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Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr

Bridgend County Borough Council



Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB / Civic Offices, Angel Street, Bridgend, CF31 4WB

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Rhowch wybod i ni os mai Cymraeg yw eich
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Annwyl Cyngorydd,

Cyfarwyddiaeth y Prif Weithredwr / Chief Executive's Directorate

Deialu uniongyrchol / Direct line /: 01656 643148 / 643147 / 643694

Gofynnwch am / Ask for: Democratic Services/ Gwasanaethau Democrataidd

Ein cyf / Our ref:

Eich cyf / Your ref:

Dyddiad/Date: Dydd Mawrth, 26 Medi 2023

CYFARFOD ARBENNIG PWYLLGOR CRAFFU TESTUN 3

Cynhelir Cyfarfod Arbennig Pwyllgor Craffu Testun 3 Hybrid trwy Siambr y Cyngor, Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont ar Ogwr / o bell Trwy Timau Microsoft ar **Dydd Llun, 2 Hydref 2023 am 16:00**.

AGENDA

1. Ymddiheuriadau am absenoldeb
Derbyn ymddiheuriadau am absenoldeb gan Aelodau.
2. Datganiadau o fuddiant
Derbyn datganiadau o ddiddordeb personol a rhagfarnol (os o gwbl) gan Aelodau / Swyddogion yn unol â darpariaethau'r Cod Ymddygiad Aelodau a fabwysiadwyd gan y Cyngor o 1 Medi 2008.
3. Galw Penderfyniad y Cabinet i mewn: Adolygiad Porth Prosiect HyBont 3 - 26

Gwahoddwyr:

Cyngorydd John Spanswick - Aelod Cabinet dros y Newid yn yr Hinsawdd a'r Amgylchedd - y Cyngorydd

Janine Nightingale - Cyfarwyddwr Corfforaethol, Cymunedau
Carys Lord - Pennaeth Cyllid, Perfformiad a Newid

Nodyn: Bydd hwn yn gyfarfod Hybrid a bydd Aelodau a Swyddogion mynychu trwy Siambr y Cyngor, Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont ar Ogwr / o bell Trwy Timau Microsoft. Bydd y cyfarfod cael ei recordio i'w drosglwyddo drwy wefan y Cyngor. Os oes gennych unrhyw gwestiwn am hyn, cysylltwch â cabinet_committee@bridgend.gov.uk neu ffoniwch 01656 643148 / 643694 / 643513 / .643696

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Yn ddiffuant

K Watson

Prif Swyddog, Gwasanaethau Cyfreithiol a Rheoleiddio, AD a Pholisi Corfforaethol

Dosbarthiad:

Cynghorwyr

S J Bletsoe

N Clarke

C Davies

P Davies

Cynghorwyr

M J Evans

P W Jenkins

MJ Kearn

W J Kendall

Cynghorwyr

J E Pratt

G Walter

I Williams

MJ Williams

Meeting of:	EXTRAORDINARY SUBJECT OVERVIEW AND SCRUTINY COMMITTEE 3
Date of Meeting:	2 OCTOBER 2023
Report Title:	CALL-IN OF CABINET DECISION: HYBONT PROJECT GATEWAY REVIEW
Report Owner / Corporate Director:	CHIEF OFFICER – LEGAL & REGULATORY SERVICES, HR & CORPORATE POLICY
Responsible Officer:	MERYL LAWRENCE SENIOR DEMOCRATIC SERVICES OFFICER - SCRUTINY
Policy Framework and Procedure Rules:	The work of the Overview & Scrutiny Committees relates to the review and development of plans, policy or strategy that form part of the Council’s Policy Framework and consideration of plans, policy or strategy relating to the power to promote or improve economic, social or environmental wellbeing in the County Borough of Bridgend. Any change to the structure of the Scrutiny Committees and the procedures relating to them would require the Bridgend County Borough Council Constitution to be updated.
Executive Summary:	<p>A Call-In Notice has been received and, following consultation with the Scrutiny Chairs, an Extraordinary meeting of Subject Overview and Scrutiny Committee (SOSC) 3 has been arranged to consider the Call In of the decision of Cabinet on 19 September 2023 in relation to HyBont Project Gateway review.</p> <p>The role of the Committee within the Call-In process is to consider the proposed decision taken by Cabinet including the reasons for the decision, factors taken into account by Cabinet when making the decision and whether the decision is in line with corporate priorities and policies.</p> <p>Following consideration of the decision, the Committee may recommend that the decision be reconsidered by the Cabinet, setting out in writing the nature of its concerns. If referred to the Cabinet, it must be reconsidered by Cabinet within a further seven clear working days, amending the decision or not, before</p>

	<p>adopting a final decision.</p> <p>If the Committee does not refer the matter back to the Cabinet, the decision may be determined on the date of the Overview and Scrutiny Committee meeting.</p>
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1. Purpose of Report

1.1 The purpose of this report is to enable the Committee to consider the decision of Cabinet of 19 September 2023 in relation to the HyBont Project Gateway Review.

2. Background

2.1 In accordance with Section 7.23 of the Council’s Constitution, which states that three Members of an Overview and Scrutiny Committee, and a Scrutiny Chair, are needed for a decision to be called in, a Notice of Call-In has been received from 4 Members and a Chair, requesting that the Executive decision made by Cabinet on the 19 September 2023 be Called-In.

2.2 For the purposes of informing the Committee more fully regarding the reasons for Call-In, the following appendices have been attached:

- **Appendix A** – Cabinet Decision Record of 19 September 2023;
- **Appendix B** – Notice of Call-In Form;
- **Appendix C** – Report of the Corporate Director - Communities: HyBont Project Gateway Review on 19 September 2023.

3. Current situation / proposal

3.1 The role of Councillors exercising Overview and Scrutiny is, amongst other things, to ensure that the development of the Council’s policies and the way they are being implemented reflect the needs and priorities of local Communities in the County Borough. As such, in holding to account the Cabinet for the efficient exercise of the executive function, the Overview & Scrutiny process aims to strengthen accountability for the decisions and performance of Bridgend County Borough Council.

3.2 Four Members of Overview and Scrutiny Committees and one Scrutiny Chair have requested to Call-In the Cabinet decision of 19 September 2023.

3.3 The role of the Committee within the Call-In process is to consider the proposed decision taken by Cabinet including the reasons for the decision, factors taken into account by Cabinet when making the decision and whether the decision is in line with corporate priorities and policies. Details as to the reasons for Call-In are provided in the notice of Call-In at **Appendix B**.

3.4 Following consideration of the decision, the Committee may recommend that the decision be reconsidered by the Cabinet, setting out in writing the nature of its concerns. If referred to the Cabinet, it must be reconsidered by Cabinet within a further seven clear working days, amending the decision or not, before adopting

a final decision. If the Committee does not refer the matter back to the Cabinet, the decision may be determined on the date of the Overview and Scrutiny Committee meeting.

4. Equality implications (including Socio-economic Duty and Welsh Language)

4.1 The equality implications are outlined in Section 6 of the Cabinet report attached as **Appendix C**.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

5.1 An assessment under the Well-being of Future Generations (Wales) Act 2015 has been made and is outlined in Section 5 of the Cabinet report attached at **Appendix C**.

6. Climate Change Implications

6.1 The Climate Change Implications are outlined in Section 6 of the Cabinet report attached as **Appendix C**.

7. Safeguarding and Corporate Parent Implications

7.1 There are no safeguarding or corporate parent implications arising from this report.

8. Financial Implications

8.1 The financial implications are outlined in Section 8 of the Cabinet report attached as **Appendix C**.

9. Recommendation

9.1 The Committee is asked to consider the Cabinet decision of 19 September 2023 relating to HyBont Project Gateway Review and to determine whether it wishes to either:

a) refer the decision back to Cabinet for reconsideration;

Or:

b) decide not to refer the matter back to the Cabinet.

Background documents

None.

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DECISION RECORD OF A MEETING OF THE CABINET HELD HYBRID IN THE COUNCIL CHAMBER CIVIC OFFICES, ANGEL STREET, BRIDGEND, CF31 4WB / REMOTELY VIA MICROSOFT TEAMS ON TUESDAY, 19 SEPTEMBER 2023 AT 14:30

Present

Councillor H David – Chairperson

R Goode
JP Blundell

J Gebbie
J Spanswick

N Farr

H Williams

Officers:

Mark Shephard
Kelly Watson
Carys Lord
Janine Nightingale
Lindsay Harvey
Michael Pitman
Stephen Griffiths
Michelle Hatcher
Becca Avci
Paul Miles

Chief Executive
Chief Officer Legal and Regulatory Services, HR and Corporate Policy
Chief Officer Finance Performance and Change
Corporate Director Communities
Corporate Director Education and Family Support
Technical Support Officer – Democratic Services
Democratic Services Officer
Group Manager Learner Support

Group Manager HR and OD

Title of Report	Approval of Minutes
Decision Made	<u>RESOLVED:</u> That the minutes of the 18/07/2023 be approved as a true and accurate record.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	A 3 Year Sustainability Plan to improve outcomes for Children and Families Services in Bridgend
Decision Made	<p><u>RESOLVED:</u> That Cabinet:</p> <ul style="list-style-type: none"> • Approve 'Think Family', the 3 year sustainability plan for children and families in Bridgend. • Agreed that the budget virement of £1m to social services be submitted to Council for approval in accordance with the Council's Financial Procedure Rules; • Noted the additional use of £2.5m EMR's in the current financial year to support the service as detailed in the report.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	Cllr J Spanswick – Prejudicial Interest

Title of Report	Social Services and Wellbeing Directorate Policies - the European Union Settlement Scheme
Decision Made	<u>RESOLVED:</u> That Cabinet consider and approve the new policy for the European Union Settlement Scheme as attached as Appendix 1.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Hybont Project Gateway Review
Decision Made	<p><u>RESOLVED:</u> that Cabinet:</p> <ol style="list-style-type: none"> 1. Noted this report and the detailed work undertaken to date on this project.

	<ol style="list-style-type: none"> 2. Agreed to pursue Option B and withdraw from the project at this stage, due to the Council's inability to meet the significant financial commitments required and the timescales of the project. However, it is also recommended that the Council has a dialogue with partners, including Welsh Government and for them to identify an alternative route forward with MEL. 3. Delegated authority to the Corporate Director – Communities, in consultation with the Section 151 Officer and Monitoring Officer, to give notice to MEL of the intention to withdraw from the Memorandum of Understanding dated 8th July 2022.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Shared Regulatory Services Annual Report 2022-23
Decision Made	<u>RESOLVED</u> : Noted the Shared Regulatory Services Annual Report for 2022-23
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Local Air Quality Management Annual progress report 2023
Decision Made	<p><u>RESOLVED</u>: That Cabinet</p> <ul style="list-style-type: none"> • Noted the results of air quality monitoring gathered in 2022 and approve the 2023 Annual Progress Report (attached as Appendix 1) for submission as a final version to Welsh Government by 31st December 2023. • Noted the progress made in developing the Air Quality Action Plan for Park Street and that a

	separate Cabinet report to approve the final AQAP will be brought to Cabinet in due course.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Strategic Workforce Plan
Decision Made	<p><u>RESOLVED:</u> that Cabinet:-</p> <ol style="list-style-type: none"> 1) Noted the work undertaken to develop the Strategic Workforce Plan, in particular the engagement outlined at paragraph 3.5 2) Approved the Strategic Workforce Plan attached at Appendix 1 and notes the ongoing work needed to develop delivery plans.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Information Report for Noting
Decision Made	<u>RESOLVED:</u> That Cabinet acknowledged the publication of the report referred to in paragraph 3.1 of the report.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Relationship Building Together Project (RBT)
Decision Made	<p><u>RESOLVED:</u> That Cabinet:</p> <p>Noted the content of the report;</p> <p>Delegated authority to the Corporate Director Education and Family Support to approve the final terms of the service level agreement (SLA) in consultation with the Chief Finance Officer and the Chief Officer – Legal and Regulatory Services, HR and Corporate; and</p> <p>Authorised the Corporate Director Education and Family Support to execute the SLA once in final form on behalf of the Council.</p>
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Appointment of Local Authority Governors
Decision Made	<u>RESOLVED:</u> That Cabinet approved the appointments detailed at paragraphs 3.1 and 3.4.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	<p>Cllr N Farr – Personal Interest – School Governor</p> <p>Cllr J Gebbie – Personal Interest - School Governor</p> <p>Cllr JP Blundell – Personal Interest - School Governor</p>

Title of Report	School Modernisation Programme - Coety Primary School - Outcome of Statutory Notice
Decision Made	<p><u>RESOLVED:</u> That Cabinet</p> <ul style="list-style-type: none"> note the outcome of the published statutory notice to make a regulated alteration to enlarge Coety

	<p>Primary School to a 2.5 form-entry school;</p> <ul style="list-style-type: none"> • determine whether to implement the proposal; • give approval to publish the objection report; and • give approval to issue and publish a decision letter, as required by the Code.
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	School Attendance Enforcement Policy and Fixed Penalty Notices for Unauthorised absence - Code of Conduct
Decision Made	<p><u>RESOLVED:</u> That Cabinet:</p> <ul style="list-style-type: none"> • Approved the School Attendance Enforcement Policy; and • Approved the FPNs for unauthorised absence from school (Code of Conduct).
Date Decision Made	19 September 2023
Personal or Prejudicial Interests Disclosed	None

Title of Report	Welsh in Education Strategic Plan (2022-2032)
Decision Made	<u>RESOLVED:</u> That Cabinet noted the progress made and provided any feedback as necessary.
Date Decision Made	19 September 2023

Personal or Prejudicial Interests Disclosed	None

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Notice of 'Call-In'

Committee: Overview & Scrutiny Committee

1. Decision Subject To Call-In:

Title: Details inc date

Hybont Project Gateway Review – 19th September 2023

2. Member(s) of the Committee Wishing to Call the Decision In

Name
Cllr Ian Spiller
Cllr Ian Williams
Cllr Freya Bletsoe – Chair Scrutiny Committee 2
Cllr Tim Thomas, Cllr Martin Williams.

3. Reasons for the Call-In

Various reasons as listed below:

- The report presented to cabinet did not contain sufficient information for Cabinet to make a fully informed decision nor did they seek additional information through questioning.
 - There was no questioning of officers. Cabinet members simply stated their support of the officer recommendation. This suggests predetermination and a failure to consider the report with an open mind. There was no evidence of critical questioning to support the decision making.
 - The financial information was incomplete and confused. While an indication of future revenue and capital costs was provided there was no indication of the anticipated return on the investment or how this differed from the anticipated ROI at the time of the signing of the MOU. Given this lack of information it was impossible for the cabinet to make an informed decision as to whether this project represents a sound investment or not. In addition to this, the capital expenditure provided was confused and conflated future fleet replacement costs with project costs. Given that at some future point the RCV fleet will require replacement in any event these costs should be considered separately.
 - There was no questioning or information provided as to the basis for signing the MOU in the first place. Given that the report now suggests that the full costs were unknown at that time it is reasonable to expect the cabinet to have questioned why the MOU was signed in the absence of such critical information. There was also no explanation as to why the costs have changed so considerably or what discussions have taken place on this matter since the MOU was signed.
 - In addition to the apparent change costs the Director referred to the nature of the demonstrator project and highlighted that the hydrogen production technology was existing technology, but it was demand driven control

software that was being tested to justify the 'demonstrator' description. This has not been highlighted prior to this cabinet paper. On face value it isn't credible to construct a new plant to test this technology rather than use other methods such as an existing facility. Cabinet members should have questioned this.

- Although carbon saving was referenced in the paper there was no indication as to how reliant BCBC's net zero 2030 strategy is on this project. For example, as a percentage what impact will be lost if this scheme doesn't proceed? Moreover, if the scheme proceeds without BCBC will the authority still be able to 'claim' the carbon benefit?
- The decision has supposedly been made on financial grounds; however, this is in direct contradiction to BCBC's Net Zero 2030 strategy. Cabinet members made statements indicating that they had higher priorities than achievement of Net Zero. The Bridgend 2030 Net Zero Carbon Strategy states that there is a 'climate emergency' and ensures that achievement of Net Zero is a consideration in all decisions at all levels. There is insufficient evidence that adherence to the Net Zero strategy was properly considered. Is there a risk of judicial review on these grounds?
- In light of the above the methodology for making value judgements regarding costs v carbon reduction need to be scrutinised.
- The report makes reference to BCBC taking a 'small stake' in the 'JVCo' in return for land. The size of the stake is not given nor is the location and area of land. The market value of the land was also not provided. No questions were asked about this. More importantly, no information was provided nor sought regarding the current title of the land or what will happen to it if BCBC pull out of the project. The decision was clear in that the Cabinet *agreed to pursue Option B and withdraw from the project at this stage*. This implies that the land contribution will also be withdrawn. There was reference to the ongoing planning application, but no questions were asked about how the project will proceed without BCBC's land contribution.
- The costs to date both expended and committed were referenced but there was no discussion or questioning about whether the money could be recovered or whether the committed sums needed to be paid. There was no discussion whether money could be recovered by selling the stake to another party or indeed seeking investment from neighbouring authorities or others.
- In summary, the cabinet failed to challenge the assumptions made in the paper or question the obvious omissions and contradictions. There was no consideration of alternative options in either the paper or the cabinet's deliberations. There was insufficient financial information to make an informed decision as to whether the project still represents a good return on investment. The land issues were not addressed. There was no discussion of how money spent to date could be recovered or whether alternative funding could be sought. The decision contradicts the councils Net Zero 2030 strategy in that financial considerations were given greater weight than carbon reduction to counter the 'climate emergency'.
- The decision has not been properly considered and requires further scrutiny.

4. Date of Call-In: 22nd September 2023

Meeting of:	CABINET
Date of Meeting:	19 SEPTEMBER 2023
Report Title:	HYBONT PROJECT GATEWAY REVIEW
Report Owner / Corporate Director:	CORPORATE DIRECTOR COMMUNITIES
Responsible Officer:	ZAK SHELL HEAD OF OPERATIONS - COMMUNITY SERVICES
Policy Framework and Procedure Rules:	There are no implications for policy framework or procedure rules, resulting from this report.
Executive Summary:	This report summarises the current position of the HyBont project and sets out the next steps required to continue project development. Significant financial resources, both capital and revenue, are required in the current and future financial years to complete due diligence activities and produce a business case to enable BCBC to assess that the project is viable and will deliver the benefits identified. The report sets out a recommendation as to the future direction of the project that the Cabinet may wish to consider.

1. Purpose of Report

- 1.1 The report will provide a review on the HyBont Project to date and ask Cabinet to determine the way forward. It outlines what are currently considered to be the next steps and estimated associated costs if Cabinet agree for the Council to continue in its current role in the project.
- 1.2 This report does not include a full risk analysis, as this would require further due diligence and legal advice. Therefore, at this stage the review only relates to the financial implications of continuing with the project.

2. Background

- 2.1 In 2021 Welsh Government were approached by the Japanese Consortium Marubeni, global specialist in renewables and hydrogen projects, to ask if they were interested in an investment opportunity for a Hydrogen Demonstrator Project in Wales. Welsh Government then asked BCBC if they would consider being part of the implementation of this project. The Japanese Government's New Energy and Industrial Technology Development Organisation (NEDO) has pledged £13m to co-

fund Hydrogen Power Demonstrator Projects with the Marubeni Corporation in the UK. The key to this project was the supply of Green Hydrogen power for heat and transportation using green energy sources.

- 2.2 Whilst the project was classed as a demonstrator, it was not demonstrating the hydrogen production itself, i.e. using an electrolyser to produce hydrogen. This is not new technology and is currently being used across 16 other locations in the UK, in addition to a wide application in Europe and Worldwide. Examples of hydrogen production and uses already in existence in the UK including Aberdeen City Council and their bus fleet, Wright Bus in Northern Ireland. Also, HydroFLEX in Birmingham, which is a ground breaking partnership between the University of Birmingham and Porterbrook which is supported by a £750,000 grant from UK Government. This is to develop a hydrogen powered application to retrofit from 2023 into current in service diesel trains, to help decarbonise the rail network. With the Hybont project the demonstrator component is the software that is planned to be used. Put simply, this will work to assess demand for hydrogen and match it to the times when it is cheapest to produce, so both lowering the costs of production and reducing waste and making the process more efficient. This is what is being funded for demonstration via the proposed Hybont Project and not the production of the hydrogen or its application.
- 2.3 The technical solution proposed by Marubeni Europower Ltd (MEL) for Hybont comprises a hydrogen production facility with electrolysers that generate hydrogen from electrical power, by splitting water, hydrogen storage, and a hydrogen refuelling station at Brynmenyn Industrial Estate. Hydrogen is intended to be supplied for transport users (Refuse Collection Vehicles (RCVs), buses and light vehicles) at the Brynmenyn site refuelling station, and for heat users at the Ynysawdre Heat Cluster (secondary, primary school, and leisure centre) through a *circa* 1.2km hydrogen pipeline. Power will be provided, in part, by direct connection to a 5.5MWp solar PV farm at St Brides Minor, Bryncethin, on land adjacent to the BCBC Highways Depot. Figure 1 shows the location of these sites and infrastructure.

Figure 1 HyBont location plan



- 2.4 MEL and BCBC are operating currently under a Memorandum of Understanding (MOU), signed on the 8th of July 2022, that sets out working arrangements and next steps towards completion of a legally binding Joint Development Agreement between the parties. This remains dependent upon Cabinet, Section 151 Officer and Monitoring Officer agreement to the procurement exemptions being developed by BCBC external legal advisors, Blake Morgan. Cardiff Capital Region (CCR) is also involved as a potential share holder in the operational project.
- 2.5 In March 2023, the Department for Energy Security and Net Zero (DESNZ) notified MEL that the bid for the low carbon hydrogen Net Zero Hydrogen Business Case (NZHBC) fund to request a subsidy to support non-transport hydrogen uses (e.g. heat) in the business case, had successfully reached the final stage of funding assessment. Notification of funding award will be in the last quarter of 2023 and this will enable the generation of hydrogen to supply the potential heat network at cost parity with the lowest cost zero carbon heating counterfactual.
- 2.6 Due diligence contractors (except for BCBC legal advisors) have been engaged by CCR, with Ove Arup appointed to complete the Engineering, Procurement, and Construction (EPC) Contract technical review and ongoing technical due diligence. There are some due diligence activities that cannot be shared with CCR and will need to be directly commissioned by BCBC, as this is to protect the Council's best interests.
- 2.7 MEL has submitted a formal planning application for the hydrogen production facility at Brynmenyn Industrial Estate and the Solar PV farm at Bryncethin site (P/23/218/FUL). This planning application can only determine if the proposed land use is appropriate for the location and nothing further. All matters of site safety and operation will be subject to a Control of Hazardous Substances Licence application, which is a separate statutory process. BCBC are the Local Planning Authority (LPA) and planning officers are currently assessing the application as submitted. Welsh Government had reserved the right to call in the planning application, subject to seeing the LPA's planning officers report and recommendations. A Development Control Committee date cannot be set until that process has been undertaken with Welsh Government. To date, the Control of Hazardous Substances Licence has not been submitted by MEL. Whilst it is for BCBC to grant that licence through its Development Control Committee, it may only do so upon completion of consultation with statutory regulators including Natural Resources Wales and the Health and Safety Executive. It is only if they deem the licence application appropriate can the Development Control Committee consider granting the licence.
- 2.8 The proposed ownership structure of the HyBont project is to form a Special Purpose Vehicle (SPV), in the form of a Joint Venture Company (JVCo) to deliver and operate the Hydrogen Demonstrator. In this scenario BCBC would take a small stake in the JVCo as a shareholder, the Council's contribution being the supply of land. The Council would then also be a customer via the purchase of hydrogen through offtake agreements.
- 2.9 Any commercial model will need to undergo financial due diligence and specialist commercial advisors will be required. As a direct co-investor, CCR are considering the same and a joint contractor is being considered for this work.

3. Current situation / proposal

- 3.1 The Council is not the developer for this project, Marubeni Europower Limited (MEL) is, and as such it is MEL's responsibility to take forward the planning application, detailed design and project financing. BCBC would be a customer, with offtake agreements in place for hydrogen to fuel Refuse Collection Vehicles and the potential heat network and could also be a shareholder in the JVCo. Therefore, the Council needs to undertake an appropriate level of due diligence before being able to sign the required commercial agreements. Technical due diligence is required to verify that the solution designed by MEL is effective, deliverable, and will produce the benefits proposed.
- 3.2 BCBC does not have a core budget to support the development of this project. To date any funding required has been identified either through grants as/when they have become available, or Communities Directorate in-year underspend, or via an allocation for Net Zero Carbon Projects. Given the size, scale and potential significance of the project this is an ongoing risk for BCBC and the current project timetable. That is why it is imperative that a review is undertaken at this stage to recognise the financial commitment to BCBC of continuing the project.
- 3.3 Legal work has been undertaken to progress draft versions of the following legal agreements, none of which have been finalised or executed:
- **Joint Development Agreement** – between BCBC and MEL, to demonstrate the Parties' wish to work together and commitment to undertake their respective ongoing due diligence in relation to the delivery of the HyBont Project. As such, the Joint Development Agreement sets out the proposed organisational and governance arrangements as well as the Parties' aim and direction of travel in respect of the HyBont Project.
 - **Hydrogen Supply Agreement** – between BCBC and JVCo to set out the terms and conditions for the sale and purchase of hydrogen from the green hydrogen production facility, to power a fleet of refuse collection vehicles and to be used for the proposed heat network.
 - **Share Holders Agreement** – between BCBC, MEL, and CCR to form an SPV to deliver and operate the HyBont plant.
- 3.4 BCBC was awarded grant funding by the Heat Network Development Unit to develop the Detailed Project Design (DPD) which is ongoing and will assess the viability of the heat network concept and produce an Outline Business Case (OBC). This will enable BCBC to decide whether to submit a planning application and applications for other necessary consents, and to complete the commercialisation activities needed to appoint a contractor to construct the heat network.
- 3.5 In-vehicle monitoring of the Refuse Collection Vehicle (RCV) routes was conducted in August 2022 and analysis of the data collected showed that five routes could not be serviced by battery electric vehicles and would therefore be suited to hydrogen fuel cell vehicles. Further technical work is required to develop the business and commercial case to fully understand which type of Ultra Low Emission Vehicles

(ULEV) will be the most effective long-term solution for the authority. Further examination of the developing electric recycling vehicle solutions is required, along with analysis of the impact of varying travelling distance to waste disposal points with the RCVs.

- 3.6 At this time there is no dedicated project management for this project. If the project continues a project manager will need to be recruited or commissioned which will create a pause in delivery and impact continuity.
- 3.7 Marubeni has devised their work programme with assistance from advisors and this has been funded via grants from WG (HyBRID). This has enabled them to continue with technical feasibility (site investigations and planning). After notification of the DESNZ NZHBC fund for the operational subsidy in March 2023 clarifications will take place until Autumn 2023, with final decision by DESNZ by December 2023.
- 3.8 The table below outlines the work that has been completed to date as well as the work that is needed in the coming months for the project to continue in line with its current programme. Without the funding to undertake future milestones, BCBC will need to discuss the current project partner arrangements with all stakeholders and advise that an alternative model of delivery is required, should the overall project continue. The same would be required if a lengthy period is required for BCBC to secure resources for the milestones.

In considering the table 1 below, it is important to note the following:

- The future milestones and their timing are based on information available currently and are subject to change.
- The work involved with the milestones is required to enable BCBC to be better informed in relation to its potential involvement in the project.
- As such, completion of the milestones would enable BCBC to undertake a future gateway review and consider options available at that time relating to any involvement.
- The milestones relate to pre-development activity, not direct delivery of any potential capital phase of the project.

Table 1. Project milestones

Timing	Item	Committed	Source
Ongoing to September 2023	Legal support	Yes	Communities Directorate
September 2023-January 2024	Heat network DPD	Yes	Communities Directorate & Grant
Ongoing to September 2023	Project management	Yes	Communities Directorate
September 2023-July 2025	Project management	No	Unknown
September 2023-July 2025	Legal support	No	Unknown
October 2023-March 2024	Commercial Due Diligence	No	Unknown
October 2023-March 2024	Technical Due Diligence	No	Unknown

October 2023- March 2024	Refuse fleet analysis	No	Unknown
October 2023- March 2024	Business case preparation	No	Unknown
March 2024-July 2025	Heat network consenting and commercialisation	No	Unknown

- 3.9 The timing of the milestones relates to a decision by BCBC about whether to enter into any proposed Hydrogen Supply Agreements in early 2024. It was proposed to address Cabinet at this point when business cases and the commercial case could be finalised. This currently aligns with CCR's decision making timeframe and the overall project timetable.
- 3.10 What is clear at this point is that this innovative project does have benefits in terms of carbon savings and will contribute to our 2030 net Zero Carbon Agenda. These are detailed in section 6 below. However, when BCBC were approached by Welsh Government in 2021, to ask if we were interested in an investment opportunity for a Hydrogen Demonstrator Project in Wales, it was not clear at that point the substantial revenue and capital implications, that would need to be invested by BCBC, and that are now known. The reliance on external funding and grant sources to assist with the project was also a financial risk that was set out in a Cabinet Report in July 2022. Therefore, to continue the project as proposed equity shareholders and to undertake the necessary due diligence and project management, is now estimated to cost an additional £525,000 over and above the revenue funding that has already been committed. There will also be significant capital implications, not only to fund new hydrogen RCVs, but to install any proposed heat network. These are set out in detail in section 8 below.
- 3.11 So at this critical point in the project, Cabinet is asked to decide on the way forward, taking into account the potential benefits that could be derived from the project, set against the funding required and the challenging Medium Term Financial Strategy (MTFS) budget situation that the Council is now facing.
- 3.12 Taking account of all the information above, the options for consideration at this stage are as follows:

Option A – that Cabinet agrees to identify the necessary financial resources required, as set out in detail in section 8, that the Council continues to work with all key stakeholders, including MEL, CCR and Welsh Government and continues to undertake due diligence activities on the project until the next proposed Gateway Review.

Option B - that, due to the challenging budget and MTFS issues, Cabinet makes the decision for BCBC to withdraw its involvement in the project, due to its inability to meet the significant financial commitments required and the timescales of the project. However, that dialogue should continue with partners including MEL, CCR and Welsh Government to identify an alternative route forward.

4. **Equality implications (including Socio-economic Duty and Welsh Language)**

4.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

5. **Well-being of Future Generations implications and connection to Corporate Well-being Objectives**

5.1 The Well-being of Future Generations (Wales) Act 2015 Assessment based on the 5 ways of working and any requisite mitigating measures have been set out below: -

- *Long-term:* The proposed Hybont project was intended to test a new green hydrogen technology for delivering net zero carbon energy and heat, as a key part of the Council's 2030 Net Zero Carbon Strategy. It is also part of the UK and Welsh Government vision for a hydrogen energy economy and would contribute to the Government target of producing 5GW of hydrogen by 2030. The project can still contribute to this national agenda.
- *Prevention:* The project would deliver carbon footprint reductions, preventing further harm to the environment and protecting the environment for future generations. The 2030 strategy will now be reviewed to assess the impact of this decision.
- *Integration:* The project would enable a switch of Refuse Collection Vehicles to an ultra-low emission source of energy, i.e., green hydrogen. This could ensure that future waste services and their implementation integrates with current and future 2030 Net Zero Carbon Targets of the Council and its environmental objectives.
- *Collaboration:* The project would be undertaken through a partnership approach between BCBC, CCR, Welsh Government and partners at Marubeni and Japanese Government, through its NEDO funding stream. It is now intended that the project will be reshaped, and future options assessed of BCBC can no longer be involved.
- *Involvement:* The long-term future direction of the project will be dependent on the continued collaboration of Welsh Government and CCR with MEL, now that BCBC can no longer be involved.

6. **Climate Change Implications**

6.1 There is no doubt that the project will contribute to a carbon saving and our 2030 Net Zero Carbon Agenda, however it is the magnitude of that benefit that must be understood. The feasibility work carried out to date suggest the proposed heat network would result in carbon savings of 9,541 tCO_{2e} over the 40-year life of the heat network element of the project (circa 238 tCO_{2e} a year) essentially removing almost 100% of emissions associated with heating the three buildings supplied. Assuming a capital cost of £4.0m, this is a cost of £419 per tonne of carbon saved. Exact figures for the decarbonisation of the waste fleet are not available at this time as the due diligence has not been completed. The overall carbon footprint for BCBC

in 2021/22 was 83,914 tCO₂e and carbon footprint figures for 2022/23 are currently being finalised.

- 6.2 MEL estimate that the proposed Hydrogen Production Facility will displace approximately 5,087 tCO₂e per annum, and 127,161 tCO₂e over the facility's lifetime as a total, overall, carbon reduction impact within Wales.

7. Safeguarding and Corporate Parent Implications

- 7.1 There are no safeguarding or corporate parent implications arising from this report.

8. Financial Implications

- 8.1 To date, over the past two years, BCBC has committed £293,408 on the delivery of specified milestones on the Hybont Project. That is made up of £187,500 on legal support, £62,000 as match funding to the £151,000 HNDU grant to explore the feasibility of the heat network and £43,908 for project Management resource via our Redstart agreement. Actual spend incurred against this commitment to date is £149,552. This is made up of £105,644 on legal support and £43,908 for project management resource.

- 8.2 For BCBC to complete the required forthcoming milestones it is currently considered that a revenue budget in the region of circa £525,000 is required between now and July 2025 (£215,000 in 2023/24 and £310,000 in 2024/25). The breakdown of these estimated revenue costs is shown in Table 2 below. Currently, there is no revenue funding secured to meet these milestones.

Table 2 – Estimated revenue cost

Timing	Item	BCBC cost	Committed	Source
SECURED FUNDING				
Ongoing to December 2023	Legal support	£187,500	Yes	Communities Directorate
September 2023-January 2024	Heat network Detailed Project Design (DPD)	£62,000	Yes	Communities Directorate
Ongoing to September 2023	Project management	£43,908	Yes	Communities Directorate
NON - SECURED FUNDING				
September 2023-July 2025	Project management	£130,000	No	Unknown
September 2023-December 2023	Legal support	£60,000	No	Unknown
October 2023-March 2024	Commercial and Financial DD	£50,000	No	Unknown
October 2023-March 2024	Technical DD	£35,000	No	Unknown
October 2023-March 2024	Refuse fleet analysis	£40,000	No	Unknown
October 2023-March 2024	Business case preparation	£30,000	No	Unknown
March 2024-July 2025	Heat network consenting and commercialisation	£180,000	No	Unknown

- 8.3 Should the project enter the delivery phase, the funding route identified for supplementing the cost of the Hydrogen fuel cell Refuse Collection Vehicles (RCV's) is likely to be from the WG Circular Economy Fund. In this fund WG could contribute towards the additional cost of affording a low emission vehicle such as electric or hydrogen for waste related operations, over the diesel alternative. The costs are currently estimated to be in the region of £1.5m capital from BCBC and £1.5m from WG circular Economy fund, however this will be subject to detailed feasibility and a formal funding application.
- 8.5 Similarly, the capital requirement and funding options for the heat network will be refined in the DPD, however it is currently estimated to be £4.0m-£4.5m. Funding for the heat network is expected to be made up of grant funding from the Welsh Government Low Carbon Heat Grant (an expression of interest has been made), and BCBC capital. There is no capital allocation currently agreed for this work within the Council's Capital Programme. Revenue will also be required following the Outline Business Case to achieve planning consent and commercialisation for the heat network. No external funding opportunities have been identified at this time for this additional work.
- 8.6 It is clear, that set against the backdrop of the Council's current financial situation and budget challenges, the significant resourcing, both revenue (circa 525K) and capital (circa £6m), for this project will be extremely difficult to resolve.

9. Recommendations

9.1.1 It is recommended that Cabinet:

1. Notes this report and the detailed work undertaken to date on this project.
2. Agrees to pursue Option B and withdraw from the project at this stage, due to the Council's inability to meet the significant financial commitments required and the timescales of the project. However, it is also recommended that the Council has a dialogue with partners, including Welsh Government and for them to identify an alternative route forward with MEL.
3. Delegates authority to the Corporate Director – Communities, in consultation with the Section 151 Officer and Monitoring Officer, to give notice to MEL of the intention to withdraw from the Memorandum of Understanding dated 8th July 2022.

Background documents

8th March 2022 Cabinet Paper – Bridgend 2030 Net Zero Carbon Strategy

14th June 2022 Cabinet Paper – Bridgend Net Zero Carbon – Hydrogen Technology Demonstrator

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