

## Chapter Five

# POLICY CONTEXT

### INTRODUCTION

#### Purpose of this chapter

5.1 Chapter five of Enviroparks' 2008 ES described the policy context for the original proposals. Extensive policy changes that have occurred since then. This chapter replaces the original chapter five and describes the planning, energy and waste policy context that prevails currently (end of 2016) in respect of the environmental assessment and determination of Enviroparks' current proposals.

5.2 A wide range of policy is engaged for a development of this type. These include policies concerning sustainable waste management and the generation of renewable energy in addition to planning policies concerning the development and use of land and environmental protection. From a planning perspective the Planning (Wales) Act 2015 is heralding fundamental reform in the operation of the planning system. Along with changes to secondary legislation, the 2015 Act is seeking to introduce a strengthened plan-led approach and more effective development management procedures to promote the sustainable delivery of the homes, jobs and infrastructure that Wales requires.

5.3 Unaffected is the statutory duty under Section 38(6) of the Planning and Compulsory Purchase Act (2004) for planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst the primacy of development plan policy is acknowledged, a clearer policy narrative can be provided for the current proposals by considering first the waste and energy policy drivers that guide the content of the scheme. Having provided this context, this chapter then considers how the proposals engage with planning and environmental law and policy at the local level.

5.4 Some of the law and policy outlined in this chapter originates in European Directives transposed into UK and Welsh law. Notwithstanding the result of its European Union membership referendum on 23 June 2016, the UK remains for the time being a member of the EU and the cited laws and policies continue to apply.

5.5 This chapter can provide only a concise policy summary and reference to the source documents is encouraged. To facilitate this, this chapter provides hyperlinks to all documents cited. Law and policy particular to individual environmental topics are considered in the corresponding chapters of this ES.

#### The global imperative

5.6 What chapter five of the 2008 ES described as the 'global imperative' underpinning the Enviroparks project has not changed. The consistent concern of many of the policies reviewed in this

chapter is the need to contain global climate change by reducing the emission of greenhouses gases, particularly carbon dioxide (CO<sub>2</sub>), that contribute to global warming. The extensive use of fossil fuels that accompanied the industrialisation of the world's economy has released large volumes of CO<sub>2</sub> back into the atmosphere. The accumulation of greenhouse gases in the upper atmosphere reduces the planet's ability to reflect solar radiation back into space, resulting in a gradual increase in mean global air temperature. Amongst other things, this is thought to be causing a retreat of polar icecaps and a trend towards more extreme weather, with hotter, drier summers and warmer, wetter and windier winters anticipated for Wales. Rising sea levels caused by the melting of the polar ice sheets could have profound adverse consequences for coastal communities and residents of other low-lying areas.

5.7 The obvious response to this challenge is to reduce fossil fuel use, partly by using energy more efficiently and partly by finding alternatives. Just as in 2008, a recurrent concern of the policies summarised in this chapter is the need to develop renewable and low carbon sources of energy - forms of energy that occur naturally and repeatedly in the environment, including energy resources that would otherwise remain locked up in the waste stream.

## INTERNATIONAL POLICY

5.8 The UK is a signatory to a sequence of international treaties and protocols seeking to reduce the risk of unconfined climate change. The latest and most significant of these is the Paris Agreement, which was negotiated by representatives of 195 countries at the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change in Paris and adopted by consensus on 12 December 2015.

### Paris Agreement 2015

[http://unfccc.int/files/essential\\_background/convention/application/pdf/english\\_paris\\_agreement.pdf](http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf)

5.9 Under the Paris Agreement, governments agreed:

- a long-term goal of keeping the increase in global average temperature to well below 2°C above pre-industrial levels;
- to aim to limit the increase to 1.5°C, since this would significantly reduce risks and the impacts of climate change;
- the need for global emissions to peak as soon as possible, recognising that this will take longer for developing countries;
- to undertake rapid reductions thereafter in accordance with the best available science.

5.10 The Enviroparks operation would be consistent with the Paris Agreement in two respects. First, the recovery of recyclable materials from the waste stream reduces the need to produce and refine new materials through mineral extraction, agriculture or forestry, which can be more energy

intensive. Second, energy from waste is recognised as a low carbon energy source and an alternative to energy generated from carbon-rich fossil fuels.

## EUROPEAN DIRECTIVES

### Waste Framework Directive (2008/98/EC)

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0098&from=EN>

5.11 The Waste Framework Directive provides a legal framework for the treatment of waste in the EU. It sets the basic concepts and definitions related to waste management and lays down waste management principles for all other EU legislation related to waste, such as the ‘polluter pays principle’ and the waste hierarchy. Article 4 of the Directive defines the waste hierarchy as follows.

#### THE WASTE HIERARCHY

**Prevention**  
**Preparation for reuse**  
**Recycling**  
**Other recovery**  
**Disposal**

5.12 The current proposals address the recycling and other recovery elements of the hierarchy, because they would process the residual materials that are left after most recyclable materials have already been recovered from the waste stream.

5.13 The Directive came into force on 12 December 2010 and includes two new recycling and recovery targets to be achieved by 2020: 50% preparing for re-use and recycling of certain waste materials from households and other origins similar to households, and 70% preparing for re-use, recycling and other recovery of construction and demolition waste. The Directive requires that Member States adopt waste management plans and waste prevention programmes.

5.14 The Enviroparks project is consistent with these objectives.

### Directive on the promotion of the use of energy from renewable sources (2009/28/EC)

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0028&from=EN>

5.15 The Renewable Energy Directive establishes an overall policy for the production and promotion of energy from renewable sources in the EU. It requires the EU to fulfil at least 20% of its total energy needs with renewables by 2020 – to be achieved through the attainment of individual national targets. All EU countries must also ensure that at least 10% of their transport fuels come from renewable sources by 2020. Waste is acknowledged as a renewable energy source.

5.16 Individual EU countries set out how they plan to meet these targets and the general course of their renewable energy policy in national renewable energy action plans. Progress towards national targets is measured every two years when EU countries publish national renewable energy progress reports.

5.17 According to the *Third Progress Report on the Promotion and Use of Energy from Renewable Sources for the United Kingdom* (January 2016), the UK's most recent update, renewable energy met 7% of total UK energy demand in 2014, leaving a further 13% to be found by 2020 if the target is to be met. As a source of low carbon energy, the Enviroparks development would contribute to the attainment of these targets.

### Industrial Emissions Directive (IED, 2010/75/EU)

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0017:0119:en:PDF>

5.18 The Waste Incineration Directive ('WID', 2000/76/EC) aimed to prevent or limit, as far as practicable, any negative effects on the environment and human health associated with emissions from the thermal treatment of waste. It afforded protection for air, soils, surface water and groundwater by setting strict operational and technical requirements for plant emissions.

5.19 In 2010 the Waste Incineration Directive (WID) was consolidated with several other directives on the control of emissions from industrial processes in the Industrial Emissions Directive ('IED', 2010/75/EC). In England and Wales the IED was transposed into law by the Environmental Permitting (England and Wales) (Amendment) Regulations 2013 ('EPR', SI 2013 No. 390). These regulations are applicable to the current proposals and require EWL to secure an Environmental Permit from Natural Resources Wales (NRW) before the Hirwaun plant becomes operational. EWL already has an Environmental Permit for its phase I development, although this is not yet operational, and this will be reviewed and amended as appropriate to incorporate the phase II developments prior to their operation.

5.20 Environmental Permits typically impose detailed control on, amongst other things, noise and atmospheric emissions, obviating the need for these to be imposed via the planning application process through planning conditions or obligations.

### Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, and amendments in Directive 2014/52/EU

[http://ec.europa.eu/environment/eia/pdf/EIA\\_Directive\\_informal.pdf](http://ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf)

5.21 The 2011 EIA Directive sought to lighten unnecessary administrative burdens in the established EIA process and make it easier to assess potential impacts, without weakening existing environmental safeguards. As explained later in this chapter, in Wales this became law through the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, in accordance with which this ES addendum has been prepared.

5.22 The 2014 EIA Directive was adopted to further address shortcomings of the current regime,

and must be transposed into law by member states by 17 May 2017. Amongst other things the 2014 EIA Directive further streamlines the EIA process, includes various measures to improve the clarity of what will become known as ‘EIA reports’ and reinforces requirements for environmental monitoring.

## UK LAW AND POLICY

5.23 UK national law and policy establish further targets and obligations of relevance in the current context, including the following.

### Climate Change Act 2008

<http://www.legislation.gov.uk/ukpga/2008/27/contents>

5.24 This contains a UK target to reduce greenhouse gas emissions by 34% below 1990 levels by 2020 and by 80% by 2050. A series of five year carbon budgets are set to advance towards these targets, with the fourth now in law for the period 2023-2027.

### UK Low Carbon Transition Plan (2009)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228752/9780108508394.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228752/9780108508394.pdf)

5.25 This is a White Paper with policy to reduce greenhouse gas emissions by 18% on 2008 levels by 2020 and over 33% on 1990 levels. It also seeks to achieve 40% of electricity from low carbon sources and 30% from renewable sources by 2020. It confirms the UK’s legally binding target to cut emissions by 80% by 2050; the world’s first such target.

### The Carbon Plan (2011)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/47613/3702-the-carbon-plan-delivering-our-low-carbon-future.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47613/3702-the-carbon-plan-delivering-our-low-carbon-future.pdf)

5.26 This plan arose from the Climate Change Act and reaffirms the risks to the UK from dangerous climate change and challenges to energy security. Paragraphs 2.223-4 addressed energy from waste specifically:

*2.223 The Government’s aim is to get the most energy out of waste, not to get the most waste into energy recovery. Through effective prevention, re-use and recycling, residual waste will eventually become a finite and diminishing resource. However, until this becomes a reality, efficient energy recovery from residual waste can deliver environmental benefits and provide economic opportunities.*

*2.224 Efficient energy recovery from waste prevents some of the negative greenhouse gas impacts of waste in landfill and helps to offset fossil fuel power generation . . .*

## Energy Act 2013 and Electricity Market Reform (EMR)

<http://www.legislation.gov.uk/ukpga/2013/32/contents/enacted>

5.27 The Act and EMR combine to incentivise investment in low carbon electricity generation, and the delivery of feed-in tariffs based on Contracts for Difference (CfD). Around a fifth of generation capacity available in 2011 is set to close over coming decade, whilst the demand for electricity is expected to double from its level in 2013 by 2050. The reformed electricity market aims to achieve security of energy supply and the decarbonisation of the electricity generation sector. Paragraphs 4.12 - 4.14 of this ES addendum summarise how CfDs work and explains that EWL's Enviroparks Hirwaun project was in the first and to date the only group of low carbon energy proposals to secure a CfD.

## ENERGY AND WASTE LAW AND POLICY IN WALES

### Planning (Wales) Act 2015

<http://www.legislation.gov.uk/anaw/2015/4/contents/enacted>

5.28 The 2015 Act introduced a wide range of reforms to improve the performance and effectiveness of the planning system. Section 17 introduced requirements for pre-application public consultation. This provision was brought into force by the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 and took effect in August 2016.

5.29 EWL's planning application is accompanied by a Pre-Application Consultation Report that explains how the Applicant complied with these requirements. The documents that EWL made available for the pre-application consultation included the 2008 ES, the additional environmental information submitted in 2009 and a draft of the current ES addendum.

### Environment (Wales) Act 2016 *and*

### Natural Resources Policy Statement (2016)

<http://www.legislation.gov.uk/anaw/2016/3/contents/enacted>

<http://gov.wales/docs/desh/publications/150914-natural-resources-policy-statement-en.pdf>

5.30 This legislation seeks to position Wales as a low carbon, green economy, ready to adapt to the impacts of climate change. Part 1 of the Act promotes the sustainable management of natural resources. Part 2 concerns climate change it provides the Welsh Ministers with powers to put in place statutory emission reduction targets, including at least an 80% reduction in emissions by 2050, and carbon budgeting to support their delivery. The Act thus sets a clear pathway for decarbonisation. It also provides certainty and clarity for business and investment.

5.31 Part 4 of the Act concerns the collection and disposal of waste. It aims to improve waste management processes by promoting higher levels of business waste recycling, better food waste treatment and increased energy recovery. Section 67 of the Act includes specific provisions on waste

segregation and measures to prevent valuable recyclable materials and resources being incinerated. This protects the environment by ensuring that only residual waste streams are disposed of in landfill or incinerated. The current proposals align with these objectives.

5.32 It is expected that regulations to implement the provisions in the Act will be made during 2017. The Act is accompanied by a Natural Resources Policy Statement to encourage consideration of how the Act will be implemented.

### **Well-being of Future Generations Wales Act 2016**

<http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

5.33 This Act aims to improve the social, economic, environmental and cultural well-being of Wales by promoting a more integrated and sustainable response from government to challenges including climate change, poverty, health inequalities and jobs and growth. Section 4 of the Act sets explicit objectives for a prosperous, resilient, healthy, more equal, cohesive, culturally vibrant and globally responsible Wales. Under ‘a prosperous Wales’ the goal is to deliver:

*An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.*

5.34 By promoting advanced waste processing, low carbon energy production and opportunities for training and employment, the current proposals are consistent with this goal.

### **The Waste (England and Wales) Regulations 2011 and**

### **The Waste (England and Wales) (Amendment) Regulations 2012**

<http://www.legislation.gov.uk/uksi/2011/988/contents/made>

<http://www.legislation.gov.uk/uksi/2012/1889/made>

5.35 These Regulations brought the revised Waste Framework Directive 2008 (see above) into law in Wales. Amongst other things, the 2011 Regulations established duties in relation to the waste hierarchy (see paragraph 5.11 above), the separate collection of waste materials to assist recycling and the management of these waste streams following collection.

5.36 The 2012 Regulations amended the Waste (England and Wales) Regulations 2011 by replacing regulation 13. The new regulations placed a duty on organisations that collect waste paper, metal, plastic and glass to do this by way of separate collection from 1 January 2015. Organisations for this purpose include companies, partnerships, authorities, societies, trusts, clubs, charities and other organisations but not private individuals. By the same deadline, the Regulations also placed a duty on waste collection authorities to collect waste separately.

5.37 These Regulations partly explain why Enviroparks was compelled to review the waste streams

that it can process at Hirwaun. In particular, the demise of ‘black bag’ municipal solid waste has led to a revised focus on commercial and industrial waste (CIW) and pre-processed refuse-derived fuels (RDF), as explained in chapter four of this ES addendum.

### **Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016**

[http://www.legislation.gov.uk/wsi/2016/58/pdfs/wsi\\_20160058\\_mi.pdf](http://www.legislation.gov.uk/wsi/2016/58/pdfs/wsi_20160058_mi.pdf)

5.38 These Regulations consolidate, and update the Town and Country Planning (Environmental Impact Assessment) Regulations 1999, as amended. The Regulations transpose, amongst other things, the European Directive 2011/92/EU, on the assessment of the effects of certain public and private projects on the environment, (see above) into the Welsh planning system. The current ES addendum has been prepared in accordance with these Regulations.

### **A Low Carbon Revolution: the Welsh Assembly Government Energy Policy Statement – March 2010**

5.39 The Welsh Government’s general ambitions for low carbon energy were summarised on pp.5-6 of this document as follows:

*First, we will maximise energy savings and energy efficiency in order to make producing the majority of the energy we need from low carbon sources more feasible and less costly.*

*Second, our energy needs in a modern society will remain considerable, and must be met securely from low carbon sources. We will move to resilient low carbon energy production via indigenous (and thus secure) renewables, on both a centralised and localised basis.*

*Third, we will ensure that this transition to low carbon maximises the economic renewal opportunities for practical jobs and skills, strengthens and engages our research and development sectors, promotes personal and community engagement and helps to tackle deprivation and improve quality of life.*

5.40 EWL’s proposals are consistent with the second ambition. Chapter 7 of this ES addendum assesses how the current proposals would contribute towards the third ambition.

### **Energy Wales: A Low Carbon Transition (2012)**

<http://gov.wales/docs/desh/publications/120314energywalesen.pdf>

5.41 This document explains the Welsh Government’s ambition as follows:

*It is our aim to ensure that Wales is at the forefront of the low carbon energy agenda, and the transition to a low carbon, low-waste and hi-tech economy. We are prepared to do all we can to ensure that Wales is recognised – globally – as an attractive location for energy investment*

(page 16).

5.42 The document proceeds to identify a range of measures to facilitate this transition, encompassing planning reform (now enacted through the Planning (Wales) Act 2015) and measures to ensure that tangible economic and community benefits flow from low carbon energy development.

### Towards Zero Waste – One Wales: One Planet (2010) and

### Industrial and Commercial Sector Plan (2013)

<http://gov.wales/docs/desh/publications/100621wastetowardszeroen.pdf>

<http://gov.wales/docs/desh/publications/131203industrial-and-commercial-sector-plan-en.pdf>

5.43 This high-level strategy provides a long-term framework for resource efficiency and waste management between now and 2050. It established a range of intermediate targets for 2025 with a view to moving towards the ultimate goal of zero waste by 2050. For 2025 the aim is to reduce waste arisings by 27% from 2007 levels, achieved through a combination of waste prevention, separation and recycling, the elimination of landfill as far as possible, and the minimisation of residual waste. An explicit objective on the pathway to eliminating landfill is for residual waste to be processed at ‘high energy efficiency energy from waste plants’ – of which the current proposals are an example.

5.44 The 2010 strategy is accompanied by ‘sector plans’. Section 3.8.2 of the Industrial and Commercial Sector Plan, entitled The benefits of diverting residual waste from landfill sites and recovering energy, states (on page 128) that:

*Evidence gathered by the Welsh Government indicates that the treatment method most likely to deliver best the sustainable development outcomes identified in One Wales, One Planet and in ‘Towards Zero Waste’ for residual waste is the “Use as a fuel of the residual municipal waste left after recycling in energy recovery plants with high energy efficiency”.*

*Treatment of residual waste in high efficiency energy from waste facilities yield significant reductions in greenhouse gas emissions, as compared to other treatment options that include an element of landfilling, as verified by life cycle assessment studies.*

*The evidence obtained by the Welsh Government referred to above, indicates that the best performing residual waste options are combustion facilities operating in ‘heat only’ or combined heat and power (CHP) modes, and pyrolysis/gasification options operating in CHP modes . . .*

5.45 Section 3.8.3 of the Sector Plan includes a specific objective ‘To deliver good carbon reduction outcomes from residual waste treatment plants (e.g. high-energy efficiency EfW plants)’. The current proposals would support the attainment of this objective.

5.46 A wide range of planning policy is potentially applicable to the Enviroparks development. Planning policy relevant to the assessment of individual environmental topics is considered in chapters 7-14 of this ES addendum. This purpose of this section is to highlight planning policy of broader relevance to the assessment of the current proposals.

5.47 Because planning permission has already been granted for the development of the site and implemented through the construction of phase I, the principle of the development is established. Accordingly, this section focuses on planning policy that is relevant to an assessment of the *differences* between the development approved in 2010 and the scheme now proposed.

### Planning Policy Wales edition 9, November 2016

5.48 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs). Having regard to the requirements of the Well-being of Future Generations (Wales) Act 2015 (see above), sustainable development forms the central aim of PPW.

### National Park

5.49 A majority of the Enviroparks site is in Brecon Beacons National Park, albeit with a development plan allocation and planning permission for employment use. According to para. 5.3.4 of PPW:

*The statutory purposes of National Parks 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. Where it appears that there is a conflict between those purposes, greater weight shall be given to the first.*

5.50 The effects of the proposals on surrounding areas of undeveloped National Park are considered in chapters 7-14 of this ES addendum, including chapter 12 *Landscape and visual effects*. The Applicant's *Design and Access Statement* provides further information on how the presence of the National Park was taken into account in the formulation of the revised development proposals.

### Low carbon economy

5.51 Chapter 7 of PPW addresses economic development. Under the heading *Promoting the low carbon economy, business and technology clusters and social enterprises* paragraph 7.4.1 advises that:

*Local planning authorities should support the shift towards a low carbon economy, for example by encouraging the development of clusters of industrial and commercial uses deriving environmental benefit from co-location, especially through the development of waste stream technologies and practices (i.e. eco-industrial networks). They should look favourably on proposals for new on-site low carbon energy generation including, for example, high efficiency energy recovery from waste, as well as generally facilitating the provision of an integrated*

*network of waste facilities, provided that there are no unacceptable impacts on local amenity.*

5.52 With a large high energy user building co-located with advanced waste processing and low carbon energy generation, EWL's proposals exemplify the type of development anticipated in PPW para. 7.4.1.

### Waste and energy

5.53 PPW Chapter 12: *Infrastructure and services* includes guidance on waste and energy. Under the heading Planning to manage waste, paragraph 12.5.3 states that:

*The land use planning system has an important role to play in facilitating sustainable waste management by providing a framework for decision making which recognises the social, economic and environmental benefits that can be realised from the management of waste as a resource to meet the needs of society and businesses, whilst at the same time:*

- *minimising adverse environmental impacts and avoiding risks to human health;*
- *protecting areas of designated landscape and nature conservation from inappropriate development; and*
- *protecting the amenity of residents, of other land uses and users affected by existing or proposed waste management facilities.*

5.54 This ES addendum will serve to set the current proposals in the context of the decision-making considerations highlighted in PPW paragraph 12.5.3. The Applicant's *Design and Access Statement* provides further explanation of how the current proposals aim to deliver net benefits to local amenity when compared with the scheme that was granted planning permission in 2010.

5.55 PPW paragraph 12.5.6 highlights that '*Natural Resources Wales has a statutory role in relation to the management and regulation of waste and the collection of waste production and management data. It has a key role . . . as a consultee on certain planning applications and to assist planning authorities in evaluating complex waste information and making technical judgements, where necessary*'. As explained in the Pre-Application Consultation Report that accompanies the current planning application, EWL consulted NRW during the preparation of the ES addendum, prior to and during the formal pre-application consultation. Operation of the proposed development will be subject to an Environmental Permit issued under the Environmental Permitting Regulations (England and Wales) 2010, for which EWL will make a separate application.

5.56 Under the heading *Renewable and low carbon energy*, PPW paragraph 12.8.9 advises that '*Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change*'. Paragraph 12.10.1 identifies a range of matters that local planning authorities should take into account when considering planning applications for low carbon energy development, covering renewable energy targets, environmental, social and economic benefits, impacts on natural and cultural heritage, transport effects, electricity grid connection arrangements and '*ways to avoid, mitigate or compensate identified adverse impacts*'. This ES, in combination with the Applicant's

Design and Access Statement, aims to satisfy the requirements for environmental information arising from this list.

### Environmental protection

5.57 PPW Chapter 13 *Minimising and managing environmental risks and pollution* includes guidance on flood risk, contaminated land, the protection of water and air quality and the reduction of noise and light pollution. Where relevant, the guidance has been taken into account in the environmental impact assessment studies reported in corresponding chapters (chapters 8-14) of this ES addendum.

### TECHNICAL ADVICE NOTES

5.58 Alongside PPW the Welsh Government has published a series of Technical Advice Notes (TANs), several of which are relevant in the current context.

### TAN 21: Waste (2014)

<http://gov.wales/docs/desh/publications/140228technical-advice-note-21-en.pdf>

5.59 TAN21 explains the interactions between the national waste strategy and national planning policy. It provides advice on the framework and principles for waste management in the planning system, strategic planning for waste, waste planning assessments and detailed planning considerations in the waste sector.

5.60 According to paragraph 2.1 of TAN21:

*When considering development proposals for all types of waste management facilities, planning authorities should take into account their potential contribution to the objectives, principles and strategic waste assessments set out in Towards Zero Waste and the relevant waste sector plans and the relevant development plan for the area. The extent to which a proposal demonstrates this contribution, in environmental, economic and social terms, will be a material planning consideration . . .*

5.61 Paragraphs 2.6 – 2.7 explain the importance of the waste hierarchy and affirm that gasification fits into the ‘other recovery stage of the hierarchy once recyclable materials have been extracted from the waste stream.

5.62 Section 2.7.4 of TAN21 explains the recovery stage of the waste hierarchy in further detail. It will be cited at length because of its direct relevance.

#### **2.7.4 Recovery**

*Where wastes cannot be recycled, other waste recovery operations should be encouraged. Waste recovery operations result in waste that can serve a useful purpose by replacing primary fossil fuel materials (i.e. coal or gas) which would otherwise have been used to fulfil a particular*

*function in the plant or in the wider economy. Energy recovery includes: incineration, incineration with energy recovery, co-incineration (e.g. cement kiln), anaerobic digestion, pyrolysis and gasification with energy recovery and the spreading on land of a separated out bio-waste.*

*The recovery of energy from mixed municipal waste in high efficiency facilities is considered by Welsh Government to be a vital component of the waste management system in Wales. Such facilities are currently considered to represent the most sustainable outcome for mixed municipal waste.*

*Co-locating these facilities with heat users is preferential in order to allow utilisation of waste heat from the combustion process. When preparing proposals, developers should give consideration to the location of these facilities and the potential for future user demand and planning authorities should identify any opportunities for co-location in their local development plans.*

5.63 Paragraph 3.27 of TAN 21 advises that ‘*industrial areas, especially those containing heavy or specialised industrial uses*’ with, amongst other things, suitable transport links and existing planning permissions or environmental permits are suitable places to search for waste development. Chapters one and three of this ES addendum summarise the planning and development history of the application site, and chapter eight of this ES addendum assesses the transport effects of the proposals.

5.64 Paragraph 4.2 and Annex B of TAN21 advise that Waste Planning Assessments should be submitted alongside planning applications for new waste facilities. According to paragraph 4.2:

*To enable proper consideration of the principles contained in the Technical Advice Note, a Waste Planning Assessment should be submitted with all applications for a waste facility classified as a disposal, recovery or recycling facility. The purpose of the Waste Planning Assessment is to ensure that the information necessary for making a decision is provided by the applicant when a planning application is submitted. The Waste Planning Assessment should be appropriate and proportionate to the nature, size and scale of the development proposed . . .*

5.65 A Waste Planning Assessment has not been submitted alongside the current planning applications because the applications amend an existing partly-implemented planning permission and do not propose any increase in waste feedstocks or introduce recovery technologies that were not envisaged in the scheme that secured planning permission in 2010. Chapter four of this ES addendum explains how the proposed content of the development has evolved since 2010.

5.66 Annex C of TAN21 lists planning considerations relevant to waste management facilities. These considerations reflect a list of ‘overarching objectives’. Table 5.1 below lists both the overarching objectives and the individual planning considerations and identifies where in this ES addendum they are addressed.

**Table 5.1 – Cross-referencing of TAN 21 Annex C objectives and planning considerations and this ES addendum**

No.	Topic	ES addendum chapter
	<b>TAN 21 overarching objectives</b>	
1	Ensuring prudent use of land and resources	3, 4, 7
2	Minimising greenhouse gas emissions	9
3	Minimising adverse effects on air quality and quantity	5, 9
4	Protect and enhance the landscape, townscape and cultural heritage	12, 14
5	Minimising adverse effects on water quality	11
6	Avoid increasing the risk of flooding	11
7	Protecting biodiversity	13
8	Providing employment opportunities and support long-term jobs and skills	7
9	Minimising adverse effects on residential property	17-14
10	Minimising the increased cost of waste management	Inherent
11	Protecting local amenity	17-14
12	Minimising adverse effects on public health and health inequalities	HIA <sup>1</sup>
13	Minimising local transport impacts	8
	<b>TAN 21 planning considerations</b>	
1	Atmospheric emissions	9
2	Birds and vermin	Not applicable <sup>2</sup>
3	Dust	9
4	Hours of operation	3
5	Land instability	11
6	Lifetime of waste management sites	Not applicable <sup>3</sup>
7	Litter	Not applicable <sup>4</sup>
8	Nature and archaeological conservation	13, 14
9	Noise	10
10	Odours	9
11	Protection of surface and groundwater	11
12	Flood risk	11
13	Reinstatement of the site	Not applicable <sup>5</sup>
14	Transport and access	8
15	Visual impact	12
16	Planning conditions	3

*Notes*

1. Health Impact Assessment – appendix 9.7 to the ES addendum

2. *According to paragraph 2.1 of TAN21 Annex C – ‘Where waste management operations tend to take place within buildings and/ or waste materials are only present for short periods, processing operations will not normally experience problems associated with rodents or birds’.*
3. *Advice is relevant to landfill sites.*
4. *Advice is relevant to landfills, transfer stations and civic amenity sites.*
5. *Advice is relevant to waste disposal sites such as landfills. No waste disposal is proposed in the current proposals.*

### Other TANs

5.67 Other TAN guidance taken into account by the Applicant and its design and EIA team during the preparation of the planning application.

- *TAN 5: Nature conservation and planning (2009) – the guidance of which is taken into account in chapter 13 of this ES addendum.*
- *TAN 11: Noise (1997) - the guidance of which is taken into account in chapter 10 of this ES addendum.*
- *TAN 12: Design (2016) – the advice of which is reflected in the Design and Access Statement that accompanies EHL’s planning application.*
- *TAN 15: Development and flood risk (2004) - the guidance of which is taken into account in chapter 11 of this ES addendum.*
- *TAN 18: Transport (2007) - the guidance of which is taken into account in chapter 8 of this ES addendum.*
- *TAN 23: Economic Development (2014) - the guidance of which is taken into account in chapter 7 of this ES addendum.*

### DEVELOPMENT PLAN POLICY

5.68 RCT and BBNPA are Waste Planning Authorities for the purpose of the Planning Acts. Both authorities include waste planning policy on their development plans that are relevant to the design and assessment of EWL’s revised proposals.

5.69 Section 38(6) of the Planning and 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 considerations indicate otherwise’.*

**Adopted Brecon Beacons National Park Local Development Plan**

<http://www.beacons-npa.gov.uk/wp-content/uploads/Brecon-Written-Statement.pdf>

5.70 The BBNP LDP was adopted by the National Park Authority on 17 December 2013 and covers all of the Brecon Beacons National Park. It sets out key policies and land use allocations to guide development up to 2022.

5.71 Policy 33: *Employment Sites* allocates land for employment use (B1, B2, or B8). The allocations are shown on the Proposals Map and include site reference CS78 *Land adjacent to 5<sup>th</sup> Avenue, Hirwaun Industrial Estate* (5 hectares). According to the table of sites that accompanies Policy 33:

*Whilst the settlement of Hirwaun is within Rhondda Cynon Taff CBC area, part of the Hirwaun Industrial Estate is located within the National Park boundary. The vacant part of the site within the National Park boundary is allocated as employment in order to ensure that the use remains consistent over the boundary.*

5.72 This allocation comprises that part of the Enviroparks site that falls within the National Park. Under the terms of EWL's 2010 planning permission and in the current proposals, the largest building on that part of the allocated Enviroparks site that lies within the National Park is a including a 10,240 m<sup>2</sup> building for use class B1 / B2 use.

5.73 Chapter 9 of the BBNP LDP sets out BBNPA's waste planning policies. Introductory paragraphs 9.1.3 and 9.1.4 state that:

*9.1.3 The NPA is required to either -*

- *accommodate local community waste facilities serving only the National Park area; or*
- *to liaise with adjoining waste planning authorities to accommodate facilities which cover both the National Park area and the Unitary Authority area to be sited outside the National Park.*

*9.1.4 Both the Regional Waste Plan 1st Review documents identify that -*

*'in exceptional circumstances there may be sites adjacent to National Parks where facilities with the capacity to serve more than one local authority area, especially those relating to agricultural waste, may be acceptable'.*

5.74 Policy 62: *Local Waste Management Facilities* identifies the circumstances in which local waste management and recycling facilities which serve the National Park area will be permitted. EWL's revised proposals have taken into account the five criteria of this policy:

- a) *The site would be conveniently located in relation to the needs of the National Park community; or*

- b) *They are located at existing waste management sites or B2 industrial units; and*
- c) *The proposal makes provision for adequate screening so as to minimise any adverse effects; and*
- d) *The development is sufficiently distanced from neighbouring properties so as not to constitute a potential health or safety hazard; and*
- e) *The development will not cause demonstrable harm to the amenities of the local area and local communities in particular with regard to access, traffic generated, noise, vibration, dust, litter, odour nor adversely affect existing surface and groundwater resources.*

5.75 BBNP LDP Policy 63: *Energy from Waste Development Schemes* states that:

*Energy from waste development schemes will be enabled where they are of an appropriate scale and location commensurate with the National Park Designation (see SP1) and where . . .*

- c) *the proposed scheme is located on*
  - i) *existing waste management sites; or*
  - ii) *sites with existing uses classified as B2 General Industry under the Use Classes Order; or*
  - iii) *sites allocated for employment or mixed use and they are intended for treatment of locally derived waste materials; and*
- d) *the need cannot be met in another location outside of the National Park area.*

5.76 As noted, the Enviroparks site is allocated for B2 employment use under BBNP LDP Policy 33, and the implementation of the 2010 planning permission establishes the site as an existing waste management site.

5.77 Other BBNP LDP policies taken into account in the design and assessment of the current proposals include:

***Scheme design (ES addendum chapter 3)***

Policy 8: Trees and Development

***Transport and access (ES addendum chapter 8)***

Policy 59: Impacts of Traffic

Policy 60: Provision for Cycling and Walking

***Air quality (ES addendum chapter 9)***

Policy 14: Air Quality

***Landscape and visual effects (ES addendum chapter 12)***

Policy 12: Light Pollution

***Ground conditions (ES addendum chapter 11)***

Policy 13: Soil Quality

Policy 58: Sustainable Drainage Systems

***Ecology (ES addendum chapter 13)***

Policy 3: Sites of European Importance

Policy 4: Sites of National Importance

Policy 5: Sites of Importance for Nature Conservation

Policy 6: Biodiversity and Development

Policy 7: Protected and Important Wild Species

***Archaeology and cultural heritage (ES addendum chapter 14)***

Policy 17: The Setting of Listed Buildings

Policy 19: Development affecting Conservations Areas

Policy 20: Historic Parks and Gardens

Policy 21: Historic Landscapes

Policy 22: Areas of Archaeological Evaluation

**Rhondda Cynon Taf County Borough Local Development Plan up to 2021**

<http://www.rctcbc.gov.uk/EN/Resident/PlanningandBuildingControl/LocalDevelopmentPlans/Relateddocuments/LDP20062021/AdoptedLocalDevelopmentPlan.pdf>

5.78 This plan (referred to here as the 'RCT LDP') was adopted by RCT in March 2011. Chapter three: *Vision and objectives* identifies the land use planning priorities arising from the Council's Rhondda Cynon Taf Community Strategy (2010 – 2020), which include a land use planning framework that will:

*Ensure that Rhondda Cynon Taf achieves its potential by maximizing the advantages of its strategic location, both in terms of the Capital Region and global economy. It will also maximise opportunities for inward investment in Hirwaun and Llantrisant / Talbot Green (paragraph 3.4).*

5.79 Chapter four of the plan sets out the core strategy and policies for RCT. According to

paragraph 4.4:

*For the purpose of the LDP the Northern Strategy Area includes Tonypany, Porth, Treorchy, Treherbert, Ferndale, Tylorstown, Mountain Ash, Aberdare and Hirwaun. The emphasis in this area is on building sustainable communities and halting the process of depopulation and decline. Development proposals in the Northern Strategy Area will provide appropriate growth to address the problems of deprivation and high levels of social and economic need.*

5.80 These objectives are reflected in core policy CS1: *Development in the north.*

5.81 Policy CS9 confirms that Hirwaun Industrial Estate is an appropriate location for in-building waste management uses of the type proposed in the current application:

***Policy CS 9 - Waste Management***

*In order to meet the capacity requirements of between 12.5 and 21.7 hectares in the South East Wales Regional Waste Plan land will be made available at the regional and sub-regional level.-*

*Regional Sites*

*The following sites are identified as being able to accommodate a range of waste management options, including recycling and composting, at a regional level:-*

- 1. Land at Bryn Pica (including land filling of residual wastes); and*
- 2. Hirwaun Industrial Estate (in-building processes only).*

*Sub-regional Sites*

*Proposals for waste management facilities to serve sub-regional needs will be permitted within existing and allocated B2 employment sites.*

5.82 According to supporting paragraphs 4.83 and 4.88:

*4.83 In line with the Regional Waste Plan (RWP) that provision should be made for regional waste management facilities to serve more than one local authority area, 2 sites have been identified for such provision: Hirwaun Industrial Estate and land at the existing Bryn Pica Landfill Site. Both sites are well located in relation to the strategic highway network and are accessible within the plan area and to the wider region.*

*4.88 Waste management development in Hirwaun Industrial Estate will be limited to in-building facilities to minimise visual and ecological impact . . .*

5.83 The current proposals seek to bring indoors a gasification plant that was largely in an open yard in the planning application approved in 2010.

5.84 Chapter 6 of the RCT LDP includes policies for the northern strategy area, which includes

Hirwaun. Policy NSA14: *Employment allocations* identifies a series of employment sites including the Enviroparks site, which it allocates for up to 4.17 hectares of use class B2 (industrial) and B8 (storage) use. Appendix 1(B) to the plan described the Enviroparks site as follows:

**2. North of Fifth Avenue, Hirwaun Industrial Estate, Hirwaun**

*The site is an area of prepared level land on the edge of the Industrial Estate in Hirwaun, which already benefits from an access point to the estate distributor road and subsequent access to the A465 Heads of the Valley Road. This 4.17 hectare site consists of over half of the overall area of level land, with the remainder being within the Brecon Beacons National Park Authority area. The land is situated below a raised reservoir to the north and the majority of the site is located within the identified flood risk zone B and would require a flood consequences assessment. The site is also located close to the Blaen Cynon SAC which would need to be considered as part of a development scheme.*

5.85 Other RCT LDP policies taken into account in the design and assessment of the current proposals include:

***Scheme design (ES addendum chapter 3)***

- Policy AW5: New development
- Policy AW6: Design and place making
- Policy AW 12 - Renewable and non-renewable energy

***Transport and access (ES addendum chapter 8)***

- Policy CS8: Transportation

***Ecology (ES addendum chapter 13)***

- Policy AW 8: Protection and enhancement of the natural environment

***Archaeology and cultural heritage (ES addendum chapter 14)***

- Policy AW 7: Protection and Enhancement of the Built Environment

***Environmental protection and health (ES addendum chapters 9, 10, 11, 12)***

- Policy AW 10: Environmental Protection and Public Health

**CONCLUSION**

5.86 This chapter has considered a wide range of planning, waste and energy policy of general or specific relevance to EWL’s revised proposals for an Enviroparks development on the Hirwaun Industrial Estate, with the joint aims of establishing the need for the proposals, refining the scope of the ES addendum and confirming expectations with respect to environmental mitigation.

5.87 Whereas the policy landscape has evolved substantially since the 2008 ES was completed, it remains the case that the Enviroparks development would respond positively to a wide range of policy concerns concerning waste recycling, energy production, environmental protection and economic and social regeneration. From a planning perspective, the review suggests that the current proposals remain consistent with development plan policy.

5.88 Topic-specific policy requirements are taken into account in later chapters of this ES addendum.