

Ein cyf/Our ref: CAS-255113-N5Z4
Eich cyf/Your ref: P/2024/0189

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Date: 09 May 2024

Dear Sir/Madam,

PROPOSAL: CONVERSION OF COMMERCIAL UNIT TO 1 NO APARTMENT AND FIRST FLOOR EXTENSION TO CREATE 2 ADDITIONAL RESIDENTIAL UNITS AND STORAGE FACILITY

LOCATION: 24 Maes Isaf, Johnstown, Wrexham, LL14 1UU

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) with additional information about the above, which we received on 02 May 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 information is required regarding protected species. 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, further consideration is required regarding foul drainage and conditions regarding protected species and biosecurity should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

Protected Species

Bats

We note the 'Inspection & Assessment in relation to Bats, Breeding Birds and Great Crested Newts' (Tyrer Ecological Consultants Ltd.; Hark, J.; 2024) submitted in support of the application states: *"...It is recommended that one dusk / emergence survey is conducted during the active season of bats (May – August, extending into September)."*

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 concur with the recommendation in the ‘Inspection & Assessment in relation to Bats, Breeding Birds and Great Crested Newts’ report in respect of further survey for bats.

We therefore advise that further information should be submitted to assess the extent of adverse effects on bats 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 population of the species concerned at a favourable conservation status in its natural range.

Great Crested Newts (GCN)

We have reviewed the ‘Inspection & Assessment in relation to Bats, Breeding Birds and Great Crested Newts’ report which has been submitted in support of the application.

The information has identified that GCN are material to 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 GCN and inform the decision-making process.

However, Section 7.15 of the report recommends reasonable avoidance measures (RAMs) in respect of GCN, but no detailed RAMs have been submitted.

We therefore advise that the following condition in respect of GCN is included on any permission granted for this proposal.

Condition: No development, including site clearance, shall commence until a GCN / amphibian 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, but not necessarily be limited to the submission of details and plans concerning GCN reasonable avoidance and mitigation measures including:

- fence design, construction and maintenance (the erection of amphibian proof fencing, prior to and throughout the duration of construction operations);
- proposals for the clearance of individuals from working areas; and
- 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.

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. Please note that the Chytrid fungus has previously been recorded in Johnstown.

We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA. 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: 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.

Protected Sites

River Dee and Bala Lake Special Area of Conservation (SAC)

We note the application site is within the catchment of the River Dee and Bala Lake SAC. As you are aware, on 21 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.

This application proposes connection of foul water to the mains sewer.

We note that the letter (ref: PLA0079189) from Dŵr Cymru Welsh Water confirmed “...capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We can advise that Five Fords WwTW has a phosphate permit. You will need to discuss this matter further with the local planning authority.” and requested an associated condition. We 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’. Please note the following in particular:

“The Planning Authority should consult with the sewerage undertaker, as statutory consultee, on the potential for a development to connect to a public sewer, and receive a copy of their formal response confirming:

- there is capacity to treat additional wastewater from the proposed development **within revised environmental permit limits**, or*
- the necessary treatment capacity to remain within revised environmental permit limits will be delivered within the agreed Asset Management Plan (AMP) and that when implemented the treatment capacity will ensure that additional wastewater generated in consequence of proposed development will remain within the revised permit limits and*
- that the sewer network and associated WwTW has the hydraulic capacity to accommodate additional wastewater without contributing to an increase in frequency or duration of storm overflows.”*

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.

Johnstown Newt Sites SAC

The application is located within 300m of the Johnstown Newt Sites SAC. The application site is within a ‘buffer zone’ as defined by Wrexham County Borough Council (WCBC) Local Planning Guidance ‘Great Crested Newt Mitigation Requirements - Johnstown Newt Site SAC and the Wider Countryside’. This site supports a nationally important population of great crested newt (GCN). We therefore advise that the proposal may have implications for the SAC.

WCBC must not normally agree to any plan or project unless they are satisfied beyond reasonable scientific doubt that it will not adversely affect the integrity of a SAC. As the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended), it is for your Authority to carry out the test of Likely Significant Effects for the proposed development. Should you conclude that the proposal is likely to have a significant effect on a SAC, either alone or in combination with other plans or projects, an appropriate assessment must be made of the implications of the project for that site in view of its conservation objectives. You must for the purposes of the assessment consult NRW and have regard to any representations we make within such reasonable time as you specify.

Site of Special Scientific Interest

NRW consider the proposals have the potential to impact upon the Stryt Las a'r Hafod Site of Special Scientific Interest (SSSI). Providing the impact pathways referenced above for the Johnstown Newt Sites SAC and GCN / amphibian plan of reasonable avoidance measures are adequately addressed, NRW consider the features of the SSSI will also be adequately safeguarded.

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
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.