Cyfoeth Naturiol Cymru
Natural Resources Wales

Ein cyf/Our ref: CAS-266688-C1P2
Eich cyf/Your ref: P/2024/1466

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 12 November 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: CAIS AMLINELLOL AR GYFER CODI 1520 ANNEDD (YMDDANGOSIAD, TIRLUNIO, CYNLLYN A GRADDFA) / OUTLINE APPLICATION FOR ERECTION FOR 1520 DWELLINGS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED)

LLEOLIAD/LOCATION: LAND AT LOWER BERSE FARM, RUTHIN ROAD, WREXHAM, LL14 4HP

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 18 October 2024.

We continue to 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 groundwater protection, land contamination and protected sites. 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, conditions regarding protected sites and protected species should be attached to any planning permission granted and the documents identified below should be included in the approved plans and documents condition on the decision notice.

Approved Document: Land at Lower Berse Farm, Wrexham: Environmental Statement, July 2024, Pea Green Ltd

Without the inclusion of these conditions and document we would object to this planning application.

We also advise that further consideration is required regarding foul drainage. Further details are provided below.

Groundwater Protection and Land Contamination

We have read the submitted Phase I Geoenvironmental Site Assessment (e3p, June 2024) and agree with the recommendation that intrusive investigation should be undertaken in order to determine risks to controlled waters. The site has comprised agricultural land use which included the presence of fuel tanks.

The report indicates that tanks were identified on site, but the number/contents are not confirmed. More details on the tanks (underground or above ground, contents and location), and how the tanks will be dealt with for the proposal (e.g. whether they will be removed) should be provided.

In addition to the submission of the information detailed above regarding the tanks, we would advise that you should only grant planning permission for this scheme if the conditions listed below are attached to the planning permission:

Condition 1: No development on the site shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has 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 (this is understood to have largely been completed).

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.

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, 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.

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.

Condition 4**:** 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.

Advice to developers:

1. Follow the risk management framework provided in Land contamination risk management (LCRM) .
2. Refer to 'Land Contamination: a guide for developers (WLGA, 2017) for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Refer to the Environment Agency's (2017) 'Approach to Groundwater Protection'

Protected Sites

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 note from the cover letter dated 23/07/24 that the application has been amended to include the erection of up to 1450 dwellings (instead of 1520 dwellings), community facilities and a site for a primary school and now confirms a proposed 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.

Pollution prevention

A watercourse runs through the development site into the Gwenfro, and ultimately into the Dee; it is hydrologically connected to the River Dee Site of Special Scientific Interest (SSSI), which is part of the River Dee and Bala Lake SAC.

We have concerns that harm from the proposed development on the SAC cannot be ruled out.

This is a large development and therefore pollution to the watercourse that runs through the site could occur through surface run-off generated in the construction phase, pollution from vehicles and machinery on site, and contaminated surface water runoff.

Operationally, there is potential for contamination via the proposed surface water drainage, as detailed in the updated Flood Consequence Assessment and Drainage Strategy (Ref 13840-F, Waterco Ltd, Revision 9 dated August 2024). We advise that only clean, uncontaminated water should be infiltrated to ground / discharged to the watercourse. A detailed surface water drainage strategy should therefore be submitted to the satisfaction of the SuDS Approval Body (SAB).

To secure appropriate mitigation measures, we also advise that the condition set out below should be attached to any planning permission for this development. Provided the development is carried out in accordance with those conditions, we do not consider that it will adversely affect the integrity of the SAC.

Condition 5: No development or phase of development, including site clearance, shall commence until a site wide or phase Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containment areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.

- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- Soil Management: details of topsoil strip, storage and amelioration for re-use. Features required to prevent runoff from these areas such as silt fencing etc. including maintenance, monitoring, management prescriptions as well as the person responsible for their maintenance.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- Persons responsible for monitoring, management and implementation of activities and management prescriptions.

Your Authority as the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended), must, before deciding to give consent for a project which is likely to have a significant effect on a SAC, either alone or in combination with other plans or projects, make an appropriate assessment of the implications of the project for that site in view of its conservation objectives. Your Authority must for the purposes of the assessment consult NRW and have regard to any representations we make within such reasonable time as you specify. In the absence of that assessment, NRW cannot advise that the proposals would not result in an adverse effect upon the SAC.

Protected Species

- Bats

We have reviewed the following updated documents submitted in support of the application:

- Land at Lower Berse Farm, Wrexham: Environmental Statement, July 2024, Pea Green Ltd
- Masterplan Framework, Reference PS9730.001I, Revision I (16/07/24)
- Pritchard, A. (2024). Ecology Technical Note. TEP . (Unpublished Note Ref 8745.015_V2)
- Roberts, L. (2024). Ruthin Road, Wrexham - Favourable Conservation Status Study – Bats. The Environment Partnership (Unpublished Report No 8745.014)

The Favourable Conservation Study addresses our concerns raised previously in relation to the now superseded Environmental Statement (August 2023) not having considered conservation status.

Table 8.7 within the updated ES (July 2024) highlights that there would be negative significant effects locally in relation to potential erosion of bat commuting corridors through the site and through lighting disturbance. Sections 8.7.25 – 8.7.32 consider mitigation for this through the provision of buffer zones around trees, roost replacement boxes and discusses a Sensitive Lighting Strategy.

We broadly concur with this approach and advise that the updated ES is included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

In addition to the inclusion of the updated ES in the approved list of plans / documents condition, we also advise that the following conditions should be included within the decision notice should consent for the project be granted.

Condition 6: Prior to commencement of the development, a management, monitoring and wardening plan in relation to the ecological corridors shall be submitted to and agreed in writing by the Local Planning Authority. Details shall include:

a. Aims and objectives;
b. Identification of site features;
c. Management prescriptions;
d. Monitoring methodologies, prescriptions and reporting requirements;
e. Tenure;
f. Financial resources; and
g. Biosecurity

Condition 7: Prior to commencement of development, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. This scheme shall consider existing and proposed lighting together with any spillage originating from internal locations. Details shall include:

- An assessment of lighting in respect of wildlife interests of the site, notably bats
- Details of the siting and type of external lighting during and post development. This shall include plans illustrating the location and type of lighting together with Isolux drawings
- Details to demonstrate that light spillage will not affect wildlife sensitive areas. This shall include plans illustrating retained or proposed features planned to be functionally used by bats for foraging/dispersal purposes
- Measures to monitor light spillage once development is operational (post construction light monitoring)

Provisions of the scheme shall accord with the provisions of the Institution of Lighting: Guidance Note 08/23: Bats and Artificial Lighting at Night

Lighting shall accord entirely with the details so approved for the duration of the construction and operation of the development.

Justification: To protect the wildlife and the ecological interests of the site including protected species.

We would welcome tenure of blue and/or green infrastructure being transferred to a body that accords with the definition of "responsible" under Part 7 of the Environment Act 2021.

- Great Crested Newt

We note the survey and assessment carried out to inform the planning decision making process. We consider the survey and assessments accord with published guidance,

including those concerning eDNA on NRW's website. In the absence of any other relevant information, we concur with the survey and assessment in respect of GCN.

- *Otter*

We note and concur with observations in respect of otter in sections 8.4.76 – 8.4.77 of the updated ES.

- *Water Vole*

We note and concur with observations in respect of water vole in sections 8.4.78 – 8.4.80 of the updated ES.

- *Mitigation*

We note from section 8.7 (Mitigation and Monitoring) of the updated ES that a Construction Environmental Management Plan (see Condition 1 above), Landscape and Ecological Management Plan and a Sensitive Lighting Strategy are to be compiled. We agree with this approach and will provide further comments upon submission of these plans/strategy when formally consulted.

Flood Risk

The planning application proposes highly vulnerable development (residential). Our Flood Risk Map confirms the site to be partially within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls partially into Flood Zones 2 and 3 (Rivers).

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2.

Notwithstanding previous policy advice, we have reviewed the updated Flood Consequences Assessment (FCA) and Drainage Strategy (Reference: 13840-F, Waterco Ltd, Revision 9 dated August 2024) to provide you with technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.

We have completed the hydraulic model review and are satisfied that the issues we raised previously have been addressed satisfactorily. We acknowledge that modelled flood outlines for the existing and developed scenarios have been included in Appendix G of the FCA.

We note that whilst there will be no highly vulnerable built development within the modelled flood outlines for the proposed layout (namely the unnamed watercourse which flows through the site and joins the River Gwenfro), part of the development site along the water corridor will remain in FMfP Zones 2 and 3.

We therefore recommend that WCBC as lead risk management authority for ordinary watercourses, should satisfy themselves that the comparisons in the FCA between modelled and observed flood extents, both fluvial and from other sources, are reasoned and accurate.

Flood mitigation measures are proposed within the FCA to ensure that all development will be located outside of the 0.1% annual probability (Flood Zone C2) extent, as follows:

- Raise the proposed access road off Ruthin Road so that it is flood free during all considered events. Culverts (box culverts) will be placed beneath the raised access road to enable flood flows to be conveyed from the watercourse to the flood storage area in the north-eastern corner of the site.

- Provide improvements to the watercourse channel within the site (re-profiling immediately upstream of the Ruthin Road culvert) as to maximise the flood storage capacity on site.

- Introduce new box culverts beneath new access road watercourse crossings on site. Land raising will be required adjacent to the access road watercourse crossings as to provide suitable ground cover above the proposed culverts.

The designated flood storage area has been clearly identified within the FCA. Any future changes to flood storage, conveyance and floodable areas must be captured through a new or amended planning application. Flooding to these parts of a development is likely to be tolerable, even where the flood hazard rating is greater than 'very low hazard – caution', if retained within a designated flood storage area.

As determining authority, we suggest that WCBC may wish to secure, by means of formal planning condition(s) and/or legal agreement measures to protect their use and function for the lifetime of development. We also advise that structures e.g. boundary fences and walls, are not constructed within the affected areas to ensure the flooding characteristics remain unaltered. In reaching a decision the Planning Authority must be satisfied the proposal is acceptable and that the flood risk is manageable.

We emphasise that all watercourses associated with the site are designated as non-main rivers, as such WCBC as the appropriate Risk Management Authority will be responsible for regulating all works to the watercourses, including culverting and channel alterations (consents under the terms of the Land Drainage Act will be required). Whilst we acknowledge that all culverting will be appropriately sized and designed, in order to provide a sustainable development, we advise that open span crossings and oversized culverts should be provided where possible. This is to ensure channel capacity, maintenance, blockage risk and environmental benefit constraints can be satisfied.

The proposal for multiple pipes (6 x 0.3m diameter) to convey flood flows should be considered carefully, ensuring blockage, maintenance and future capacity are provided by smaller multiple pipes.

Whilst we acknowledge that the intention is to ensure that existing downstream flood risk is not exacerbated by any upsizing of existing highway culverts, we encourage betterment in terms of on-site storage in order to provide wider community benefit wherever possible. We would recommend that the Planning Authority consults with their drainage team as the responsible Risk Management Authority for both non-main river flood risk and all surface water drainage within the site in relation to the proposed highway culverts.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other

professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding.

Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not conduct these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

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.