Cyfoeth Naturiol Cymru
Natural Resources Wales

Ein cyf/Our ref: CAS-259934-C2L8
Eich cyf/Your ref: P/2024/1064

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Date: 16 July 2024

Dear Sir/Madam,

**PROPOSAL: VARIATION OF CONDITION 1 OF APPEAL DECISION APP/H6955/A/20/3258703 (P/2019/0835) TO EXTEND TIME LIMIT FOR COMENCEMENT OF DEVELOPMENT**

**LOCATION: LAND AT TUPA, PENLEY HALL DRIVE, PENLEY, WREXHAM, LL13 0LU**

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 04 July 2024.

**We have no objection to the variation of condition 1 for the above proposal and provide the following advice.**

**Protected Sites and Foul Drainage**

We note the application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). In line with our *Advice to Planning Authorities for Planning Applications Affecting Nutrient Sensitive River Special Areas of Conservation* (28 June 2024), under the Habitats Regulations, Planning Authorities must consider the impact of proposed developments on water quality within SAC river catchments. We therefore advise you to consider whether the proposals, as submitted, would increase the volume of foul discharge from the site in planning terms.

We note this is a section 73 application to vary condition 1 of planning permission P/2019/0835. As such, even though the development proposed was judged to be acceptable in principle when the original permission was granted, that decision predates the publication of our river SAC Advice. We therefore advise that you will need to consider the implications of this as part of your determination of this application. For further information, please refer to our Advice.

We also advise that your Authority be mindful of the High Court's recent judgment in regard to the Fry case (*C G Fry & Son Ltd v SSHCLG* [2023] EWHC 1622). We understand the implication of the Fry judgement is that where there is an application relating to a condition,

it will need to be ascertained whether there is need for a Habitat Regulations Assessment (HRA) in respect of the wider development, even if the conditions in question do not affect the principle of the development. We suggest you seek your own expert advice on this matter, to properly inform your determination of the application as submitted.

Ultimately, it is for your Authority to consider to what extent the above is a material consideration in the context of the current application. If you determine that NRW's Advice is a material consideration to this s73 application, then you will need to consider the Habitats Regulations and screen the proposal accordingly.

**Other Matters**

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

If you have any queries on the above, please do not hesitate to contact us.

Yours faithfully,

**Ruth Prichard**
Cynghorydd - Cynllunio Datblygu/Advisor - Development Planning
Cyfoeth Naturiol Cymru/Natural Resources Wales

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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi./Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.