

Ein cyf/Our ref: CAS-255630-X0Z0

F.A.O Mark Bather
Wrexham County Borough Council
Rhosddu Road
Wrexham
LL11 1AU

Dyddiad/Date: 07 June 2024

Annwyl Syr/Madam/Dear Sir/Madam,

STATUTORY PRE-APPLICATION CONSULTATION – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES) ORDER 2012 AS AMENDED

BWRIAD/PROPOSAL: Construction of a new arrival point and car park primarily for the Pontcysyllte Aqueduct & Canal World Heritage Site (WHS), and includes car, coach, and cycle parking areas, pathways for both vehicles and active travel, signage, wayfinding, additional fencing and recreational walking and cycle route to the Pontcysyllte Aqueduct and Canal via the Trevor Basin.

LLEOLIAD/LOCATION: Car Park, Queen Street, Cefn Mawr, Wrexham, LL14 3NN

Thank you for providing a requisite notice to us under Article 2D of the above Order. We received a copy of your proposed application on 20 May 2024.

We have concerns with the application as proposed because inadequate information has been provided. To overcome these concerns, you should provide further information in your planning application regarding contaminated land, protected species and protected sites. If this information is not provided, we may object to the planning application when formally consulted by the planning authority. Further details are provided below.

We also advise that based on the information submitted to date, we would ask the planning authority to include conditions regarding contaminated land on any planning permission granted. Without the inclusion of these conditions by the planning authority we would be likely to object to the planning application.

Contaminated Land

We have reviewed the Phase 1 Report (Trevor Basin WHS Arrival, Phase I Geo-Environmental Desk Study JANUARY 2024. Arcadis. Document Ref: 10054502-ARC-XX-XXX-RP-GE-01001) and have the following advice:

We concur with the recommendation in Section 8.6 of the report to carry out a Phase 2 site investigation. We advise that the proposed additional work is carried out in line with the following:

1. The risk management framework provided in [Land contamination risk management \(LCRM\)](#)
2. Refer to '[Development of land affected by contamination: A guide for developers](#)' (WLGA, 2023) for the type of information required 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 our [groundwater protection](#) advice on www.gov.uk

If this information cannot be provided with a formal planning application, then we would advise the Local Planning Authority to attach the following conditions to any subsequent planning permission granted for this proposal:

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, 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 *[largely 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 or phase of 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 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.

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.

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the [CL:AIRE Definition of Waste: Development Industry Code of Practice](#). This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterized both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

Protected Species

We note that a Preliminary Ecological Appraisal (dated January 2023, Version 2, Reference:10054502-AUK-XX-XX-RP-GE-3-1, by Arcadis) has been submitted in support of the above application. However, we advise that the report has insufficient information to assess the need for avoidance / mitigation measures in relation to bats and great crested newts (GCN) and insufficient detail regarding reasonable avoidance measures for otters.

Bats, GCN and otters, and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats, GCN or otters 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 the following further information should be submitted with the planning application to assess the extent of adverse effects on bats, GCN and otters 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. If this information is not provided, we may object to the planning application when formally consulted by the planning authority.

Furthermore, the potential requirement to provide protected species compensation measures dependant on the results of further surveys should also be considered. A condition may be required in order to ensure any such measures can be implemented appropriately following the surveys.

Bats

Section 4.4.6 of the report confirms the presence of woodland with numerous large and mature trees and concludes the likelihood of the site to support roosting, commuting and/or foraging bats as high. Section 5.2.6 states that further survey work to assess the trees for potential roosting features (PRF) should be carried out and that further bat activity surveys may be required based on the results of the initial PRF survey. We concur with the report and advise that further surveys should be carried out prior to the submission of a full application. Impacts from lighting during the construction and operational phases should also be considered.

The survey results should be included in a report that outlines proposals for avoidance, mitigation and/or compensation as may be required, based on the survey results.

Great Crested Newts

We note that Section 5.2.3 of the submitted ecological report confirms that GCN are known to be present within the application site and states that GCN surveys would be needed to update the existing baseline. We advise that when taking into account extant information, the proposed surveys should include abundance-based (traditional) surveys.

The survey results should be included in a report that outlines proposals for avoidance, mitigation and/or compensation as may be required based on the survey results.

We have also reviewed the Proposed Drainage Strategy (Drawing reference: 10054502-ARC-SW-XX-DR-CE-00 Revision P0). We have concerns over the proposal's inclusion and retention of traditional gulley pots and advise that amphibian-friendly alternatives are considered.

We also advise that the provision of SuDS ponds should not be considered as a component of any GCN compensation measures. Potential European Protected Species licensing requirements should also be considered in relation to the maintenance and management of SuDS features.

The Proposed Drainage Strategy should be updated to include the following information as part of a maintenance and monitoring plan:

- Biosecurity – diseases (e.g. Chytrid)/Invasive Non-Native Species
- Monitoring/surveillance for European Protected Species
- Species licensing requirements

Otters

Section 4.4.8 of the report confirms the presence of otters on site, although the report considers them likely to be commuting through the site rather than the watercourse on site supporting holts or other resting places. We note that no further consideration of otters is included within the report. However, we advise that due to the potential for disturbance to commuting or foraging otters Reasonable Avoidance Measures (RAMs) should be implemented to protect otters during the construction phase, and also the operational phase in relation to impacts from light spill.

We therefore advise that further information should be submitted with a full planning application to provide details on the RAMs proposed to protect otters from disturbance during the construction and operational phases.

Protected Sites

River Dee and Bala Lake Special Area of Conservation (SAC)

Foul drainage

We note the application site is within the catchment of the River Dee and Bala Lake SAC. From the information submitted we understand that a toilet block and kiosk are to be implemented in a later phase of development and the details of this element are therefore not included within this Statutory Pre-Application Consultation. As such, we have no further comment on foul drainage in relation to this current application.

Water pollution and invasive non-native species

The proposed scheme has the potential to impact on the SAC through the risk of pollution. We have reviewed the ecological report (Preliminary Ecological Appraisal, January 2023, Version 2, Reference:10054502-AUK-XX-XX-RP-GE-3-1, Arcadis) and have the following advice.

We note that Section 6.1.1 of the report states that appropriate pollution control measures would need to be implemented but does not include any further details. Section 6.1.2 of the report confirms that the invasive non-native species Himalayan Balsam, Montbretia and Wall Cotoneaster have been found within the application site and that their removal should be carried out in accordance with an ecological method statement.

We therefore advise that further information regarding pollution prevention measures and invasive non-native species management should be submitted in support of a full planning application. We would have no objection to this information being included within a Construction Environmental Management Plan.

The further information should include but not necessarily be limited to the following:

- 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.
- Invasive species: Details of measures to control and eradicate any invasive species on site.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management.
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities,
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.

The Local Planning Authority is a Competent Authority for the purposes of the Conservation of Habitats and Species 2017 Regulations. As such, they must not agree to any plan or project unless they are certain that it will not adversely affect the integrity of a Special Area of Conservation (SAC).

The Local Planning Authority should carry out a test of likely significant effects (TLSE) for the SAC, which is required under Regulation 63 of the *Conservation of Habitats and Species Regulations 2017*. This test applies to impacts on the SAC from the proposed works, either alone or in combination with other plans and projects.

If the test concludes there is likely to be a significant effect then an appropriate assessment of the impacts on the SAC from the proposed works, either alone or in combination with other plans and projects, will be required. We would be able to assist with that assessment in our role as the statutory nature conservation body under the above Regulations.

Site of Special Scientific Interest (SSI)

NRW consider the proposals have the potential to impact upon the Afon Dyfrdwy SSSI. Providing the impact pathways referenced above for the SAC are adequately addressed, NRW consider the features of the SSSI will also be adequately safeguarded.

Designated Landscape

Our landscape planning advice relates to the landscape character and visual amenity of the Clwydian Range and Dee Valley National Landscape (formerly AONB), and the statutory purpose of the designation to conserve and enhance its natural beauty.

The proposed vehicular parking is located on a brownfield site approximately 200m north-east of the National Landscape boundary, which in this location is also the boundary of the Pontcysyllte Aqueduct and Canal World Heritage Site (WHS). The proposed footpath would adjoin land within these designations, north of the Aqueduct. All of the site is located within the WHS Buffer Zone.

Although located near the National Landscape, and the landmark aqueduct, we do not expect the proposals to adversely impact upon the purpose of the National Landscape. This is due to the location of the main site away from the National Landscape, the context and screening function of existing vegetation, the former use and existing brownfield character of the site, and the nature of the proposals including those for planting. Further, where visible in views from the National Landscape, the development is expected to be seen in the context of existing settlement.

Based on our desktop review – and notwithstanding our comments above - we advise the site is expected to be visible in the wider context of the Pontcysyllte Aqueduct in cross valley views from south of the River Dee, and these views – along with any other key wider views - should be acknowledged in the DAS, and inform the design of the proposals accordingly. We note the submitted Cultural Heritage Desk-Based Assessment states the site does not form an important element in any of the key views within the WHS and the surrounding areas, and it is our understanding the proposed development would not be visible from the aqueduct. However, this should be confirmed within the DAS submitted in support of the full application.

Landfill

According to our records the proposed development site is located near to land that is, or has been, used for the deposition of waste material. We would therefore advise you to consult with the local authority's Environmental Health and Building Control Departments, as they may hold detailed records, and may wish to make appropriate recommendations in respect of landfill gas investigation/remedial work. You should decide whether or not to make your own investigations into the presence of landfill gas. It should also be noted that Waste Management Paper 27 states "It has been found that many sites which have taken only supposedly 'inert' waste have produced gas".

Other Matters

Please note, if further information is prepared to support an application, it may be necessary for us to change our advice in line with the new information.

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.

In addition to planning permission, you are advised to ensure all other permits/consents/licences relevant to the development are secured. Please refer to our [website](#) for further details.

Further advice on the above matters could be provided prior to your planning application being submitted, however there would be a charge for this service. Additional details are available on our [website](#).

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.