Our Ref: 5039-01/PA/DA

18 February 2025

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By email: robinwynnewilliams@gwynedd.llyw.cymru

Dear Sir

PRE-APPLICATION INFORMATION REQUEST ON BEHALF OF VEOLIA UK WITH REGARD TO PROPOSED APPLICATION FOR PLANNING PERMISSION FOR AN IN-VESSEL COMPOSTING FACILITY AT THE FORMER BEFESA SALT SLAGS SITE, FENNS BANK, NR. WHITCHURCH, FLINTSHIRE, SY13 3PA

Introduction

I write regarding the above proposed application for planning permission at the former Befesa Salt Slags Site, Fenn's Bank, Wrexham. As you are aware, the application site is located within the administrative authority of Wrexham County Borough Council (WCBC), and on the 28th August 2024 my client, Veolia UK submitted a formal pre-application request regarding the proposal directly to WCBC. In September 2024, an officer from WCBC was appointed to deal with the request and liaise with my client. In October 2024, the officer attended an initial accompanied site visit, during which he provided limited advice. No concerns were raised, and no matters identified unique to the development proposed.

Following the passing of a number of months, and no formal response having been received, Axis was appointed to assist with preparing the application, and contact was made with the appointed officer. In late November 2024 we were informed that, due to the nature of the proposal (that it would provide for the management and processing of waste material), the planning advice service had been outsourced to officers from Flintshire County Council (FCC) and Gwynedd County Council (GCC).

On the 27th January 2025 you visited the site to discuss the project, get a better understanding of the development, and familiarise yourself with the context of the local area. We discussed the fact that the pre-application request submitted to WCBC remained in the system, however the request was made at a time when several critically important elements of the development were unknown. Furthermore, it was largely based on verbal comments made by the WCBC planning officer who clearly did not have a comprehensive understanding of the relevant facts of the case, or issues specific to waste related development. Consequently, we agreed that we would submit to you a new and more comprehensive formal request.

This letter has been prepared cognisant of the helpful verbal advice you have already provided and is intended to assist you in providing your formal pre-application advice. Therefore, **please accept this**

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letter as our formal pre-application request, and replacement for that submitted to WCBC in August 2024.

Site Background

The proposed application site is around 5 hectares of land comprising the former Befesa Salt Slags facility, located at Fenn's Bank, near Whitchurch, within the administrative authority of Wrexham. Befesa Salt Slags Limited was involved in the sustainable processing and recovery of aluminium from a waste product in the aluminium industry and was part of a Spanish-based umbrella company Befesa. The former operations ceased, and the site safely and effectively closed in 2020.

Access to the site is taken from a private road to the east and then out onto Fenn's Bank Lane, and the A495 Long Lane / Ellesmere Road to the north. The nearest public footpaths are Fenn's Bank Lane to the east; BRO81 (circa 150m to the south); and BRO/2 (circa 250m to the west).

The terrain of the Site features a gentle slope, with the lowest altitude at 90m AOD and the highest altitude at 100.0m AOD. The downward slope extends from the southeast to the northeast. The site comprises: several large industrial buildings constructed from brick and steel, generally in very good condition; a large brick-built office complex; a series of other smaller ancillary buildings; a weighbridge and vehicle wash facility; parking provision; perimeter concrete hardstanding; and an enclosed drainage system.

The site is approximately 3.5km south-west of Whitchurch, and circa 500m west of the Wales / England border. It is located outside the settlement boundaries, as defined within the Wrexham Local Development Plan (WLDP), but is within a Sand and Gravel Mineral Safeguarding Area, where non-mineral development is required (under LDP Policy MW1) to demonstrate that either the mineral underlying the site does not merit extraction, or the need for the non-mineral development outweighs the need to protect the resource. Compliance with Policy MW1, along with the other relevant policies of the Development Plan will be demonstrated as part of an application (see reference below).

The surrounding land is predominantly non-built-up land and agricultural open countryside. Adjacent and to the west of the site is a former closed landfill. To the south of the site is Mereside Industrial Park which houses several small commercial operators, including a local waste transfer site. The nearest residential properties are located circa 100m to the southeast and comprise a variety of detached and semi-detached houses and farmsteads located on the west side of Fenn's Bank. The closest primary school is Bronington Church in Wales (Voluntary Aided) School, 1.86km west of the Site.

The Grade II Listed Barn at Fenn's Old Hall, is located 350m from the site at sufficient distance that the asset would be neither directly or indirectly adversely affected (change to character and setting) by the Proposed Development.

The site is located within the Impact Risk Zone for Fenn's, Whixhall, Bettisfield, Wern & Cadney Mosses Site of Special Scientific Importance (SSSI), located circa 450m to the south-west. Parts of the area covered by the SSSI are also designated as National Nature Reserve, Ramsar Site and Special Area of Conservation (SAC).

The site falls within Flood Zone A; *'very low risk of flooding from rivers from surface water and small watercourses'*. Very low risk means that each year the area has a chance of flooding of less than 1 in 1,000 (i.e. 0.1%).

Site Planning History

The site has a limited planning history; however, this will be set out in detail within the Planning Statement submitted in support of the application. The earliest planning record for the site that is available via the WCBC Planning Portal is dated 6th February 2004 (Reference P/2004/0128). The decision notice grants planning permission for the variation of Condition 6 to allow for 24 hours working. The permission to which the variation related (that for the Befesa Salt Slags facility Reference Cb/01515) is not publicly available.

On 30th August 2021 planning permission was granted for a rear extension to the main site building to house an enclosed circuit filter system (Reference P/2012/0516). This was installed to improve the performance of the plant and ensure compliance with on-site permit requirements.

In 2016 three planning permissions were granted at the site. The first on 17th February 2016 (Reference P/2016/0138) was for the installation of a replacement section of external cladding across the main structure of the building. The second, on the 18th August 2016 (Reference P/2016/0785), was for the erection of a proposed loading bay extension. The third, granted on the 2nd November 2016 (Reference P/2016/1027), was for the erection of an additional storage building.

Finally, on the 22nd August 2023 prior notification was granted for the demolition of several of the buildings on site that had become redundant and were no longer operational (Reference P/2023/0521).

Planning Policy Background

Wrexham County Borough Council is a Unitary Authority responsible for the preparation and adoption of Local Plans to assist in the environmental protection and economic and social development of the authority area. The WLDP was developed to replace the now out-of-date Wrexham Unitary Development Plan (WUDP). The WLDP was long delayed (the first having failed at examination) and was finally ready for adoption in late 2023 with a recommendation of approval from the examining Inspector.

However, when it reached committee for adoption a majority of Members refused to do so (citing concerns about the level of housing development and a range of other issues). This prompted a High Court challenge from a group of developers on the basis that the Authority had no discretion or right to refuse to adopt the plan. The judge for the case ruled that that was indeed correct and directed that the Authority must swiftly hold a new meeting and vote to adopt the plan without delay.

Members were subsequently advised at that meeting by Officers that they must therefore adopt the WLDP without further delay, and that they risked personal sanctions if they opposed to do so. The vote passed and the WLDP was formally adopted in December 2023.

One of the Members unilaterally took the matter to the Court of Appeal, with the resultant successful appeal decision overriding the High Court case on the basis that the wording of statute does not impose a statutory duty to adopt.

This now leaves the Council is a difficult and somewhat unique position, with an adopted up-to-date Development Plan, but one that is likely to be subject to continual challenge both in terms of the status of its adoption, and the weight that can be given to the policies of it in the determination of certain planning applications. In addition to this uncertainty caused by the Court of Appeals decision, the Welsh Government has publicly confirmed that they are looking at whether it is appropriate to challenge the Court of Appeal decision in the Supreme Court in order to bring certainty to the Local Plan adoption process and avoid a situation where Councils can proceed to make decisions without having an up-to-date adopted plan in place.

For the time being at least, the WLDP remains adopted, and remains the policies against which any application should be determined. The policies of the WLDP that are considered of most relevance to the determination of the Proposed Development in this case are:

i. SP11: Transport and Accessibility.
ii. SP12: Design Principles & Masterplanning Framework
iii. SP13: Health and Wellbeing
iv. SP14: Natural Environment
v. SP17: Sustainable Waste Management
vi. SP18: Climate Change
vii. EM4: Employment Development Outside of Settlement Limits
viii. MW1: Mineral Safeguarding
ix. MW5: Sustainable Waste Management
x. MW6: Waste Management Facilities

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications are required to be determined against the policies of the Development Plan, unless material considerations indicate otherwise. The Planning Statement submitted in support of the application will include a detailed Planning Policy Appraisal that identifies the policies of most relevance to the determination and identifies whether the proposal complies with the policies identified. Where there is policy tension (i.e. the development may not accord will all elements of a policy), the Statement will appraise whether the Proposed Development complies with the Development Plan taken as a whole. The Planning Statement will also identify any material considerations that may need to be weighed against any policy presumption in favour of the development.

The Proposed Development

The proposal comprises the development of an In-Vessel Composting (IVC) facility with a process capacity of around 50,000 tonnes per annum (tpa) of green and co-mingled food wastes. The development would fully utilise the existing industrial buildings on site which are in a good state of repair and can be converted and added to relatively simply to make them fit for purpose for the development as proposed.

The main building at the site would contain the fully enclosed reception and feedstock preparation area, linked to a series of state-of-the-art single stage in-vessel composting tunnels. The tunnels would provide full sanitisation and high temperature treatment of the green and food wastes in order to ensure that the final produce is Animal By-Product (Enforcement) (Wales) Regulations 2014 (ABPR) compliant and can be used for wide circulation land reclamation and remediation schemes across the local area.

The waste product that would come primarily from local sources (see reference below) would be delivered to an enclosed reception and preparation area, operating under negative pressure (to retain odour within the building), with gas emissions captured and treated by the air extraction system consisting of wet scrubber and biofilters with a wood chip media. Treated exhaust gases would be expelled via a vent / stack (height to be confirmed following stack height assessment, but typically no more than 3 metres above the roof pitch).

The composting process would typically pass through a series of ‘stages’. Having been offloaded in the tipping hall, material would be shredded into a uniform size and then passed into the enclosed tunnels. The composting process is kick-started by naturally occurring micro-organisms already in the waste. They break down the material, releasing the nutrients and in doing so increasing the temperature to the 60^{o} – 70^{o} needed to kill pathogens and meet the regulations for processing ABP material. The composting process would take around 3 weeks, during which time the mass reaches

the required temperature, and the oxygen level and moisture content is carefully monitored and controlled to ensure material is appropriately sanitised.

Once the sanitisation process is complete, the feedstock would be offloaded from tunnels onto an open-air maturation pad and treated for a minimum of 6 weeks. Air would be drawn through the mass to avoid the need to rotate the material. Mature compost would then be screened again, transferred to enclosed vehicles, and supplied to local compost markets. Leachate from the IVC process would be recirculated in the composting process and any excess tinkered off site.

The Planning Statement will identify the number of direct employment opportunities arising from the Proposed Development and provide an estimation of the likely indirect secondary employment and/or growth to the local economy as a result of the facility.

The facility would principally comprise the following main components (illustrated on Drawing: VES-TD-WREXIVC-100-001 Rev B).

i. Main Composting Building:
   - Reception and Pre-Treatment Bays.
   - Linked Composting Tunnels.
   - Open Maturation Area.

ii. Ancillary Process Equipment:
   - Refining Plant (screener).
   - Bio-scrubbers.
   - Bio-filters.
   - Process Water Tanks.
   - Trommel Screen.
   - Electricity Sub-Station.
   - Closed Site Drainage.

iii. Ancillary Site Infrastructure:
   - Access Road (existing).
   - Administration / Office Building (existing).
   - Boundary Fencing (existing and upgraded).
   - Lighting (existing and upgraded).
   - CCTV.
   - Weighbridge (existing).
   - Weighbridge Office.
   - Landscape Works (as necessary).
   - BNG Works (as necessary).
   - Staff and Visitor Car Parking (existing)

Alternative Site Assessment

It is proposed that the facility would accept around 50,000tpa of green and food waste. For any project such as this where the CAPEX needed to deliver the project is significant, a minimum load of source material needs to be guaranteed to the Site. Without that guarantee, funding is unlikely to be secured. In this case Veolia UK has secured a contract with Shropshire Council to manage and process their domestic green and food waste collections. Circa 30,000tpa of the 50,000tpa anticipated to be processed at the site would be guaranteed through the contract. The remaining circa 20,000tpa would be sourced from the commercial and industrial sector in and around the local area (Wrexham, South Flintshire, West Denbighshire, North Shropshire and South Cheshire).

The authority boundary between Wrexham and Shropshire is located around 500m to the east of the Site, and most of the waste collected under the Shropshire contract would be sourced from the four towns of Shrewsbury, Oswestry, Whitchurch, and Market Drayton. These are all located in the northern part of the County in relatively proximity to the border with Wrexham. Veolia UK has sought to identify a site for the facility within Shropshire, however no appropriate (available, deliverable, or suitable) site has been identified. The application will be accompanied by an Alternative Site Assessment (ASA) based on the following:

Policy SP17 of the WLDP states that Wrexham will contribute towards the sustainable management of waste through the provision of a range of sites suitable for the management of waste and supporting proposals that move the management of waste up the waste hierarchy. Policy MW6 states that proposals for the management of waste will generally be supported on existing or allocated employment sites for B2 uses subject to meeting a series of criteria (note: the site is not an allocated employment site, but was until recently operated as a general industrial / waste management facility, and its existing use remains as such). Policy MW6 lists a number of sites that are all located around Wrexham, Wrexham Industrial Estate, or in the urban corridor south of Wrexham along the A483. None of these locations are viable for a facility that needs to serve both the northern urban areas of Shropshire and the wider Wrexham commercial green and food waste market. Policy MW6 recognises that development will come forward for the management of waste beyond the sites identified within the policy. It states that:

"Proposals for the management of waste outside the existing settlement boundaries or on land not allocated for waste or B2 use may be supported provided that…there is a demonstrable need for the waste management facility type concerned and there are no allocated sites within a reasonable distance, taking into account the catchment of the waste" (my emphasis).

In this case the catchment of the waste is the northern part of Shropshire (to meet the 30,000tpa contracted waste) and the southern part of Wrexham (to target the commercial market that would make up the circa 20,000tpa remaining site capacity).

It should be noted that the cross-boundary movement of waste material between Wales and England (and vias versa) is not prohibited by law, neither is it actively supressed by policy or guidance. National Policy seeks to drive waste management up the waste hierarchy and encourage the management and processing of waste at the nearest appropriate installation. The 2024 Planning Policy Wales Edition 12 states: *"Collaboration is necessary to strategically plan for waste and mineral needs. These areas where larger than local issues need to be addressed by planning authorities…to ensure sustainable outcomes are delivered."* TAN 21 goes further, and states: *"It should be noted that not all waste arising in Wales is managed in Wales, some is 'exported'. Waste is also imported into Wales for management at Welsh facilities. It is not necessary for Wales to have within its borders a full suite of facilities necessary to comply with all its requirements."*

Whilst the site is outside of Shropshire, and located just within Wrexham, the application should be supported by an ASA which is proportionate, logical, and reasonable. In this case, and even though there is no statutory requirement to locate a facility that manages waste from England within England, it is considered appropriate to demonstrate that there are no more appropriately located sites within Shropshire, ahead of developing a site in Wrexham. For that reason, the identification of alternative sites should be based around the requirements of the Shropshire Development Plan, despite the fact that the chosen site is within Wrexham.

The adopted Shropshire Core Strategy seeks to help delivery of greater resource efficiency by encouraging diversion of waste from landfill and identifying sites suitable for the delivery of waste management. Seven sites are allocated in the Waste Local Plan across the northern towns of Shrewsbury, Oswestry, Market Drayton and Prees. The wider areas around the towns are defined as:

"Broad Locations for Additional Waste Facilities". Despite falling just over the border into Wales, the proposed application site lies within one of these identified broader locations suitable for additional waste facilities. Nonetheless, it is proposed that ASA review the seven sites identified in the Shropshire Core Strategy, and identify whether any of them are available, deliverable, appropriate, and suitable. Only if they are not should the application site be brought forward as a site within the *'Broader Location for Additional Waste Facilities'*, and in accordance with Policy MW6 of the WLDP as a site *'within reasonable distance taking account of the catchment of the waste'*.

We would appreciate your confirmation that the above approach to ASA is suitable, appropriate, and proportionate in this case.

Waste Need Assessment

It is proposed that the application be accompanied by a Waste Need Assessment (WNA) that would utilise both the accessible data through the EA Waste Data Integrator, and the Q2000 Waste Data Flow in order to provide a quantitative demonstration of the commercial green and food waste that is being sent to landfill and could be managed at the facility, and/or exported from Wrexham for treatment at a less local (and consequently less sustainable) facility elsewhere. The WNA would help support in justifying the site location.

Environmental Impact Assessment Regulations

The Proposed Development would represent the receipt, management and processing of green and mixed food waste that would otherwise be sent to landfill or exported further afield to a less commercially efficient and sustainable location (subject to greater transport miles and consequently increased carbon emissions). The Proposed Development would demonstrably not fall under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (EIA Regs) and consequently is not a mandatory EIA development. Schedule 2 of the EIA Regs comprises a series of development types against which proposals are required to be appraised to determine whether they are 'Schedule 2' development, and if so, whether they are likely to give rise to significant environmental effects and consequently represent EIA development required to be accompanied by an Environmental Statement.

The list under Schedule 2 is not exhaustive, and in accordance with C72-95 Kraaijeveld and others v Depowered staten van zuid-Holland (the 'Dutch Dykes' case) the EIA Directive (which the EIA Regs transposes into UK law), needs to be interpreted with a 'broad sense and purpose'. This means that when development does not fall neatly within one of the criteria in Schedule 2, decision makers should apply that which most closely fits the proposal.

In this case that would be, Schedule 2, Paragraph 11(b) *"other projects – Installations for the disposal of waste."* The applicable threshold is where the area of the development exceeds 0.5 hectares. That applies in this case, and consequently the proposal would represent a Schedule 2 development.

This requires an appraisal of the Proposed Development against Schedule 3. It is unlikely, given the characteristics, location, and potential impacts from the development, that it would represent an EIA development (i.e. likely to give rise to significant environmental effects). Nonetheless, a request for the formal Screening Opinion of the Council under Regulation 6 of the EIA Regs, will be submitted imminently. This will include a 'shadow' assessment to assist the Council with providing their opinion.

Submission Documents

In addition to a stand-alone ASA and WNA (discussed above), the following documents are proposed to be submitted as part of the application bundle:

Planning Statement

It is proposed that a Planning Statement would be provided addressing the following:

i. Introduction (setting out the background to the application)
ii. Scheme Description
iii. Need and Benefits
iv. Planning Policy Assessment
v. Summary of Environmental Appraisals
vi. Planning Balance and Conclusions

Transport Statement

Access to the site is via the A459 Long Lane and Fens Bank Lane to the east. The facility would operate 6 days per week, albeit the composting and maturation of product would take place 24 hours a day (note that the previous operational use at the site had consent for 24-hour operations). Given the anticipated volume of waste which the facility would be designed to manage it is estimated that circa 18 vehicles per day would import material into the plant, and 10 vehicles per day would export compost product and by-products. Automatic Traffic Counts would be used to assess the base (current) vehicle movements on the highway network, and a Swept path analysis would be carried out to ensure that the design of the facility would not require unnecessary use of reverse gear. The application would be supported by a Transport Statement which would confirm the number of vehicles arising from the development and identify any mitigation measures that may be necessary.

Noise Assessment

The noise emitted by the IVC would be relatively low, primarily emanating from the plant moving compost within the maturation area and vehicles accessing the site. Other operations would be undertaken inside the enclosed tipping hall and process tunnels. The Site is remote from sensitive receptors and the anticipated noise would not be significant. The application would be supported by a noise assessment compliant with the relevant BS noise standard.

Air Quality

Material transported to the Site would be off-loaded within the enclosed tipping hall which would be retained under negative pressure, utilising fast action roller shutter door, to ensure that any dust or odour is retained within the building. The IVC operations would all be under negative pressure, and air would pass through a scrubber and bio-filters prior to release into the atmosphere. The composting process is designed to destroy any pathogens, and consequently the risk of public exposure to bio-aerosols from enclosed composting facilities is considered extremely low. Quantitative assessment is not considered necessary or relevant, however the application will be supported by a qualitative assessment that will set out the process to be followed to ensure that unacceptable adverse air quality impacts are experienced off-site, and to demonstrate the raft of mitigation measures that would be installed and maintained. The qualitative assessment would include:

i. A review of development design and in-design (embedded) mitigation.
ii. Liaison with EHO and agreement of proposed scope of works.
iii. A review of the EP and regulatory requirements.
iv. Identification of potentially sensitive human and ecological receptors.
v. Review of Wrexham and Shropshire Councils air quality reports.
vi. Review of baseline weather conditions.
vii. Liaison with Transport Statement author re: HGV movements and numbers.
viii. Qualitative construction dust assessment.

ix. Qualitative odour and bioaerosol assessment.
x. Vehicle emissions assessment.
xi. Provision of additional mitigation as necessary.

Ecology and Biodiversity

A Phase 1 Habitat Survey and Preliminary Ecological Appraisal would be undertaken to understand the nature and value of any ecological habitat on the site, and to identify any design mitigation measures. The Phase 1 Survey will also identify other detailed ecological surveys (Phase 2) that may be necessary to quantify and qualify the mitigation proposed. The submission will include a Green Infrastructure Statement (GIS) that would proportionately demonstrate how biodiversity net gain would be achieved on-site. The ecological assessment will have regard to the likely impact on conservation designation to the south of the site.

It is anticipated that the Phase 2 surveys would include:

i. Bat Surveys (buildings)
ii. Bat Surveys (trees).
iii. GCN Surveys (presence/absence and population estimates).
iv. Invertebrate Surveys.

Drainage / Flood Risk

A drainage scheme would be provided to be submitted for SAB approval.

Technical, Community and Political Engagement

The pre-application engagement strategy will be developed in accordance with the Planning (Wales) Act 2015 and the Welsh Government: *Pre-Application Community Consultation: Best Practice Guidance.* Major development projects are required to undertake statutory pre-application consultation under the Act.

The consultation will be supported by a full draft of the application and supporting documents and will comprise a 28-day consultation of the documents. Stakeholders will be identified and letters and statutory notices served on Community Consultees and Specialist Consultees.

A Pre-Application Consultation Report (PAC Report) will be provided as part of the suite of application documents. Given the remoteness of the Site, it is not intended in this case to hold any exhibitions or undertake wider consultation that that required statutorily.

Matters to cover in Council Pre-Application Response

Considering the above, I would appreciate responses to the following:

1. The Officers view on the in-principal acceptability of the proposed development.
2. The Officers view on the proposed suggested scope of the planning application.
3. The Officers preliminary view on EIA (subject to formal screening).
4. The Officers view on the proposed approach to ASA.
5. The Officers view on the proposed approach to WNA.
6. Advice in respect of the planning determination process.
7. Identification of any site-specific environmental constraints or issues.
8. Consideration of any policies that are considered of particular importance.

9. Identification of any other material considerations that may weigh against and policy presumption in support of the application.
10. Pre-application consultation advice.
11. Outline timescales and approach to the Council determination process.
12. Any other local issues that the Council think the applicant needs to be aware of.

I trust the above is self-explanatory, and I look forward to receiving your formal pre-application response. In the meantime, should you have any questions or require any clarification, please do not hesitate to contact me.

Yours sincerely



David Adams

Director on behalf of Axis

CC: Jon Woodhall, Planning Manager, Veolia UK