another person finds marginally unacceptable and a third person finds acceptable) and Committee may take a different view (sic) to that of NRW, BBNPA and White Consultants. None of these three claim that the erection of the stack makes a positive contribution to the landscape but, equally, none of them offer an objection and suggest that with the application of an appropriate condition in respect of the colours and hues uses in the grading of the stack that the impact can be minimised (so far as is possible). In light of the comments received from NRW and BBNP as statutory consultees and White Consultants independently assessing the scheme, it is difficult to conclude anything other than that the scheme is acceptable.

In respect of the issues that are under consideration as part of this application it is considered that it is in compliance with policies within the LDP as well as the broad categories (that are applicable) in Future Wales 2040.

The objectors have argued passionately about the proposal however the weight of objection must be considered against the evidence submitted and the consultation responses received. However passionate the arguments made, a

decision must be reached having regard to all valid material planning considerations.

In the light of the comments received, it is considered that nothing is of such significant weight as to outweigh the principal considerations identified earlier in this report and, accordingly, the following recommendation is made:

**RECOMMENDATION:** Approve subject to a S106 Agreement.

### **Conditions & S106 Agreement**

Committee is advised that, while this is a “stand-alone” application it will not be constructed in isolation (there is no point or intention) but it is inextricably linked to the development(s) already approved (and the requirements laid down therein).

Committee is advised that there is already a S106 Agreement in place for this development. The Heads of Terms are set out below. Some of these requirements have already been met.

### **HEADS OF TERMS:**

- The applicant/developer has agreed with Dwr Cymru / Welsh Water to implement a regime of monitoring on the Penderyn Reservoir, with a series of protective trigger points to safeguard water quality (Members are advised that there is an agreed document providing specific Heads of Terms that have been agreed with Dwr Cymru/Welsh Water).
- The applicant/developer will prevent any (heavy goods) vehicular traffic associated with the proposal from using Halt Road or the Rhigos Road (leading to Glynneath). All such vehicular traffic will use the main Industrial Estate entrance/exit leading onto the A465 roundabout.
- The applicant/developer will make financial contributions (£205,031) towards the management and enhancement of the local habitat.
- The applicant/developer will provide a financial contribution to bus stop provision (£16,000) in the area to promote the use of public transport in conjunction with a Green Travel Plan.
- The applicant/developer will provide and implement a Green Travel Plan for employees (which included a provision for a financial contribution (£90,000) should the mechanisms to be agreed fail to achieve their objectives).
- The applicant/developer has defined a “waste catchment” which is to be based on a percentage of waste, which must originate from the South East and South West Wales Regional Waste Plan areas, south of the Brecon Beacons National Park.
- The applicant/developer will provide a financial contribution (£10,000) towards enhancements to local footpath (P.R.O.W) 15, providing better pedestrian access from Penderyn Village.

- The applicant/developer will provide a heat exchanger on the site boundary within 3 years of the first waste delivery to the site in the event that a “high energy user” is not found (this will facilitate the transfer of the supply of heat/energy to other customers on the Industrial Estate).
- The applicant/developer will make a financial contribution of 25 pence per tonne of waste (as measured at the weighbridge) towards the Heads of the Valley’s initiatives (E.A.R.T.H. programme) for enhancing the energy performance of local housing, (to a total contribution of £600,000).

Should Committee be minded to approve the application, it will be necessary to link the development under consideration to the previous consents to ensure compliance. A Section 106 Agreement will be required to apply the planning conditions and the planning obligations imposed on application no. 15/1351 to the development.

One additional condition is considered necessary which relates to the colour grading of the stack and is included below for Committee’s consideration:

**RECOMMENDATION: Grant**

1. Notwithstanding the details submitted, the construction of the stack shall not be commenced until such time as a scheme for the graded colour of the exterior finish shall be submitted to, and approved in writing by, the Local Planning Authority. The colour scheme proposed shall include specific reference to colours as set out in a RAL Colour Chart and how the choice of colours has been reached having specific regard to the landscape context. The development shall be carried out in accordance with the approved scheme and the finishes used be maintained for the life of the stack.

Reason: To minimise the visual impact of the stack on the landscape (including the Brecon Beacons National Park) in compliance with Policies AW5, AW6 & AW8 of the Rhondda Cynon Taf Local Development Plan