

CYNGOR CYMUNED CILCAIN CILCAIN COMMUNITY COUNCIL

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9th March 2023

Caulmert Ltd
c/o Glyndwr Innovations Ltd
Ffordd William Morgan
St Asaph Business Park
St Asaph
Denbighshire
LL17 0JD

Dear Sir/Madam,

MAJOR DEVELOPMENT PLANNING PROPOSAL

Proposed development: Installation by N W Energy Ltd of an Anaerobic Digestion Facility with Associated Development at the former Ruby Brickworks site, Rhydymwyn

Thank you for your notification dated 3rd February 2023

Cilcain Community Council notes that you declined an invitation for your representative(s) to attend a public meeting that the Council offered to arrange during the pre-application consultation period with the community of Rhydymwyn and Hendre. The Council also notes your indication that your representative(s) may attend a public meeting after the community consultation period has ended.

As you may know, members of the public are entitled to attend the meetings of a Community Council. Over 40 residents of Rhydymwyn and Hendre chose of their own volition to attend the February meeting of the Council wanting to express their concerns about your draft proposal and to seek answers to their questions. Since then, more residents have approached the Council with similar concerns.

The Community Council has reviewed your draft planning proposal and supplementary documents. Having regard to the expressed views of residents and also to the wider planning context within which you intend submitting a Full Planning Application to Flintshire County Council (FCC), the Community Council **does not support** your proposal.

The Community Council draws your attention to the following:

1. The context of planning in Wales

Planning in Wales is plan-led. Welsh Government determines relevant legislation, and national planning guidance sets the context for the planning strategy at County Council level. Development plans are prepared by each local planning authority in order to provide for the economic, social and environmental needs of the County. Flintshire County Council's Local Development Plan (LDP) contains a framework of policies and proposals which seek to regulate and control the development and use of land within the county. Community Councils are statutory consultees in the planning application process.

In the case of a proposal that is classified as a 'major development', as is your proposal, there is a statutory requirement that developers/applicants must, as a first step, consult with the community in which they propose establishing a major development. This accords with the social needs, amongst others, of communities.

The Community Council notes that you informed immediate neighbours of the former Ruby Brickworks site about your intention to submit a Full Planning Application to FCC for permission to install an anaerobic digestion facility at the site, and that you also posted two Schedule 1B site notices. The Council also notes that simply making documents for projects of a more technical nature like this one available to members of a small community and inviting their comments during the community consultation period (minimum period of 28 days) is not helpful to many residents and falls short of being meaningful consultation.

There was a high level of concern displayed by the 40+ community members attending the Community Council's February meeting. Since then, concerns expressed to councillors by other community members have been ongoing.

*** The Community Council considers this site to be a site of high public interest.**

2. The wider context: Flintshire County Council's Local Development Plan and Supplementary Planning Guidance, the Future Wales National Plan and the Well-being of Future Generations Act

The wider context as well as the local context matters.

Flintshire County Council's Local Development Plan is in line with National Planning Policy and Guidance. The LDP now forms part of the statutory development plan within the framework set by the Future Wales National Plan. Supplementary Planning Guidance (SPG), published separately to the LDP, expands on certain policies. Strategic objectives are afforded considerable weight as material planning considerations in the decision-making process.

The LDP focuses on delivering sustainable development in the County for a 15 year period, 2015 to 2030, and includes:

- policies which will guide decisions on planning applications
- proposals for the development of housing, retail, employment and other land uses
- policies which seek the protection and enhancement of the natural and built environment

The County Council recognises the need for new houses, development and jobs. It also recognises that these developments must be achieved in a balanced, controlled and sustainable manner to ensure that in endeavouring to achieve the aims of the Well-Being Act, they do not happen in a manner that causes harm to communities.

The aim of the LDP is to enable the delivery of sustainable development in a manner that balances all of the requirements of the Well-Being Act in a sensible and proportionate way and allow the right development to occur in the right places.

* Your proposal would amount to installing a medium sized industrial plant immediately adjacent to a small Defined village

* Taking into account the views that members of the Rhydymwyn and Hendre community have made known to the Community Council, **the Council does not consider that your draft proposal to install an anaerobic digestion facility at the former Ruby Brickworks is the right development in the right place in respect of both the well-being of the community and the natural and built environment.**

3. The local context: Important considerations

An important principle that underpins the strategy of the LDP is the creation of sustainable places. One of the aims of creating sustainable places is to consider the context, function and relationships between a development site and its wider surroundings. In recognising that some places have the potential to be more sustainable than others, the LDP establishes a sustainable settlement hierarchy.

The sustainable hierarchy:

The site you propose for the installation of an anaerobic digestion facility is at the edge of Rhydymwyn, a village which is classified as a Tier 4 settlement in the LDP. Tier 4 settlements are settlements which benefit from some services and facilities with which to sustain local needs.

The village of Rhydymwyn and the hamlet of Hendre are small settlements within a rural setting. Rhydymwyn is classified by Flintshire County Council in the Local Development Plan as a Defined Village.

Until the adoption of the Local Development Plan on 24th January 2023, Flintshire County Council's Unitary Development Plan (UDP) was operational. Rhydymwyn village was defined by Flintshire County Council in the UDP as category C (small villages, the smallest settlements which generally have poor accessibility to public transport, poor facilities, and many are constrained by environmental designations)

*** The Community Council does not consider the relationship between Rhydymwyn village Hendre hamlet and a proposed anaerobic digestion facility to be compatible**

Flintshire County Council waste management

The County Council's Local Development Plan addresses waste facilities within the county as follows:

‘Flintshire accommodates a range of waste facilities across the waste hierarchy with a number of facilities which are of strategic importance, including Parc Adfer on Deeside Industrial Park, which will manage North Wales local authority collected residual waste.’ (FCC Local Development Plan 2015 - 2030)

And:

‘There is no identified need for further recovery or disposal infrastructure within the County given the progress which has been made in terms of Parc Adfer which will manage residual waste from across North Wales and the Anaerobic Digestion facility developed at the Waen in Denbighshire which manages food waste arising in Flintshire, Denbighshire and Conwy. Therefore, no strategic allocations for waste management are identified.’
(FCC Local Development Plan 2015 - 2030)

However, given you have initiated the pre-application proposal for an anaerobic digestion facility at Rhydymwyn, the following questions must be asked:

3.1. How local is local?

In your draft application you talk about bringing waste in from local places.

In one part of your application you say you will attempt to bring waste in from local producers but in another part of your application you say you will bring waste in from local producers. Which is it?

- Where would the waste be coming from?
- Which producers are involved?
- What are these producers doing with their waste at present?
- Given FCC’s Waste Management, is there a need to transport their waste to Rhydymwyn?

3.2. You say that you would be building the plant to divert waste from landfill.

- Where would the wastes be coming from? Which landfill sites would be involved?
- Is landfill the only current available option for the producers you would be working with?

3.3. All the wastes you list are recognised as being the most odorous. What kind of waste is it?

- Would the wastes be solid wastes?
- Liquid wastes?
- A mixture of both?
- What specific wastes are included in your generic descriptions?

3.4. The proposed site is in a valley and odours would take a long time to dissipate.

What measures would be in place to keep odour to a minimum?

- On waste arriving on site and
- During the discharge of the digestate

3.5. Digestate

Your proposal contains very little information about the digestate:

- Would the digestate be subject to testing for PAS110?
- Who would be managing the discharge of digestate and land finding?
- And are they qualified as a FACTS advisor regulated by BASIS?
- Where would the digestate be spread?
- What percentage of the total input could be stored on site for overwinter storage?

3.6. In the event of a leak or burst on site, would the site be bunded to contain enough spillage?

3.7. Storage of waste

- How long would you be storing wastes on site before treating them?
- And in what quantities?

3.8 Traffic loads and transport

- What load would be brought in every day?
- And how often sent out?

Permitting Authority Rules

You will be aware that Natural Resources Wales is the permitting authority for operators wishing to carry out anaerobic digestion of wastes. The Community Council makes the following observations within that context:

- The former Ruby Brickworks site is less than 200 metres from off-site buildings, namely Ruby Cottages and Hendre Villas. Your proposal therefore contravenes the Standard Rules of Natural Resources Wales, the permitting authority for your proposal.
- The site is also approximately 300 metres as the crow flies from the remaining residences in Rhydymwyn village.
- A Helipad that has been used since 1995 is also less than 200 metres from the proposed site, once again infringing the Standard Rules of the permitting authority, Natural Resources Wales. Checks with the Civil Aviation Authority would also have to be made on the safety implications of landing a helicopter in close proximity to methane gas storage tanks.
- The former Ruby Brickworks site is within the recommended minimum distance of 500 metres of a European site 2, (Regulation 8 of the Conservation of Habitats and Species Regulations). Woodlands known as the Alyn Valley Woods stretch along the valley from Loggerheads (the base of the Clwydian Range and Dee Valley AONB), to Rhydymwyn. Loggerheads Country Park, including the Alyn Valley Woods, is an internationally important site for conservation, designated as both a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The Alyn Valley Woods are listed as both an SSSI and an SAC, and therefore have protected status. Permitted activities must not be carried out within 500 metres of a European Site, or a Site of Special Scientific Interest. Your draft proposal contravenes the Standard Rules of Natural Resources Wales in this way also.

Listed buildings

The proposed area for installation of an anaerobic digestion facility is in very close proximity to 4 grade 11 listed buildings, namely Taylor's Shaft Engine House, Taylor's Shaft Chimney, the Former Ore Dressing House and the Ruby Brickworks Beehive Kiln and Chimney (Cadw). Listing signifies that they are all of national significance. Listed buildings are afforded protected status.

In relation to the Taylor's Shaft chimney which is 8 metres tall, your proposed tank height is 21 metres - taller than the Angel of the North and not in keeping with these listed buildings which it would dwarf.

- Your Heritage Impact Assessment appears to be predominantly desk-based, thus missing essential detail and the sense of historic pride that residents of the community feel. Although small settlements, the village of Rhydymwyn and the hamlet of Hendre have a wealth of history and take a prominent place in our national history. Over recent years, much publicity has been given to the former Valley Works which played a significant and important part during the Second World War when a Ministry of Supply Factory was sited in Rhydymwyn and used for the storage and production of mustard gas. It was later also used in the development of the UK's atomic bomb project. The Valley Works remains on the International Chemical Weapons list, and while believed to be relatively benign, the site continues to be monitored for toxicity. Research has shown that there is no other chemical weapon production, storage and assembly site surviving within the UK in such a readily understandable state. This makes the Valley Site a place of National as well as local significance.
- The Valley Site is now a Nature Reserve with a monitored Visitor Centre. There are four listed buildings on the Valley Site, listed to protect the physical evidence of our past and valued as part of our cultural heritage and our sense of identity. Other historic buildings in the village of Rhydymwyn, such as St John's Church and Rhydymwyn Railway station, provide a sense of place through time which is an important aspect of our towns, villages and countryside, adding to the quality of community life
- The Clwydian Range and Dee Valley AONB is in close proximity to your proposed site and has been chosen to become Wales' newest national park for its outstanding natural beauty. Welsh Government says it is working on plans to deliver it. Cultural heritage, conservation and natural beauty are central elements of national parks with discussion on possibly extending the AONB taking place.

The environment and local ecology

The impact of an anaerobic digestion facility on the environment and local ecology could be irreversible. This includes pollution and disturbance both during the proposed construction period and by the proposed operation of the facility.

- The proposed site sits within a landscape that is an important stronghold for many birds, wildlife, amphibians, ancient woodlands, and a rock face of scientific special interest.
- The site is immediately bordered by Ancient Woodland to the North West and to the East. Welsh Government statutory regulation SR2021 N0 6 states 'a site cannot be within 50 metres of Ancient Woodland'. There are Broadleaf Helleborine present, (the only site in Flintshire) which one of your supplementary documents suggests are lifted by a digger and placed in the old quarry. Can you guarantee that these unique orchids would survive being transplanted?
- Coed y Felin Woodland Trust is within close proximity to the proposed facility. This woodland is known to be habitats for dormice, a variety of owls, bats, foxes and badgers. The rare Deptford Pink flowering plant is also to be found within this site.

- The Community Council notes that consultants carried out an extended Phase 1 Habitat survey (bats) of the former Ruby Brickworks ‘in support of a proposal to develop an anaerobic digestion plant’ and notes also the reference in the survey to the legal context. This includes the statement that ‘proposed development works that are likely to disturb bats or damage or destroy their roosts will need to obtain a licence from Natural Resources Wales prior to work commencing to avoid the risk of an offence’. Concerns remain. The survey refers to Lesser Horseshoe Bats possibly roosting within the Ore Dressing House which is one of the listed buildings close to the proposed boundary. Such sites are covered by the Conservation of Habitats and Species Regulations as well as the Countryside Act 1981. The survey found droppings, the size and shape of which are consistent with those from Lesser Horseshoe bats (protected species) in the Ore Dressing House, with the structure offering suitable conditions for day or night roosting and for hibernating for Lesser Horseshoe bats. Regarding the colony of Lesser Horseshoe Bats present in the area and roosting at Rhydymwyn, interpretation of species monitoring statistics by the Countryside Council for Wales has revealed that the population here is static, whereas elsewhere in North Wales the populations are increasing. This suggests that the population observed in Rhydymwyn is not at a Favourable Conservation Status. Thus, because these bats are extremely vulnerable to disturbance when in the roost, all unnecessary disturbances must be avoided.
- There is an assumption that there will be lighting around the plant during the hours of darkness for health and safety requirements. Light pollution disrupts ecosystems. It is a threat to nocturnal wildlife and birds as it confuses animal navigation.

Light and noise pollution

- The Clwydian Range and Dee Valley AONB lies in close proximity to Rhydymwyn and Hendre. Light pollution during the hours of darkness would be at odds with FCC’s SPG policy ‘Planning for the Dark Night Sky’ which becomes a material planning consideration when making planning decisions within the AONB and its setting.
- Due to the geographical topology of the area any noise created during day and night-time hours would echo around the valley, impacting not only on the nearest neighbouring properties but also on Rhydymwyn and Hendre settlements.

Traffic

Your draft proposal does not realistically address traffic concerns.

- You say that you are looking at utilising quarry lorries on return journeys to cut down the number of lorries every day. It is widely acknowledged that vehicles carrying putrescible waste in one direction cannot be utilised for carrying inert waste or quarry materials on a return journey without decontamination taking place between journeys - in which case where would the washings go? If liquid waste was being brought in, it would have to be tankered
- Additional lorries every day would create extra nuisance and stress for a community already contending with a huge number of quarry lorries on their doorstep daily travelling to and from:
 - Fron Haul Quarry Nannerch (Breedon Lloyds Quarry), sand and gravel, tipping
 - Lloyds Spar Quarry, sand and gravel

- Tarmac Hendre Quarry which moves tens of thousands of tonnes of material in a year
- The community already has to contend with large amounts of quarry dust created by vehicles travelling from the Tarmac quarry despite wheel wash facilities and regular road cleansing being in place.
- The installation of an anaerobic digestion facility at the former Ruby Brickworks site would mean using the same access road that Tarmac quarry vehicles use from the main road at the edge of Rhydymwyn village to the proposed site - and at a dangerous corner on the A541.
- Crossing the A541 to access the shop at Rhydymwyn Service Station is already hazardous for residents. There are no traffic calming measures in place, nor is there a pedestrian crossing. Accidents and fatalities are on record.
- The current state of the road surface is poor and would only worsen with the introduction of additional vehicles travelling to and from the site where you propose installing an anaerobic digestion facility.

Health and Safety

Residents are concerned about health and safety issues, contamination of waterways and gas to name just two.

- Dolfechlas Brook, a tributary of the Alyn and then the Dee, flows through the site. Contamination of waterways is of major concern nationally, and the risk of run-off into the brook would be hard to eliminate.
- Hazards associated with handling quantities of flammable gas at potentially high pressures is also a concern, methane as a gaseous fuel being of particular concern given that the purpose of anaerobic digestion plants is to convert waste into a usable gaseous fuel, normally principally methane. Control measures to avoid exposure are critical.
- The Community Council also notes the safety record of other AD plants. The water industry has the longest historical experience in managing AD. However, these processes have presented the Environment Agency in England with some challenging incidents, despite the technical experience. The Agency's report in 2019, 'Review of Environmental Incidents at Anaerobic Digestion (AD) Plants and Associated Sites between 2010 and 2018', includes a documented review of incidents occurring between 2010 and 2013 and a sample of more recent incidents/compliance concerns up to 2018. The detail of these incidents is extremely concerning.

Given the LDP's aim is to enable the delivery of sustainable development in a manner that balances all the requirements of the Well-Being Act in a sensible and proportionate way and allow the right development to occur in the right places, the Council trusts you will give proper consideration to the issues laid out in this response and to the depth of residents' feelings and concerns.

Yours faithfully

Alun Evans (Clerk to Cilcain Community Council)