Cyfoeth Naturiol Cymru
Natural Resources Wales

Ein cyf/Our ref: CAS-264656-V3C4
Eich cyf/Your ref: P/2024/1387

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 07 October 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: OUTLINE APPLICATION FOR ERECTION OF 33 DWELLINGS (APPEARANCE, LANDSCAPING AND SCALE RESERVED)

LLEOLIAD/LOCATION: LAND AT BETHANIA ROAD, BETHANIA ROAD, ACREFAIR, WREXHAM

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 17 September 2024.

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, further consideration is required regarding foul drainage. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding contaminated land and protected species should be attached to any planning permission granted and the document identified below should be included in the approved plans and documents condition on the decision notice. Without the inclusion of these conditions and document, we would object to this planning application.

Approved document:

- **Preliminary Ecological Appraisal (PEA): Land off Bethania Road, Acrefair. Switch Ecology, 22/08/2024**

Protected Sites

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.

This application for a housing estate proposes connection of foul water to the mains sewer. Ultimately, the suitability of foul drainage arrangements for the proposed development is a matter for your Authority to determine. However, we are satisfied that our concerns can be overcome by your Authority following our Advice specifically the section titled '*What does this mean for development proposals involving connection to public wastewater treatment works?*'

We therefore advise you to take the above into account in your determination of whether the development is likely to have a significant effect on the SAC. Should you determine that an Appropriate Assessment is required, the Applicant will then need to submit whatever evidence they deem appropriate (seeking advice from consultants as may be necessary) to demonstrate no adverse effect on site integrity.

Land Contamination

We note that the development site lies within the former Air Products Social Club landfill site, and therefore has the potential for contamination to be present. Based on the submitted application, we would therefore advise that the conditions below are attached to any planning permission in order to protect controlled waters.

Land affected by contamination

Condition 1: No development or phase of development, shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, have been submitted to and approved in writing by the Local Planning Authority.

1. A preliminary risk assessment which has identified:
    - all previous uses
    - potential contaminants associated with those uses
    - a conceptual model of the site indicating sources, pathways and receptors
    - potentially unacceptable risks arising from contamination at the site

We acknowledge that this part of the condition has already been largely addressed through the submission of the Geo-environmental desk study report (Desktop Geotechnical and Geo-Environmental Site Investigation, Acrefair Sports and Social Club, Bethania Road, Acrefair for Prospect Estates Limited. Eastwood and Partners, 08/07/2021).

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

Justification: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

Contamination verification report

Condition 2: Prior to the occupation of the development, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing by, the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

Justification**:** To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation, to prevent both future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Unsuspected contamination

Condition 3: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Piling

Condition 4: No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Justification: Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

Surface water drainage

Condition 5: No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Justification: To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution.

Protected Species

Bats

We note that the ecological report submitted in support of the above application (Preliminary Ecological Appraisal (PEA): Land off Bethania Road, Acrefair. Switch Ecology, 22/08/2024) has identified that bats are present at the application site. From the information submitted, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document '*Natural Resources Wales Approach to Bats and Planning* (2015)'.

Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats are present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three tests set out in the Regulations (please also refer to Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning). Please note, for the purposes of providing advice at the planning application stage, our comments are limited to the test relating to "*demonstration of no detriment to the maintenance of the favourable conservation status of European protected species*".

As this is a lower risk case for bats, we consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. However, we advise that the proposed development is likely to harm or disturb the bats or their breeding sites and resting places at this site and, therefore, we advise that the below condition should be attached to any planning permission for this scheme:

Condition 6: No development, including site clearance, shall commence until a Site Management Plan has been submitted to and approved in writing by the Local Planning Authority. The provisions of the Management Plan shall include:

1. Species interest (bat species and great crested newt)
2. Management prescriptions
3. Tenure (we advise tenure to accord with the definition of a "responsible" body as defined in Part 7 of the Environment Act 2021)
4. Financial Resources
5. Plan Review

The LPA may also wish to consider Regulation 10 of the Conservation of Habitats and Species Regulations (2017) in respect of additional prescriptions of the suggested management plan.

We also advise that the ecological report is included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted. Please consult us again if any further information shows that this is no longer a lower risk case for bats.

Great Crested Newts

We have reviewed the following information which has been submitted in support of the application (Preliminary Ecological Appraisal (PEA): Land off Bethania Road, Acrefair. Switch Ecology, 22/08/2024)

The information has identified that Great Crested Newts (GCN) are material to the application site. GCN have been recorded in the area and the woodland and grassland provide suitable habitat for GCN.

The proposal has the potential to kill, injure, disturb GCN, or damage or destroy their breeding sites and resting places. GCN and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981. Where GCN are present and a development proposal is likely to contravene the legal protection, they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

i. The development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
ii. There is no satisfactory alternative; and,
iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

To avoid developments with planning permission subsequently not being granted a licence, the Local Planning Authority should take Planning Policy Wales and Technical Advice Note 5 into account when considering development proposals where a European Protected Species is present.

Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the third test "demonstration of no detriment to the maintenance of the favourable conservation status of European protected species". We advise that before any consent is given, as informed by the provisions of Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) the LPA satisfy itself as to whether the scheme satisfies the other two tests, namely a relevant Habitats Regulations purpose and whether there is no satisfactory alternative to the proposal.

Whilst we consider that the above report provides an adequate basis upon which to consider the potential impacts of the scheme on this species, aspects of the proposed scheme will require further development. However, this further information can be provided via a suitably worded condition, included on the decision notice.

We therefore advise that GCN are included in the above Site Management Plan condition to be attached to any planning permission granted.

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.

Yn gywir / Yours faithfully,

Rhys Jones
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.