

Ein cyf/Our ref: CAS-248678-S8X8
Eich cyf/Your ref: P/2023/0497

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 21 November 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 above, which we received on 26 October 2023.

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 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. Without the inclusion of these conditions, we would object to this planning application.

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 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. The report then 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.

We therefore refer you to our Planning Advice and the information set out in the section titled 'What does this mean for development proposals involving connection to public wastewater treatment works'.

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 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

Great Crested Newts

We 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 assess 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.

The Ecology Technical Note consists of the applicant's responses to the comments made by NRW during the Statutory Pre-Application Consultation, we have reviewed the responses provided in the report and our advice is provided below.

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 include:

- a) The proposed extent of ecology areas associated with the development. We advise that at this locality the extent of 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 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) Further consideration of the long-term tenure of ecology areas
- d) Proposed approach to post-development surveillance; we note from the Ecology Technical Note that this information will be included within a Habitat Management Plan, however, to date, this has not been submitted as part of the application.
- e) Prevention of incidental capture/killing during the operational phase of the proposals
- 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.

We therefore advise that the following additional 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:
 - a. defined aims and objectives (including targets that can be used as key performance indicators for monitoring purposes).
 - b. habitat management prescriptions 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 Environment Management 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. Ecological Compliance Audit, including key performance indicators.
8. Post-construction monitoring plan, to include:
 - a. Methodology: the [Wales Great Crested Newt Monitoring Scheme](#) shall be used with 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>).
9. Submission of a biosecurity risk assessment.

We would advise that any subsequent consent should also be subject to the provisions of a planning obligation (Section 106 Agreement/Unilateral Undertaking). Suggested planning obligation provisions should consider the following within any preliminary “Heads of Terms” document and subsequent obligation:

- a) A defined commuted sum and/or requirement for index-linked ground rent service charges to resource ecological surveillance, management and wardening (as informed by the updated Ecological Management Plan).
- b) Management Plan review and update.
- 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) Tenure and any proposed changes to tenure to be carried out to the satisfaction of the discharging Authority in consultation with Natural Resources Wales to ensure the implementation of long-term measures is secure.

This advice applies to the proposal in its present form. Please consult us again if any updated or revised ecology report concludes that the proposal is more likely to have an adverse impact on the GCN population and/or alters the detail or implementation of mitigation or compensation measures. Please also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

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.

We concur with the measures described in the report and would welcome the inclusion of the report in the ‘approved list of plans / documents’ condition within the decision notice should consent for the project be granted.

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. 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 this 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:

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.