

Ein cyf/Our ref: CAS-262275-Z0R7
Eich cyf/Your ref: P/2023/0497

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 10 September 2023

Dear Sir/Madam,

BWRIAD/PROPOSAL: HYBRID APPLICATION SEEKING: FULL PLANNING PERMISSION FOR THE DEMOLITION OF EXISTING BUILDINGS, THE ERECTION OF BUILDINGS FOR CLASS B1, B2 AND B8 USE AND FORMATION OF VEHICULAR ACCESS; AND OUTLINE PLANNING PERMISSION FOR THE ERECTION OF BUILDINGS FOR CLASS B1, B2 AND B8 USE AND RETAIL, DRIVE THRU, HOTEL AND PETROL FILLING STATION (CLASSES A1, A3, C1 AND SUI GENERIS AND ASSOCIATED INFRASTRUCTURE (ALL MATTERS RESERVED)

LLEOLIAD/LOCATION: Land North Of, Bryn Lane, Wrexham Industrial Estate, Wrexham, LL13 9US

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the additional information for the above, which we received on 09 August 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 foul drainage, protected species and contaminated land. 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 contaminated land 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: Biosecurity Risk Assessment, February 2024, reference 9134.021
Version 1, The Environment Partnership

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). 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 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 the report (Harrison, A., Technical Note: Phosphate Assessment, Reference TE1624-TE-00-XX-TN-GE-002-V02, June 2023, Tier Environmental Ltd) submitted in support of the application. Section 2.6 of the report confirms that a connection to the existing Dŵr Cymru/Welsh Water (DCWW) Five Fords Wastewater Treatment Works is proposed. However, Section 6 of the report states that DCWW have confirmed that Five Fords WwTW is unlikely to have sufficient headroom to accommodate the development. If it is confirmed that connection to the mains system is not feasible, the report states that an on-site wastewater treatment system has been designed in order to treat foul drainage on site, which would ultimately discharge via a pumping station into an existing ditch.

Section 6.6.21 of Planning Policy Wales states 'Any development discharging domestic sewage should connect to the foul sewer where it is reasonable to do so. Development proposing the use of non-mains drainage schemes will only be considered acceptable where connection to the main sewer is not feasible...'

Furthermore, government guidance on private sewerage in Welsh Government Circular 008/2018 stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered.

Subject to the method of foul drainage being confirmed, we therefore refer you to our Planning Advice and the information set out in the sections titled 'What does this mean for development proposals involving connection to public wastewater treatment works' or 'What does this mean for development proposals involving private sewage treatment systems'.

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

Protected Species

We have reviewed the following ecology reports submitted in support of the application:

- Environmental Statement - Chapter 11 – Biodiversity, CBRE Ltd. 2023
- Great Crested Newt Technical Appendix, Reference: 9134.007, The Environment Partnership, April 2023
- Bat Tree Roost Survey Report, Reference 9134.04.001v2, The Environment Partnership

- Ecology Technical Note, Reference 9134.020, The Environment Partnership, August 2023

We have also reviewed the following additional information submitted on the 8th August 2024:

- Letter to Team Leader Development Planning: PPW Edition 12 – Maintaining and Enhancing Biodiversity, 7th August 2024, Reference: TEP 9132.026
- Biosecurity Risk Assessment, The Environment Partnership, February 2024, reference 9134.021, Version 1,
- Habitat Management Plan, Tucker, C., July 2024, Reference: 9134.05.001, Version 2
- Ecology Technical Note, dated 07/08/2024, Reference: 9134.020, rev A
- Draft GCN Method Statement – licence application, dated 25/07/24, Reference: 9134.025
- Bat Survey Technical Note: Crowder, J., The Environment Partnership, July 2024, Ref. 9134.024, Version 1

Great Crested Newts

We continue to advise that insufficient information has been submitted to fully assess the potential effects on Great Crested Newts (GCN), and how any effects will be avoided or mitigated. We advise that further information should be submitted that assesses the extent of adverse effects on GCN 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 GCN population at a favourable conservation status in its natural range.

Our records indicate that GCN use the application site for breeding, foraging, dispersal or sheltering purposes. The construction and operational phases of the proposal have the potential to adversely affect GCN. 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 they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

We note that Table 11.4.1 of the Environmental Statement, Chapter 11 describes the GCN population as being of local importance as an ecological receptor. However, we consider that Wrexham Industrial Estate and its environs supports a nationally important population of GCN and therefore advise that any impacts should not be considered as local.

We consider that the scheme constitutes a significant adverse risk to the current conservation status of the Wrexham Industrial Estate GCN population and therefore fails to demonstrate no detriment to the maintenance of the favourable conservation status (FCS) of the local population of GCN. Our concerns are summarised as follows, with further detail provided below:

- a) The proposed extent of on-site and off-site ecology areas associated with the development. We continue to advise that at this locality the extent of the ecology areas should be at least equivalent in area to the size of the development, therefore additional compensation should be allocated for long-term GCN conservation purposes

- b) Inadequate widths of the wildlife corridors on-site along the northern boundary and through the site, insufficient detail regarding the viability and functionality of the wildlife tunnel connecting with off-site third-party land
- c) Prevention of incidental capture/killing during the operational phase of the proposals
- d) Long-term tenure of ecology areas
- e) Proposed approach to post-development surveillance; we note from the previous Ecology Technical Note (dated August 2023) that this information was to be included within a Habitat Management Plan (HMP), however, the submitted HMP does not contain sufficient information relating to post-development surveillance.
- f) The proposed maintenance proposals appear to be tailored to a SuDS specification, further information should be provided that demonstrates a clear difference in maintenance operations between SuDS features and ecology areas.

Ecology areas

We note that the Letter to Team Leader dated 07/08/24 states that *'the way in which the land has been allocated (as shown within the draft masterplan informing Policy SP10) accepts that a like-for-like reprovision is not appropriate. As such, it is considered that it is not possible to comply with Step 2 of the stepwise approach, whilst complying with Policy SP10'*.

We note this statement and advise that the LPA should determine this in consideration of the WCBC Local Planning Guidance Note [No. 29](#) (LPG 29). In respect of policy reference to the size of GCN ecology areas, we consider both WCBC LPG 29 and CCW legacy guidance to be materially relevant to this application.

The letter also states *'Whilst a good level of on-site mitigation will be achieved within the application boundary, in line with Step 4 of the stepwise approach further off-site compensation is proposed'*.

We consider that inadequate compensation land is currently proposed and we continue to advise that at this locality the extent of the ecology areas should be at least equivalent in area to the size of the development.

The recent submission proposes an area of 2.8ha of land off Holt Lodge, Francis Lane (Additional Great Crested Newt Mitigation Site, Drawing Number G9134.040 Dated 24/07/2024) for an off-site mitigation (compensation) area. However, Appendix 11.3 of the Environmental Statement should be updated to include the additional 2.8ha of land (Additional Great Crested Newt Mitigation Site, Drawing Number G9134.040 Dated 24/07/2024).

The updated Ecology Technical Note (August) 2024 refers to the drafted GCN method statement demonstrating *'an increase in onsite and offsite mitigation'*. We presume further mitigation will be proposed with future phases however no detail has been provided regarding compensation areas relating to further phases of the proposed scheme.

We note that Appendix 11.3 of the Environmental Statement proposed an area of 3.6ha of off-site mitigation (compensation) land (Land at Isycoed, Proposed Site Plan, Map ref: 22-3016, V1 dated 26/07/2023) to the south-east of the proposed development. Clarification is sought as to whether this area is still included in the proposals. If so we advise that the draft

EPS Development Licence Method Statement should be updated to include reference to the previously detailed 3.6ha area located to the south-east in Isycoed (Land at Isycoed, Proposed Site Plan, Map ref: 22-3016, v1 dated 26/07/2023).

Therefore, we currently consider that the overall extent of mitigation (compensation) is inadequate.

Consequently, in our view the proposal fails to demonstrate no detriment to the maintenance of the favourable conservation status of the local population of GCN.

Favourable Conservation Status

We have reviewed the draft EPS Development Licence Method Statement (Reference 9134.025) and advise that it does not provide sufficient information to demonstrate no detriment to the maintenance of the favourable conservation status of the local population of GCN nor does it address our previously expressed concerns in relation to GCN.

We note that there is no detailed information regarding habitat losses and gains (on-site and off-site). We advise that this information should be submitted in the form of a table to clearly show the losses and gains and the number and extents of ponds (on-site and off-site).

Section E.1.1 of the draft EPS Development Licence Method Statement refers to plan TEP.ECO.001 in relation to the specification of the GCN fencing. We advise that the depth of the proposed fencing is too shallow underground and should therefore be amended to extend a minimum of 100-150mm further underground.

Incidental capture / killing

Section E.3.3.1 of the draft EPS Development Licence Method Statement states that gulley pots will be included in the road scheme design. We advise against the installation of gulley pots as they could cause the capture/killing of a European Protected Species (GCN). Consequently, we consider that Regulations 52 and 53 of the Conservation of Habitats and Species Regulations 2017 (as amended) will be material to the LPA's planning decision-making process. We therefore advise that alternative surface water drainage options are proposed, such as permeable surfacing and surface based conveyance features such as swales and detention / retention ponds.

We also advise that the draft EPS Development Licence Method Statement should consider the application of salt to the roads during periods of cold weather and how this could impact the effectiveness of the proposed channels for dispersing GCN as salt is known to damage the skin of GCN.

Long-term tenure and monitoring

There is insufficient detail provided in Section E.3.4 of the draft EPS Development Licence Method Statement to demonstrate that sufficient resources for monitoring will be made available and proposals only appear to consider future surveillance. Given the importance of GCN within and in the environs of Wrexham Industrial Estate, we advise that monitoring will be required throughout the construction and operation phases of the scheme.

We note that Section F.1.1.4 of the draft EPS Development Licence Method Statement confirms that the site will be managed by Network Sports and their assigned consultants. We advise that the freehold tenure of the dedicated compensation areas should accord with the definition of a “responsible” body under Part 7 of the Environment Act 2021.

Section F.3.1.4 of the draft EPS Development Licence Method Statement states that ‘*if monitoring results are unfavourable, the Landscape and Ecological Management Plan will be revisited to identify areas where further management or habitat creation could encourage greater use of the site by GCN*’. However, to date, a Landscape and Ecological Management Plan has not been submitted as part of the application.

We note the HMP submitted in support of providing post-development surveillance. However the HMP does not provide sufficient detail in respect of GCN surveillance methodologies, reporting, key performance indicators and action to be undertaken if issues are identified.

Section 2.10 of the HMP states that the proposal is to maintain the GCN population. We consider that the current conservation status of the local GCN population is unfavourable and consequently restorative conservation action is required. There is no consideration of direct or indirect public access impacts on the delivery of targeted GCN conservation within the HMP and insufficient details provided in relation to the control of fish if found.

Section 2.26 of the HMP refers to the incorrect legislation in respect of GCN - it should refer to the Conservation of Habitats and Species Regulations 2017 (as amended) rather than the Wildlife and Countryside Act 1981 (as amended).

We therefore advise that the following information should be submitted for the purposes of demonstrating that the proposed development will not be detrimental to the maintenance of the FCS of the GCN population at this locality:

1. Submission of details and associated plans concerning GCN avoidance and mitigation measures including: fence design, specifications and proposed locations; fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirement.
2. Submission of revised details concerning on-site and/or off-site compensatory proposals including plans, extent, access, current and proposed tenure. This should include the functionality of the ecology area for connectivity purposes. Extent to be at least equivalent to the area of development - note provision of Sections 6.8 and 6.9 of WCBC Local Planning Guidance Note [No 29](#). Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced, and created. Submission to include future tenure, timescales and reporting requirements.
3. Submission of a long-term site management plan (for a duration of *not less than 25 years*) that includes but is not necessarily limited to the following points:
 - a. details of the desired condition for each habitat and criteria to determine when habitats have achieved this (including targets that can be used as key performance indicators for monitoring purposes).
 - b. detailed short and long-term habitat management prescriptions to both achieve and maintain the desired conditions for aquatic and terrestrial habitats.
 - c. appropriate GCN reasonable avoidance measures
 - d. contingency prescriptions if fish and/or invasive non-native species (INNS) are detected.

- e. site liaison, wardening, incident reporting and response arrangements.
 - f. 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.
 - g. current and proposed changes to tenure of the ecology area (freehold tenure of the ecology area to be approved by the discharging Authority in consultation with Natural Resources Wales) to ensure appropriate control over the land is established and the effective targeted delivery of long-term actions. We would suggest the LPA consider the definition of “responsible” provided under Part 7 of the Environment Act 2021.
 - h. provision for periodic review mechanism for the plan.
 - i. reporting requirements associated with species surveillance and habitat management.
 - j. contingency measures that are capable of being implemented in the event of failure to undertake or appropriately implement / correct management or surveillance prescriptions including any required actions arising from unforeseen situations.
4. Submission of measures designed to prevent the accidental capture/killing of GCN during operational (and decommissioning) phases of the scheme (i.e. post construction). This is essentially the installation and maintenance of an amphibian friendly surface water management system that does not include gully pots (or other similar features).
 5. Details of timing, phasing and duration of construction activities and conservation measures.
 6. Timetable for implementation demonstrating that works are aligned with the proposed development.
 7. Post-construction monitoring plan, to include:
 - a. Methodology: the [Wales Great Crested Newt Monitoring Scheme](#) shall be used with GCN surveys being carried out on an annual basis.
 - b. Duration: Not less than 25 years.
 - c. Surveys shall be abundance counts and habitat quality assessments using Habitat Suitability Index (HSI) scores.
 - d. Identification of individuals/bodies being responsible for monitoring and reporting results.
 - e. Each water body shall be individually numbered on site and added to the Wales Great Crested Newt Monitoring Scheme (see <https://www.cofnod.org.uk/LinkInfo?ID=7>).

Biosecurity

We note the submission of a Biosecurity Risk Assessment (February 2024, reference 9134.021 Version 1, The Environment Partnership) in relation to point 9 of our previous response (dated 23/11/24, reference: CAS-248678-S8X8) and are satisfied with the proposed biosecurity measures.

We advise that the Biosecurity Risk Assessment should be included in the ‘approved list of plans / documents’ condition within the decision notice should consent for the project be granted.

Planning Obligation

We would advise that any subsequent consent should be subject to the provisions of a Planning Obligation Section 106 Agreement (as opposed to a Unilateral Undertaking). We advise that in respect of any such agreement, provisions relating to ecology include:

- a) A defined commuted sum and/or requirement for index-linked ground rent service charges to resource ecological surveillance, management and wardening (a costed management plan will be required to inform costings)
- b) Management Plan review, at minimum every 5 years (or timescales agreed with the LPA).
- c) Funding to cover the cost of input from Public Bodies if required to review monitoring results/undertake liaison and comment on proposed Environment Management Plan Reviews.
- d) Transfer freehold ownership of the defined Ecology Area to a body that accords with the definition of “responsible” under Part 7 of the Environment Act 2021 [e.g., an appropriate body that is approved by the Local Planning Authority] before occupation of the unit
- e) Tenure and any proposed changes to tenure shall be carried out to the satisfaction of the LPA in consultation with NRW

Bats

We note that the bat report submitted in support of the above application (Bat Tree Roost Survey Report, Reference 9134.04.001v2, The Environment Partnership) identified that bats were not observed during the emergence surveys.

The additional Bat Survey Technical Note (Crowder, J., July 2024, Bat Survey Technical Note, Ref 9134.024 Version 1, The Environment Partnership) states that additional surveys/assessments will be carried out prior to the demolition of buildings or removal of trees.

We concur with this approach and advise that any subsequent consent is subject to a condition for each phase of development for pre-commencement bat surveys to be carried out to the satisfaction of the LPA. If surveys indicate that bats are likely to be affected a conservation scheme should be submitted to the satisfaction of the LPA.

Contaminated Land

We have reviewed the submitted ‘Ground Investigation Report for Bryn Lane – Full Planning Areas’ (Tier Environmental Ltd, October 2023) and ‘Ground Investigation Report for Bryn Lane – Outline Planning’ (Tier Environmental Ltd, October 2023). Site investigations undertaken on the site have identified isolated concentrations of hydrocarbons and some metals on site, associated with made ground used to backfill ponds. However, investigations have confirmed the presence of at least 10m clay till deposits over the sandstone bedrock, which is considered to offer protection of the Principal bedrock aquifer underlying the site. The site comprises agricultural land and no other potential sources of significant contamination have been identified on the site. We generally agree with the conclusions.

Proposals also include a petrol station within the outline planning application area. Petrol filling stations have the potential to cause pollution of controlled waters. We have concerns with the application as submitted because inadequate information has been provided to understand the potential risk to groundwater. To assess the potential impacts, we advise that the following information is submitted by the applicant:

- a) Location of the storage tanks. An annotated site plan showing the location of the new and old tanks and pipelines to pumps.
- b) The depth to the water table. The seasonal variation of the water table should be considered, and any seasonal highs should be compared with the tank invert level. If the water table is shown to be above the invert level of the storage tanks, a risk assessment with respect to the groundwater should be submitted along with mitigation measures to reduce any risks.
- c) Design of the tanks and infrastructure. Details of the tanks and infrastructure design and cross sections of the geology and tanks with depths below the ground. If the tanks and infrastructure are sub-water table a risk assessment should be submitted, and mitigation measures confirmed. The design should be in accordance with the Association for Petroleum and Explosives Administration's (APEA) 'Blue Book' – Guidance for Design, Construction, Modification, Maintenance and Decommissioning of Filling Stations.

In addition to the submission of the information detailed above regarding fuel storage, 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: 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 2: 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.

We note that the ground investigation report (Ground Investigation Report for Bryn Lane, Reference TE1750-TE-00-XX-RP-GE-001-V05 Dated 20 October 2023) advises that piles could be considered where loadings cannot be transferred to shallow soils. Therefore, if the proposals would include a piled foundation solution, we would also advise the following condition is applied:

Condition 3: No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

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

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.