Ein cyf/Our Ref: CAS-269126-F5C3
Eich cyf/Your Ref: P/2024/1578

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

Dyddiad/Date: 11 December 2024

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD/PROPOSAL: GOSOD PANELI SOLAR AR Y TIR, STROFA BATRI A CHABINED GRID / INSTALLATION OF GROUND MOUNTED SOLAR PHOTOVOLTAIC (PV) SCHEME, BATTERY STORAGE AND GRID CABINET

LLEOLIAD/LOCATION: LAND OFF BRYMBO ROAD, WREXHAM

Thank you for consulting Cyfoeth Naturiol Cymru (CNC) / Natural Resources Wales (NRW) about the above, which we received on 22/11/2024.

We have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:
Conditions 1 - 3: European Protected Species
Condition 4: Piling
Condition 5: Battery Safety Management Plan

Please note, without the inclusion of these conditions we would object to this planning application. Further details are provided below.

Protected Species

We have reviewed the submitted Preliminary Ecological Appraisal (Dulas, October 2024, V1.1, Brymbo Community Solar Park, Preliminary Ecological Appraisal) and provide the following advice.

Great Crested Newts

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

We hold multiple records of GCN within the vicinity of the application site. GCN are considered likely to be present within the boundary of the application site. We therefore consider the overall proposal has the potential to cause disturbance to GCN and/or loss or damage to their resting places.

GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5). 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.

The ecology report states a permanent GCN fence exists around the wider site, restricting access of GCN into the development area. Due to proximity of GCN records to the site and the non-maintenance of GCN fencing (as evidenced in Figure 8 of the ecology report), it is possible that the species utilizes the site for foraging, dispersal or sheltering purposes. The construction and operational phases of the proposal have the potential to adversely affect GCN. When taking into account component attributes of conservation status including long-term prospects and extent of habitat, we consider that the scheme currently fails to demonstrate no detriment to the maintenance of the favourable conservation status of the local population of GCN.

We consider that the submitted PEA report provides a minimal basis upon which to consider the potential impacts of the scheme on this species. Consequently, further provisions

including but not limited to the dedication and management of a further long-term GCN compensation area should be submitted.

Therefore, for the purposes of demonstrating no detriment to the maintenance of the favourable conservation status of the local population of GCN we advise the following planning conditions and obligation should be included within any planning permission granted for the proposals.

Condition 1: No development, including site clearance, shall commence until a Great Crested Newt (GCN) 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 report [Dulas, October 2024, V1.1] and include, but not necessarily be limited to:

(a) The submission (to include proposed timescales and reporting requirements) of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to:
- fence specifications, locations, construction and maintenance (amphibian fence, prior to and throughout the duration of construction operations)
- consideration of access issues (including PROW if applicable) to include detail concerning the improved access track.
- monitoring and maintenance requirements and supervised removal.

(b) The detail of on-site and off-site habitat retention, enhancement and creation proposals associated with terrestrial and aquatic habitats. Details to include plans, timescales and current and proposed tenure

(c) The submission of a long-term site management plan (not less than 25 years) that includes:
- details of habitats and ecological features present or to be created, both in written form and shown on appropriate drawings, including planting plans
- defined aims and objectives (including defined key performance indicators for long term monitoring indicators)
- details of location
- details of the desired condition for each habitat and criteria to determine when habitats have achieved this
- details of short and long-term habitat management prescriptions to both achieve and maintain the desired condition
- details of monitoring methodologies for species (see f below)
- details of scheduling and timings of activities
- contingency measures if fish or invasive non-native species (INNS) are detected
- persons or bodies responsible for undertaking management and surveillance together with required skills and competencies
- site liaison and wardening
- licensing requirements for management surveillance and other defined activities
- biosecurity measures which consider invasive non-native species and specific diseases (e.g., Chytrid) to prevent the introduction of, and where present, control, removal or for the long-term management of invasive species both during construction and operation.

- details of reporting, review and update of the plan (informed by monitoring) at specific intervals as agreed

(d) The submission of detailed measures including plans designed to prevent the accidental capture/killing of GCN during operational phases of the scheme (including the installation and maintenance of an amphibian-friendly surface water management system that does not include gully pots (or other similar features).

(e) Details of timing, phasing and duration of construction activities and conservation measures.

(f) Post-construction monitoring and record dissemination for a period of not less than 25 years. Methodology shall include annual GCN abundance counts and Habitat Suitability Index (HSI) assessments. All ponds (including SuDS water bodies) to be added to the Wales GCN Monitoring Scheme, with individuals/bodies being identified as being responsible for monitoring and reporting works

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

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

In consideration of potential impacts to GCN, we also advise the below condition should be attached to any planning permission granted:

Condition 2: No development, including site clearance, shall commence until a Biosecurity Risk Assessment, and Method Statement that considers invasive non-native species and specific diseases (e.g. Chytrid) has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to prevent the introduction of and where present control, removal or for the long-term management of invasive species both during construction and operation. The risk assessment shall consider landscaping and other related plans. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to prevent or control the spread and effective management of any invasive non-native species and listed diseases at the site.

Planning Obligation: A Planning Obligation Section 106 Agreement will be required. We advise that in respect of any such agreement, provisions relating to ecology must include:

- ring-fenced index-linked annual funding to cover ecological management, surveillance and wardening throughout the operational phase of the proposals
- identification of relevant land to be subject to the planning obligation and managed for long term species conservation purposes;
- delivery of management
- regular liaison meetings
- management plan review, every 5 years unless agreed in writing by the LPA

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.

Bats

We note that the Preliminary Ecological Appraisal submitted in support of the above application has identified bats may use the application site for foraging. 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 the below condition should be attached to any planning permission for this scheme to ensure appropriate avoidance and mitigation measures:

Condition 3: 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 and internal light spillage 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.
- 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.

Land Contamination

The site lies on secondary A bedrock and on two historic landfill sites (Works Bank and Brymbo Steelworks).

Having reviewed the information submitted, although Section 1.3.4 of the Design and Access Statement (November 2024) states: *"Metal mounting frames would be installed on concrete ballast, so no intrusive works to the clay cap are required.",* we are concerned that there is a potential risk of damaging the surface profile of the 'landfill' clay cap that prevents water from entering, and reacting with, the waste mass. We therefore advise that a Construction Environmental Management Plan (CEMP) that includes full details of the foundation design and the construction process should be submitted prior to any permission being granted.

Alternatively, we advise your Authority should secure the following condition against any planning permission granted for this development (please note, the condition should be applied to the whole development, not just the solar array).

Condition 4: No development or phase of development shall commence until details of piling or other foundation designs using penetrative methods or methods that could damage the integrity or profile of the landfill cap have been submitted to, and approved in writing by, the Local Planning Authority. Details must be sufficient to demonstrate that there is no unacceptable risk to groundwater. The foundations shall be implemented in accordance with the approved details.

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

Pollution Prevention

During the operational phase, the development has the potential to cause pollution incidents as a consequence of fire and explosion. We therefore advise that an outline Battery Safety Management Plan (oBSMP) should be submitted that secures pollution prevention measures during operation. This should set out the key fire safety provision for the BESS and include measures for fire reduction and protection. We recommend that you seek the advice of the North Wales Fire and Rescue Service in relation to the oBSMP.

The oBSMP will be an important document for the purpose of describing water management measures to control surface water runoff and to drain hardstanding and other structures. We advise this includes runoff from any incidents including fire suppression water. The management of water run-off would be particularly important in the event of a fire (e.g. at the BESS) and the need to use substantial amounts of water. The oBSMP should set out the precautions that will be in place to contain any fire water produced and how fire water will be disposed of without causing pollution. We advise the use of penstocks as a means of preventing fire water contaminating watercourses.

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.

However, recognising the specific nature of the application submitted, i.e. no foul drainage proposed, we are satisfied that there is unlikely to be a source of additional nutrients and/or a pathway for impacts. As such, in our opinion, it would be reasonable for your Authority to screen out this proposal as not likely to have a significant effect on the River Dee and Bala Lake SAC in relation to nutrient inputs.

- *Site of Special Scientific Interest (SSSI)*

We note the access track runs adjacent to the Coedwig Ffosil Brymbo Fossil Forest SSSI. On the understanding that no machinery will enter the SSSI and no materials will be stored within the SSSI, the proposed development is not likely to damage the features for which Coedwig Ffosil Brymbo Fossil Forest SSSI is of special interest.

Modifications to the scheme as currently proposed may affect our view, and may merit a further consultation with us.

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,

Pauline Gallagher Brown
Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning

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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.