Ein cyf/Our ref: CAS-265135-Y0L7
Eich cyf/Your ref: P/2024/1401

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 24 October 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: ADEILADU 2 ANNEDD / ERECTION OF 2 DWELLINGS

LLEOLIAD/LOCATION: LAND ADJACENT TO PLUM TREE FARM, ISYCOED, BOWLING BANK, WREXHAM, LL13 9RN

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 25 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, you should seek further information from the applicant regarding foul drainage and protected species. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, a condition regarding protected species should be attached to any planning permission. Without the inclusion of this condition we would object to this planning application.

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 from the information submitted that the development has the potential to increase the amount of nutrients being discharged from the site. As such, we refer you to our Advice and advise you to seek further information from the applicant. We note that information has already been submitted in respect of proposing a connection to the mains public sewer.

However, the Dŵr Cymru / Welsh Water consultation response dated 26/09/2024 states that there are no sewers in the immediate vicinity of the application site. We therefore advise you to seek further information as identified in the sections titled '*What does this mean for development proposals involving connection to public wastewater treatment works'*, *'What does this mean for development proposals involving private sewage treatment systems'* or *'Can additional wastewater be discharged to existing private sewage treatment systems*?' of that Advice.

We 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.

Protected Species

We have reviewed the following report submitted in support of the application:

- Davies, K., May 2024, Preliminary Ecological Appraisal and Roost Assessment, Arbtech

Bats

We note that the submitted ecological report 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)'. However, we advise that the bat report has insufficient information to assess the need for avoidance / mitigation measures.

Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations. 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".

We advise that further information should be submitted to enable an assessment of the extent of adverse effects on the bats and any avoidance or mitigation measures required. This must demonstrate that the proposed development would not be likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Building 1 (B1) is identified as having low suitability for roosting bats while B2 has negligible suitability for roosting bats, with the application site described as having high value habitat for bat foraging . As the proposals will result in the demolition of B1 and B2 the ecological report concludes that one bat emergence/re-entry survey is required to confirm the presence/likely absence of roosting bats in or on B1. We concur that activity surveys are needed before an assessment of impacts on roosting bats can be made.

In the meantime, we are unable to give you any assurance that the proposal would not be likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Great Crested Newt

We have reviewed the ecological report which has been submitted in support of the application.

The information has identified that Great Crested Newts (GCN) are material to the application site.

The report confirms that the site is located with 250m of a pond. Our records indicate that the pond is used for breeding by GCN, with multiple records in the locality. Furthermore, the application site is adjacent to land managed specifically for the long term conservation of GCN.

The proposal has the potential to kill, injure or 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 GCN, 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 the following condition in respect of GCN is included on any permission granted.

Condition: No development or phase of development, including site clearance, shall commence until a Great Crested Newt Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should build upon the principles outlined in the ecology report and include, but not necessarily be limited to:

- Further details concerning mitigation and compensation measures including plans showing the location of newt barrier fencing and measures to ensure working areas are clear of amphibians prior to the commencement of development
- Details of timing, phasing and duration of construction activities and conservation measures
- A timetable for implementation demonstrating that works are aligned with the proposed phasing of the development
- The submission of updated details and plans concerning GCN avoidance and mitigation measures including fence construction and maintenance
- Persons responsible for implementing the works

The Conservation Plan shall be carried out in accordance with the approved details.

Justification: To ensure that GCN are protected by the development.

We also advise that the works are carried out under licence. We refer you to the Chief Planning Officer's letter dated 1 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

Please note that any changes to proposals between planning consent and the licence application may affect the outcome of a licence application.

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,

Rachael Burke
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.