

Ein cyf/Our ref: CAS-237554-H6K8
Eich cyf/Your ref: P/2023/0593

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 10 November 2023

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: LAND AT LOWER BERSE FARM BERSHAM WREXHAM

LLEOLIAD/LOCATION: CAIS AMLINELLOL AR GYFER CODI 1520 ANNEDD (YMDDANGOSIAD, TIRLUNIO, CYNLLYN A GRADDFA CEDWIIR YN OL) DARPARU TIR AR GYFER YSGOL GYNRADD A SAFLE TRIN DWR GWASTRAFF

OUTLINE APPLICATION FOR ERECTION OF 1520 DWELLINGS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED) PROVISION OF LAND FOR A PRIMARY SCHOOL AND A WASTEWATER TREATMENT PLANT

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above.

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 flood risk, protected sites 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, conditions regarding protected sites and land contamination and groundwater protection should be attached to any planning permission granted. Without the inclusion of these conditions we would object to the planning application.

Flood Risk

The planning application proposes highly vulnerable development specify. 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 Zone 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 this policy position, and further to our advice at pre-application stage (ref: CAS-219765-X1J2 dated 13 July 2023) we have reviewed the updated Flood Consequences Assessment (FCA) (Waterco Revision 5 dated 29 August 2023) to provide you with technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.

The FCA has acknowledged that TAN15 states that highly vulnerable development is not considered appropriate within Flood Zone C2. As part of the development, the following flood mitigation measures are proposed to ensure that all development will be located outside of the 0.1% annual probability (Flood Zone C2) extent:

- Maintain a flood storage area south-east of the Ruthin Road culvert.
- Raise the proposed access road off Ruthin Road (which will cross through the Flood Zone C2 extent) so that it is flood free during the 1% annual probability plus climate change and 0.1% annual probability events. Flood relief culverts will be required 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) as to maximise the flood storage capacity on site.
- Size culverts beneath new access road crossings appropriately as to maximise flood storage within the channel upstream of the culvert.

In order for us to clearly advise your Authority on compliance with TAN15 and support the above measures, we advise that all hydraulic model files, reports and hydrology are sought from the applicant and submitted in support of the application. This is in order to undertake a check of outputs and modelled outlines included in Appendix G of the FCA.

Clarification is also sought on what mitigation (fencing/signage) is proposed to try and manage the risks.

We emphasise that all watercourses associated with the site are designated as non-main river, as such Wrexham CBC as the appropriate Risk Management Authority will be responsible for all works to the watercourses, including culverting and channel alterations (Consents under the terms of the Land Drainage Act will be required). Our advice at this time is that whilst we acknowledge all culverting will be appropriately sized and designed, in order to provide a sustainable development, 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. Relative to the scale of the proposed development, we would expect your Authority to support this goal in consultation with your drainage team as responsible Risk Management

Authority for both non-main river flood risk and all surface water drainage (SAB) within the site.

Upon receipt and review of the hydraulic model outputs, we will provide an updated response specifically in relation to flood risk associated with the unnamed watercourse which flows east through the northern extent of the site and is culverted beneath Ruthin Road.

We are also aware of the recent flooding within proximity of the application site which occurred in late October. We advise that the consultant reviews this evidence within their FCA (clearly highlighting where amendments are made), including a review of whether the site itself was affected. This review should be carried out in consultation with Wrexham CBC as Lead Local Flood Authority who have lead responsibility for managing the risk of flooding from surface water, groundwater and ordinary watercourses. Due to the local flood risk issues within the vicinity of the site and relative to the size of the proposed, we strongly advise the developer considers options for reducing local flood risk as part of their flood risk mitigation strategy. Once on receipt of the updated FCA we will provide further comments.

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.

Finally, as your Authority will be aware, under the Town & Country Planning (Notification) (Wales) Direction 2012 and more specifically Category I relating to Flood Risk Area Development, where the local planning authority is minded to grant permission, there is now a requirement to refer applications for emergency service or highly vulnerable development within Zone C2 to Welsh Government. Therefore, if you are minded to grant permission for this application, we believe it would need to be referred to the Welsh Ministers for consideration.

Protected Sites

- Phosphorus

We note the application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). As you are aware, on the 21st January 2021, we published an evidence package outlining phosphorus levels for all river SACs across Wales. In line with our [Planning Advice](#) (July 2022), under the Habitats Regulations, Planning Authorities must consider the phosphorus impact of proposed developments on water quality within SAC river catchments. These proposals will increase the volume of foul discharge from the site.

This application for erection of in the region of 1500 dwellings as well as a local centre and primary school proposes two options with regards to foul drainage.

Option 1 proposes an on-site waste treatment works that would discharge the final effluent into the River Clywedog. We advise that the information set out in section titled '*What this means for development proposals involving private sewage treatment systems?*' should be followed. It should be noted – "*The first presumption when drawing up sewerage proposals*

for any development, must always be to provide a system of foul drainage discharging into a public sewer (see [Planning Policy Wales](#)) and the [Welsh Government Circular 008/2018 Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants](#). If, by considering the cost and/or practicability, it can be shown to the satisfaction of the Planning Authority that connection to a public sewer is not feasible, a private sewage treatment system consisting of package treatment plant can be considered. Only if it can be clearly demonstrated by the developer that connection to the sewer, or the use of a private package treatment plant is not feasible, should a septic tank system be considered. With regards to feasibility, it is NRW's position that connection constraints associated with the environmental performance of a wastewater treatment works, and/or the capacity of the SAC catchment to receive increased phosphorus discharges and meet water quality targets is not a valid reason to justify use of a private sewage treatment system in a sewered area. Private sewage treatment systems are likely to require an environmental permit for a discharge activity unless they meet the criteria to register an exemption. We are unlikely to issue a permit for such systems if the proposal is within a sewered area."

Option 2 proposes connection of foul water to the mains sewer. The information set out in the section titled '*What does this mean for development proposals involving connection to public wastewater treatment works*' will need to be submitted with any forthcoming application.

We advise your Authority will need to take the above into account in their determination of whether the development is likely to have a significant effect on the SAC. Should your Authority determine that an Appropriate Assessment is required, the Applicant will then need to submit whatever evidence the Local Planning Authority deem appropriate (seeking advice from consultants as may be necessary) to demonstrate no adverse effect on site integrity. The LPA should then consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Ultimately, the suitability of foul drainage arrangements for the proposed development is a matter for your Authority to determine.

- Pollution Pathway

A watercourse runs through the development site, which is hydrologically connected to the River Dee Site of Special Scientific Interest (SSSI), which is part of the River Dee and Bala Lake Special Area of Conservation (SAC)

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

This is a large development and therefore pollution to the watercourse that runs through the site could occur through run off generated in the construction phase, vehicles and machinery on site, contaminated surface water runoff etc. The watercourse on site flows into the Gwenfro, and ultimately into the Dee.

To secure appropriate mitigation measures, we advise that the condition(s) 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 1: 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, containments 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.

As we have noted above, 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

Protected species and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017.

We have reviewed the Environmental Statement (ES) Chapter 8 Ecology and appendices and our comments are as follows:

- Bats

We note the range of bat surveys undertaken to inform the planning decision making process. It is also noted that there is reference to equipment failure in paragraph 4.24 and 4.25 of the Bat Survey Technical Report (TEP 05/05/23).

In respect of the assessment, we note reliance on Wray et al (2010) and EIA Significance. Unfortunately, these assessments make no detailed reference to conservation status. We, therefore, advise that a revised assessment should be submitted with any forthcoming application to inform the planning decision making process. The updated assessment should consider the provisions of Section 3 of EC Guidance Document [C\(2021\) 7301](#)

It is noted that a single Soprano day roost was identified within the application site.

We note from Section 8.4.62 of the ES that the application site is locally important for bats.

We agree with the assessment and conclusions in paragraphs 8.6.21 to 8.6.25 and paragraphs 8.6.47 to 8.6.49.

We agree with the principles of mitigation in paragraphs 8.7.25 – 8.7.30 and for the requirement for an EPS licence. We advise material scheme components include an Ecological Compliance Audit and ecological component areas being in the ownership/occupancy of a body which would be approved by the LPA. We would advise the LPA to consider the example provided of “responsible” under Part 7 of the Environment Act 2021.

We note the comments with regards to hedgerows, treelines and scrub within paragraphs 8.7.40 – 8.7.41.

- Great Crested Newt

We note the survey and assessment carried out to inform the planning decision making process. We consider the survey and assessments accords 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 section 8.4.76 – 8.4.77.

- Water vole

We note and concur with observations in respect of water vole in section 8.4.78 – 8.4.10.

- Invasive Non-native Plant Species

We note the considerations of invasive non-native plant species in Section 8.4.45 of the ES.

- Mitigation

We note from section 8.7 Mitigation and Monitoring that a Construction Environmental Management Plan (see Condition 1 referenced 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.

Groundwater Protection and Land Contamination

We have reviewed the submitted Phase 1 Geoenvironmental Site Assessment (e3p, ref: 14-854-R3-Rev C dated June 2023) 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, but the contents not confirmed. For the formal application it would be useful to have more details on the tanks which are present (underground or above ground, contents and location), and what the plan is for the existing tanks under the proposal (e.g., will they be removed).

Therefore, we would request that your Authority secure the following conditions to any planning permission granted to ensure remediation of the site is completed:

Condition 2: 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
- [these points are 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 3: 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.

Condition 4: 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 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.

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'](#)

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

Siôn M. Williams

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.