

Ein cyf/Our Ref: CAS-234004-K9N4
Eich cyf/Your Ref: P/2022/1052

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

Dyddiad/Date: 21 August 2023

Dear Sir/Madam,

**BWRIAD/PROPOSAL: ESTYNIAD I WARWS PRESENOL, NEWIDIADAU I IARD
WASANAETH A MYNEDFA NEWYDD / EXTENSION TO EXISTING WAREHOUSE,
ALTERATIONS TO SERVICE YARD AND NEW ACCESS**

**LLEOLIAD/LOCATION: DRAGON PACKAGING, UNIT 47 AND 48 CLYWEDOG ROAD
NORTH, WREXHAM INDUSTRIAL ESTATE WREXHAM, LL13 9XN**

Thank you for consulting Cyfoeth Naturiol Cymru (CNC) / Natural Resources Wales (NRW) about the above, which we received on 27/07/2023.

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 protected sites. 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 European Protected Species and Land Contamination should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

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 within sections 7.12 to 7.15 and 8.39 to 8.41 of the Planning Statement that the applicants believe that the development will not increase the amount of phosphorus being discharged from the site. Paragraph 3.6 of the Pre-application Report states "The applicant maintains that the proposals as an employment use with no accommodation for overnight stays will not give rise to a material increase, and therefore no

significant effect, on phosphorus being discharged from the site. The applicant will provide written justification to the local planning authority in support of its position.” We refer you to our Planning Advice, and ultimately it would be the view of the Local Planning Authority to determine whether there would be an increase to the amount of phosphorus being discharged from the site, as a result of the proposed development.

Provided this advice is followed and that you are able to conclude that the development is not likely to have a significant effect on the SAC, we would have no objection to the proposal. However, should you conclude that the proposed development is likely to have a significant effect on the SAC, we would advise that the LPA consult us on their Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

European Protected Species

We are aware of records of great crested newt within 250m of the application site. We consider that it is possible that the species utilises the site for foraging, dispersal or sheltering purposes. We therefore consider the proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places.

Great crested newts (GCN) and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and they classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if satisfy an appropriate Habitats Directive derogation purpose and two tests. Before a licence can be issued from Natural Resources Wales. In the case of development, the applicable derogation purpose is:

“Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.”

Furthermore, the licence can only be issued by NRW on condition that there is:

“no satisfactory alternative”, and that

“the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

Paragraph 6.3.7 of TAN5 states that the local planning authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

The applicant has submitted the following ecological documents:

- Clark, E. (2021). Preliminary Ecological Appraisal: Dragon Packaging, 47- 48 Clywedog Road North Wrexham Industrial Estate, Wrexham LL13 9XN. United Environmental Services Ltd. (Unpublished Report No UES03537/01).
- Armstrong, E. (2023). Amphibian Conservation Plan (ACP) and Landscape Ecological management plan (LEMP): Dragon Packaging, 47- 48 Clywedog Road North Wrexham Industrial Estate, Wrexham LL13 9XN. United Environmental Services Ltd. (Unpublished Report No UES03538/02)).

We advise that proposals in the Amphibian Conservation Plan lack the following:

- The proposal does not appear to include fencing;
- Details including measures to ensure amphibians are not present in working areas are not satisfactory;
- The proposals of a site management plan for the ecology area. are considered to be unsatisfactory in respect of detail;
- The Conservation plan makes reference to surface water management system but no satisfactory assurances are included in respect of gully pots within the provisions of the ecological submission;
- No Ecological Compliance Audit Key Performance Indicators appear to have been included;
- The Persons responsible for implementing the works are noted but no detail has been provided including measure to ensure implementation of long term surveillance/management;
- No detail appears to have been provided with regards to a Biosecurity Risk Assessment.

We therefore advise that a revised Amphibian Conservation Plan is submitted addressing the above concerns. We advise that such a revised plan may be submitted as a condition of any permission.

We consider that the development and its subsequent operation is not likely to be detrimental to the maintenance of the favourable conservation status of the GCN populations provided that any subsequent consent is subject to the imposition of the following planning conditions or obligations (such as a Section 106 Agreement or a unilateral undertaking):

Condition 1 - No development shall commence until an amphibian Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan shall include, but not necessarily be limited to:

- (a) Build upon the principles outlined in the ecological reports (Clark, E. (2021). Preliminary Ecological Appraisal: Dragon Packaging, 47- 48 Clywedog Road North Wrexham Industrial Estate, Wrexham LL13 9XN. United Environmental Services Ltd. (Unpublished Report No UES03537/01)) and Armstrong, E. (2023). Amphibian Conservation Plan (ACP) and Landscape Ecological management plan (LEMP): Dragon Packaging, 47- 48 Clywedog Road North Wrexham Industrial Estate, Wrexham LL13 9XN. United Environmental Services Ltd. (Unpublished Report No UES03538/02)).

- (b) Submission of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to: amphibian fence design, specifications and proposed locations; consideration of access issues across fence lines; fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements
- (c) Submission of a long term site management plan for the ecology area. Details to include
 - defined aims and objectives
 - Maps illustrating the boundaries of ecology areas as Geographical Information System shape files
 - habitat management prescriptions for aquatic and terrestrial habitats;
 - Detail of the skills and competencies required by those undertaking the works, surveillance or activities including whether they require European Protected Species licenses for the activities proposed;
 - Monitoring and surveillance (over a minimum period of 25 years). Methodology to accord with and results reported through the Wales GCN Monitoring Scheme);
 - Proposals and mechanisms to ensure approved management and surveillance activities are carried out without intervention by public sector regulatory bodies; and
 - provision for periodic review mechanism for the Environment Management Plan;
- d) Submission of measures designed to prevent the accidental capture/killing of newts (amphibians) during the operational phase of the proposal. 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);
- (e) Ecological Compliance Audit, including key performance indicators
- (f) Persons responsible for implementing the works
- (g) Submission of a biosecurity risk assessment

The Amphibian Conservation Plan shall be carried out in accordance with the approved details.

Justification: To ensure that an approved amphibian Conservation Plan is implemented, which protects amphibians affected by the development.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, you would need a revised ecology report that takes account of such changes. 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

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officer's dated 01 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.

Land Contamination

We refer to the submitted Phase 1 Site Investigation Report, Integra Consulting, Ref: 3340-SI, Aug 2022 and would broadly agree with the recommendations. The report states within Table 2 that "much of the site appears to have been developed for the production of munitions associated with WWII. A mineral railway line runs along the NW border of the site, extending beyond the boundaries of the site". We have land contamination concerns as there is the potential for historic contamination, and the site is of high sensitivity in terms of controlled waters. We therefore advise that you also include the following conditions on any planning permission granted:

Condition 2– No 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
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 3 - Prior to the occupation of the 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 4 - 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 5 - 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.

Condition 6 - 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.

Land Contamination advice to the applicant:

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

Natural Resources Wales recommends that developers should:

1. Follow the risk management framework provided in [Land contamination risk management \(LCRM\)](#)
2. Refer to '[Land Contamination: a guide for developers](#)' (WLGA, 2017) 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
3. Refer to the [Environment Agency's \(2017\) 'Approach to Groundwater Protection'](#)

Flood Risk

The site lies within Zone A of the Development Advice Maps (DAM) contained within Technical Advice Note 15 Development and Flood Risk (July 2004).

TAN15 advises that for development located in Zone A the justification test is not applicable and surface water requirements apply. The acceptability criteria is for no increase in flooding elsewhere to occur as a result of the development. Given the location of development in Zone A, we advise that surface water requirements should be assessed. We note it is for the Local Planning Authority's Land Drainage Department to comment on the suitability of these proposals.

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

Gareth Thomas

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.