Ein cyf/Our ref: CAS-278143-C9Z2
Eich cyf/Your ref: P/2025/0214

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 01 May 2025

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: NEWID DEFNYDD O DIR I OFOD CYMUNEDOL, GAN GYNNWYS LLEOLI 2 GYNHWYSYDD DIM STORIO, GOSOD TOILED COMPOST, ARDAL CHWARAE, GOFOD YSGOL GOEDWIG A LLWYBR BEICIAU / CHANGE OF USE OF LAND TO COMMUNITY SPACE, INCLUDING SITING OF 2 NO STORAGE CONTAINERS, INSTALLATION OF COMPOST TOILET, PLAY AREA, FOREST SCHOOL SPACE AND BIKE TRACK

LLEOLIAD/LOCATION: LAND OFF, MILLER ROAD, BRYMBO, WREXHAM, LL11 5HX

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 03 April 2025.

We have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:

Conditions 1 & 2: Protected Species

Please note, without the inclusion of these conditions we would object to this planning application. Further details are provided below.

Protected Species

Bats

We have reviewed the following information which has been submitted in support of the application:

- Miller Field, Brymbo, Preliminary Ecological Appraisal, Reference EE.4665.24.KW, Version 2 dated 08/09/2024, Enfys Ecology Ltd

We note that the Preliminary Ecological Appraisal has identified that there is low suitability for roosting bats but that the site has high foraging/commuting value. Table 4.4 concludes that "*the site is highly suitable for bat foraging and commuting, and has high levels of connectivity to the wider landscape; it is highly likely bats will be present within the site*".

Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats 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 that the above report (Miller Field, Brymbo, Preliminary Ecological Appraisal, Reference EE.4665.24.KW, Version 2 dated 08/09/2024, Enfys Ecology Ltd) provides an adequate basis upon which to consider the potential impacts of the scheme on bat species and inform the decision-making process.

However, we also concur with the assessment that a pre-construction survey would be required prior to any tree felling and advise that this is secured through a suitably worded condition:

Condition 1: No tree felling with the potential to impact on bats, shall commence until a pre-construction bat survey has been carried out. If the survey confirms the presence of bats, the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out in accordance with the approved details.

Justification: To ensure the potential presence of bats is confirmed prior to felling of trees and where necessary remedial measures are implemented for their protection.

We refer you 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.

Please note, any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

Great Crested Newt

We have reviewed the following information which has been submitted in support of the application:

- Miller Field, Brymbo, Preliminary Ecological Appraisal, Reference EE.4665.24.KW, Version 2, dated 08/09/2024, Enfys Ecology Ltd

The information has identified that great crested newts (GCN) are material to the application site. Table 4.4 of the report identifies that there is a known population of Great Crested Newts (GCN) on land 650m to the north of the application site and that there is suitable foraging and potential refuge areas within the application site.

GCN and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981. Where 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 requirements set out in the legislation. A licence may only be authorised if:

i. The development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
ii. There is no satisfactory alternative; and,
iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

To avoid developments with planning permission subsequently not being granted a licence, the Local Planning Authority should take Planning Policy Wales and Technical Advice Note 5 into account when considering development proposals where a European Protected Species is present.

We consider that the above report provides an adequate basis upon which to consider the potential impacts of the scheme on this species and inform the decision-making process.

However, Section 6.3.4 (Amphibians/Reptiles) states that a "*GCN and reptile Reasonable Avoidance Method Statement (RAMS) and Mitigation plan will need to be produced and followed throughout and after the works*" but we note that a RAMs has not been submitted in respect of GCN.

We therefore advise that further information is required to manage the potential impacts of the scheme on GCN. However, we would be content for this further information to be provided via a suitably worded condition, as follows:

Condition 2: No phase of development, including site clearance, shall commence until a Great Crested Newt (GCN) plan of reasonable avoidance measures has been submitted to and approved in writing by the Local Planning Authority. The plan of reasonable avoidance measures should include the submission of details and plans concerning GCN reasonable avoidance and mitigation measures including, but not necessarily be limited to:

- fence design, construction and maintenance (the erection of a one-way amphibian fence, prior to and throughout the duration of construction operations)
- proposals for the clearance of individuals from working areas,
- details of timing, phasing and delivery of reasonable avoidance measures

The plan of reasonable avoidance measures shall be carried out in accordance with the approved details.

Justification: To ensure that GCN are protected by the development.

Please note, any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

Contaminated Land

We consider that the controlled waters at this site are not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

However, we have reason to strongly suspect that contamination is present due to the site's association with the Brymbo Steelworks and being located within a historic landfill (Works Bank). A preliminary risk assessment has not been submitted. In line with the advice given in Planning Policy Wales we understand that your Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission.

We therefore recommend you consult your local authority contaminated land officer given the previous industrial use of the development site and the proposed end use.

We also recommend that developers should:

- Follow the risk management framework provided in Land contamination risk management (LCRM)
- Refer to 'Development of land affected by contamination: A guide for developers' (WLGA, 2023) 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.
- Refer to our groundwater protection advice on www.gov.uk

Protected Sites and Foul Drainage

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.

However, recognising the specific nature of the application submitted (a facility to serve the existing local community) and that a composting toilet is proposed, we are satisfied that there is unlikely to be a source of additional nutrients and/or a pathway for nutrient impacts to the SAC. As such, in our opinion, it would be reasonable for your Authority to screen out this proposal as not likely to have a significant effect on the River Dee and Bala Lake SAC in relation to nutrient inputs.

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.