

Ein cyf/Our ref: CAS-250933-Y7X1
Eich cyf/Your ref: P/2021/0436

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Date: 25 March 2024

Dear Sir/Madam,

PROPOSAL: OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 600 DWELLINGS, WITH ASSOCIATED LANDSCAPING, PUBLIC OPEN SPACE AND ON-SITE INFRASTRUCTURE, WITH ALL MATTERS RESERVED EXCEPT FOR THE NORTHERN SITE ACCESS

LOCATION: LAND SOUTH OF HOLT ROAD, WREXHAM

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) with additional information about the above, which we received on 07 March 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, further consideration is required regarding foul drainage. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding protected species, biosecurity and land contamination should be attached to any planning permission granted and the document identified below should be included in the approved plans and documents condition on the decision notice. Without the inclusion of these conditions and document, we would object to this planning application.

Approved document: Ecological Impact Assessment (dated 17 January 2024; Tyler Grange; TG Report No. 10581_R05b_ECG)

Foul Drainage and Protected Sites

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](#) (August 2023), under the Habitats Regulations, Planning Authorities must consider the phosphorus 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 phosphorus being discharged from the site. We note the letter from Dŵr Cymru Welsh Water (DCWW) dated 22 August 2023. If your Authority deems that the proposal would increase the volume of foul discharge from the site, we advise that further confirmation is sought from DCWW for this particular application with regards to the bullet points set out in section 8 'What this means for development proposals involving connection to public wastewater treatment works?' of our Planning Advice: [Natural Resources Wales / Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation.](#)

Your Authority will need 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. You 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.

Protected Species

We note the Ecological Impact Assessment (dated 17 January 2024; Tyler Grange; TG Report No. 10581_R05b_ECG) submitted in support of the application has identified that Great Crested Newts (GCN) are present in the vicinity of the application site, and numerous onsite trees have potential to support roosting bats.

Bats / GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats / 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 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 consider the Ecological Impact Assessment submitted in support of the application to be satisfactory in respect of bats and GCN. However, please see our detailed comments below.

We advise the proposed development is not likely to harm or disturb GCN or their breeding sites and resting places at this site, provided the avoidance and conservation measures described in the Ecological Impact Assessment are implemented.

The Ecological Impact Assessment refers to a "*Post-development Management and Mechanism for Delivery of the Great Crested Newt Strategy*" which would include a management plan and securing mitigation/compensation measures. Section 3.29 of the Ecological Impact Assessment concludes that "*suitably worded planning conditions would secure the design and detail*" of these measures. We therefore advise the following species

Management and Monitoring Plan conditions be placed on any planning permission granted for this application.

Condition 1: The submission of a long-term site management plan to the satisfaction of the LPA in consultation with NRW. Provisions of the plan to include, but not necessarily be limited to:

- defined aims and objectives for each identified ecological feature (including targets that can be used as key performance indicators for monitoring purposes);
- plans illustrating the locations of ecology areas;
- tenure and proposed tenure changes of ecology areas;
- financial resource provision;
- habitat management prescriptions;
- contingency measures if fish or invasive non-native species (INNS) are detected,
- proposals that are capable of being implemented in the event of failure to undertake or to appropriately implement identified or contingency actions;
- site liaison and wardening;
- licensing requirements for undertaking habitat management and surveillance;
- persons or bodies responsible for commissioning and undertaking management and surveillance;
- detail of the skills and competencies required by those undertaking the works or activities including whether they require European Protected Species licenses for the activities proposed;
- reporting requirements; and
- proposed dates for updating or revising the management plan.

Condition 2: The submission of a post-construction surveillance and monitoring plan to the satisfaction of the LPA in consultation with NRW. Provisions of the plan shall include:

- confirmation of key performance indicators for each ecological feature;
- surveillance and monitoring methodology for each ecological feature;
- a duration of no less than 25 years for the operational phase of the development; and
- identification of individuals/bodies being responsible for monitoring and reporting survey results.

In respect of GCN, the methodology shall accord with, and the results reported through the Wales GCN Monitoring Scheme. Surveys shall be undertaken annually and include:

- abundance counts and habitat quality assessments using Habitat Suitability Index (HSI) techniques; and
- each water body to be individually numbered on site.

The Ecological Impact Assessment must also be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

We also advise that any future consent includes the imposition of a condition that requires the submission and implementation of an approved construction phase ecological compliance audit (ECA) scheme to the satisfaction of the Local Planning Authority.

The purpose of the ECA is to evidence compliant implementation of all ecological avoidance, mitigation and compensation works during construction, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPIs) that are to be used for the purposes of assessing and evidencing compliant implementation of the proposals.

Section 106 Agreement

With regard to securing appropriate GCN compensation areas, we advise that any subsequent planning permission for this application is subject to a planning obligation (Section 106 Agreement/Unilateral Undertaking) that includes the following provisions:

- defined commuted sum and/or requirement for *index linked* ground rent service charges to include ecological surveillance, management and wardening in perpetuity (costed management plan is required to inform costings);
- annual / biennial liaison meetings;
- management plan review; and
- tenure and any proposed changes to tenure of ecology areas shall be carried out to the satisfaction of the LPA in consultation with NRW. This to be materially informed by the future tenure according with the definition of a “responsible” body under Part 7 of the Environment Act 2021.

Restrictions on the occupation of the remaining “25%” of the development until all identified long-term actions have been implemented to the satisfaction of the LPA.

We note that the Ecological Impact Assessment submitted in support of the application has identified that *“Numerous onsite trees (detailed in Table 2.3) were assessed as having Low to High suitability to support roosting bats respectively. However, all of these are being retained as part of proposals, with the root protection area of tree being suitably buffered from development.”*

Section 3.45. of the Ecological Impact Assessment states: *“A lighting plan should be produced and woodland edges, retained hedgerows as well as any created habitats should avoid being lit”*. The below condition should therefore be attached to any planning permission for this scheme to ensure appropriate avoidance and mitigation measures are implemented. Provided those measures are implemented, we do not consider that the proposed development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

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. This shall include plans illustrating projected or retained bat emergence points; together with 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);
- ecological compliance audit for external lighting key performance indicators;
- the scheme shall accord with the provisions of the Institution of Lighting Guidance Note 08/23: Bats and Artificial Lighting at Night; and
- 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.

NRW would refer the Local Authority 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.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases.

We therefore advise that any planning consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the Local Planning Authority. We consider that this assessment should include:

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.

Condition 4: 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.

Land Contamination

We have reviewed the Ground Investigation Report (Betts Geo; November 2018) and Contaminated Land Report (Geophysical Survey Report of Holt Road, Wrexham; Magnitude Surveys Ref: MSSJ464; May 2019).

Whilst the Ground Investigation Report is limited in terms of site coverage there appears to be no strong indication of contamination on site (it is primarily greenfield). However, as there is an adjacent historic landfill site (Land of West Lane) there is potential for adjacent tipping to have occurred in the past. We therefore advise that the following condition should be placed on any planning permission granted for this application.

Condition 5: 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 the developer has submitted and obtained

written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Justification: Given the site (and neighbouring) history it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

Flood Risk

The site lies entirely within Zone A as defined by the Development Advice Map (DAM) referred to within TAN15: Development and Flood Risk. Our Flood Risk map confirms that the site lies outside the extreme flood outline (0.1% annual probability event). We do not hold any records of flooding at the site. We therefore have no further comments regarding flood risk.

However, we recommend that your Authority consults the Lead Local Flood Authority (LLFA) (in this case Wrexham County Borough Council) in order for them to provide advice from a local flood risk perspective, both in relation to the potential flood risk posed by the drainage ditch (including the potential impact of culvert blockage) and surface water flood risk.

Pollution Prevention

All works at the site must be carried out in accordance with Pollution Prevention Guidelines 6: Working at construction and demolition sites, which is available on the [NetRegs website](#).

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under the Environmental Permitting Regulations 2016. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

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.

Yours faithfully,

Tristan 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.