

Ein cyf/Our ref: CAS-264426-B7B5
Eich cyf/Your ref: P/2024/0155

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 11 October 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: GOSOD A GWEITHREDU SYSTEM STORIO YNNI, YN CYNNWYS UNEDAU STORIO YNNI, IS-ORSAF, MYNEDIAD I'R SAFLE, CYSYLLTIAD CEBL, TIRLUNIO AC ISADEILEDD ATEGOL / INSTALLATION AND OPERATION OF AN ENERGY STORAGE SYSTEM (ESS) INCLUDING ENERGY STORAGE UNITS, SUBSTATION, SITE ACCESS, CABLE CONNECTION, LANDSCAPING AND ANCILLARY INFRASTRUCTURE

LLEOLIAD/LOCATION: Land North Of, Bronwylfa Road, Rhostyllen, Wrexham

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the additional information for the above, which we received on 16 September 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 protected species, pollution of controlled waters and pollution prevention. 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 protected species and pollution prevention should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

Protected Species

Further to our previous consultation response dated 09/05/2024 (reference CAS-251435-R4D4) we held a meeting with the applicant on 28/06/24 in order to discuss some of our concerns. In relation to protected species, the applicant advised that they are the leaseholders for the land and hence are unable to transfer the freehold. We confirmed that our preference would be for the transfer of freehold ownership of the defined Ecology Area. We also advised that in relation to their queries regarding 'mammal gates' discussions

should be held with the Local Planning Authority (LPA) ecologist. The applicant confirmed that an updated ecological report and layout would be submitted to the LPA. However, to date these updated documents have not been submitted and therefore our comments remain the same.

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

- Land North of Bronwylfa Road, (2024) Wrexham Proposed Cable Route Corridor Preliminary Ecological Appraisal. Etive Ecology. (Unpublished).
- Frost, S. (2024). Proposed Energy Storage. Land North of Bronwylfa Road, Wrexham Ecology Report. Etive Ecology. (Unpublished).

Great Crested Newt (GCN)

The information has identified that GCN are material to the application site. Section 3.2.10 of the Proposed Cable Route Corridor Preliminary Ecological Appraisal states that as there are known GCN records and ponds within 250m of the application boundary GCN are *'likely present within suitable habitat inside the red line site boundary.'*

The proposal has the potential to kill, injure, disturb GCN, or damage or destroy their breeding sites and resting places. 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.

Please note, for the purposes of providing advice at the planning application stage, our comments are limited to the third test "demonstration of no detriment to the maintenance of the favourable conservation status of European protected species". We advise that before any consent is given, as informed by the provisions of Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) the LPA satisfy itself as to whether the scheme satisfies the other two tests, namely a relevant Habitats Regulations purpose and whether there is no satisfactory alternative to the proposal.

We welcome the principles of the proposed ecological enhancement measures as detailed in Figure 5: Environmental Enhancement Area (version 1.2 dated 20/11/23) of the Ecology

Report (2024). However, we advise that three ponds should be constructed as opposed to the scrapes currently proposed and that an updated plan is submitted to confirm this.

Whilst we consider that the submitted reports provide an adequate basis upon which to consider the potential impacts of the scheme on GCN, any consent will need to ensure that the detail and implementation of the long-term management of habitats for GCN is agreed with the local authority in consultation with NRW. This information could be provided via suitably worded conditions, included on the decision notice.

We therefore advise that the following conditions in respect of GCN are included on any planning permission granted for this development.

Condition 1: No development, including site clearance, shall commence until a Landscape and Ecological Management Plan (LEMP) for the provision, management and maintenance of the landscape and ecological features at the site has been submitted to and approved by the Local Planning Authority. The Plan should build upon the principles outlined in the ecology reports and include, but not necessarily be limited to the submission of a long-term site management plan (not less than 25 years) that includes:

- details of habitats and ecological features present or to be created, both in written form and shown on appropriate drawings, including planting plans
- defined aims and objectives (including defined key performance indicators for long term monitoring)
- annual GCN abundance counts and Habitat Suitability Index (HSI) assessments
- all ponds (including any SuDS water bodies) to be added to the Wales GCN Monitoring Scheme
- details of the desired condition for each habitat and criteria to determine when habitats have achieved this
- details of short and long-term habitat management prescriptions to both achieve and maintain the desired condition
- details of monitoring methodologies for habitat(s) and species
- details of scheduling and timings of activities
- contingency measures if fish or invasive non-native species (INNS) are detected
- current and any proposed changes to the freehold tenure of the compensation area (tenure of the ecology and heritage area to be approved by the Local Planning Authority)
- persons or bodies responsible for undertaking management and surveillance together with required skills and competencies
- site liaison and wardening
- licensing requirements [for management surveillance and other defined activities]
- further information on biosecurity measures which consider invasive non-native species and specific diseases (e.g. Chytrid) to prevent the introduction of and where present control, removal or for the long-term management of invasive species both during construction and operation.
- details of reporting, review and update of the plan (informed by monitoring) at specific intervals as agreed

Justification: A LEMP should be agreed to ensure necessary habitat management measures for Great Crested Newt are agreed prior to commencement and appropriately managed in the long-term.

Our records indicate that there are a number of GCN records in the vicinity of the proposed development, in particular the cable route passes close to several of these records. We therefore advise that the following condition should be attached to any permission granted by your authority for the above application:

Condition 2: No 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, 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.

Planning Obligation

We advise that a Section 106 Agreement (as opposed to a Unilateral Undertaking) should be considered by your Authority in order to secure the long-term tenure of the ecology mitigation area. We also advise that in respect of any such agreement, provisions relating to GCN conservation should include:

- defined commuted sum and/or requirement for index linked ground rent service charges to include ecological management, surveillance and wardening in perpetuity (a costed management plan will be required to inform costings)
- identification of relevant land to be subject to the planning obligation and be managed for GCN conservation purposes
- delivery of management
- regular liaison meetings
- management plan review, at minimum 5 years
- transfer of 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 site.

Bats

Section 3.2.14 of the Proposed Cable Route Corridor Preliminary Ecological Appraisal confirms that there are records of several bat species within the red line boundary and that *‘roosting bats may be present within suitable trees and it is likely that the site is used by foraging/commuting bats.’*

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 advise that the proposed development is likely to harm or disturb the bats or their breeding sites and resting places at this site. Therefore, we advise that the below condition should be attached to any planning permission for this scheme to ensure appropriate mitigation measures. Provided those measures are implemented, we do not consider that the proposed development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Condition 3: Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan should include external lighting/internal light spillage assessment and plans that are compliant with the provisions of the Lighting Professionals and Bat Conservation Trust: Guidance Note 08/23: Bats and Artificial Lighting at Night Guidance Note 08/23: Bats and Artificial Lighting at Night. Details to consider construction and post construction phases of the scheme.

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

Justification: To protect the wildlife and the ecological interests of the site including protected species.

Pollution of Controlled Waters

During our meeting with the applicants held on 28/06/24, in relation to the pollution of controlled waters, we discussed the need for a site investigation report and that this should also be used to inform the Outline Battery Safety Management plan and a drainage strategy. It was agreed that these documents would be submitted in support of the proposed development. The applicants also advised that fluid filled cables would not be used with the development and a different cable insulation type was to be utilised. The applicant also subsequently advised in communication dated 02/07/24 that the decommissioning plan could be conditioned. We consider that this confirmation should be submitted as further information prior to determination of the application.

We have reviewed the following documents in relation to the proposal:

- Environmental Site Assessment Legacy Site, Wrexham Innova Renewables Limited (Innova) Project number: 60727919 INVA-ACM-LGY-XX-RP-GE-090824 [N0] September 2024
- The Outline Battery Safety Management document (ARC Ltd, ARC-1206-001-R1 dated November 2023)

We note that a desk-based assessment and ground investigation have been carried out with an initial Conceptual Site Model being produced along with high level design provisions relating to risk mitigation. In our previous response letter dated 09/05/2024 (reference CAS-251435-R4D4) we advised that a combination of methods, including monitoring wells, should be utilised to characterise the nature of the geology and hydrogeology.

Table 5-2 of the Environmental Site Assessment confirms that groundwater was encountered in a number of the exploratory holes, however Section 5.2.1.1 of that report states *“Groundwater monitoring was outside the scope of the investigation and therefore standing groundwater levels and flow vector and gradient cannot be determined”*.

The Energy Storage System (ESS) portion of the proposed development site overlies a Principal Aquifer of High Vulnerability. Therefore, groundwater levels could be close to or reach the ground surface (groundwater flooding is defined as a moderate risk within the western area of the ESS development portion of the site), and could influence the design and performance of the proposed drainage system. In the west of the full development site, underlying the cable routes, the groundwater vulnerability is designated as medium vulnerability.

Limited groundwater elevation data procured to date coupled with the local ground conditions and geology indicate that groundwater levels could rise during and after sustained periods of rainfall. There is insufficient detail of how this, in addition to the influence of the final infrastructure ground profile on the drainage system, could result in unwanted impacts on the performance of a drainage system.

During the operational and decommissioning phases, the development has the potential to cause pollution incidents through fire and explosion. The Outline Battery Safety Management document (ARC Ltd, ARC-1206-001-R1 dated November 2023) contains general statements relating to safety factors but does not consider the site-specific conditions.

Whilst the combination of high groundwater levels and a battery fire/explosion may be a rare event, it should nonetheless be considered as a scenario that could result in the release of chemicals to the local groundwater system. We note that Section 8.8 of the Environmental Site Assessment includes ‘in principle’ design provisions in respect of mitigating potential risks and that *“the specifics will be subject to detailed design taking into account the layout, foundation requirements and constraints”*. Whilst we concur with this approach in principle, we advise that further information should be submitted regarding the detailed design of the proposed drainage system, as explained below.

In summary, we advise that the following further information should be submitted in relation to potential impacts on controlled waters:

- Confirmation of whether there are any functional groundwater monitoring wells on the proposed development site that could be used to assess groundwater levels. If not, we advise that monitoring wells should be implemented and the data (notably after periods of rainfall) used to inform the design of a bespoke drainage system. Information regarding groundwater flow directions and the nature of hydraulic gradients should also be submitted.
- An updated drainage strategy based on the findings of the site investigation: it is unclear to what degree the drainage system has considered the possibility that hazardous chemicals could be generated from the operating ESS infrastructure through events such as chemical leakage, fire and explosion and how such events could ‘interact’ with the proposed drainage system.
- The initial Conceptual Site Model has identified the cut and fill exercise and buried cable routes as potential sources of contamination (Table 7-1). The Risk Assessment (Table 8-6) refers to Section 8.8 for the proposed mitigation. However, Section 8.8 only includes an in principle approach and refers to further detailed design. Further information on how the cut and fill exercise will affect the proposed surface water management and provisions for the containment of any hazardous chemicals that could be released during an incident should be submitted along with site specific measures to mitigate risks associated with the buried cable routes.
- The proposed route for the underground cables passes immediately adjacent to a farm property. Water abstractions for human consumption or food production

purposes have a default Source Protection Zone (SPZ1) with a minimum radius of 50 metres. In some cases, depending on the volumes abstracted, a default SPZ2 with a minimum radius of 250 metres would apply. Therefore, the results of a preliminary site assessment should be submitted in order to determine whether the proposed cable route would affect any water abstractions for human consumption or food production. We advise that you discuss the results of any assessment with your Environmental Health Officer in relation to potential impacts on any SPZ's that may be affected by the proposed cable route.

- A detailed Decommissioning Assessment: in the absence of any further information we would advise that a detailed decommissioning plan should be agreed to the satisfaction of the LPA.

Please advise the applicant to refer to GP3 – Groundwater Protection which was re-published in 2018: [The Environment Agency's approach to groundwater protection \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). Although it is currently being reviewed for an update the current version contains a section on Infrastructure which includes guidance on buried high voltage cables, notably in relation to the depth to groundwater.

Pollution Prevention

The outline drainage strategy suggests that there are no planned river crossings. However, the red line boundary shown on Figure 1.1 (Drainage Strategy, JBA Consulting, Version S3.P04 dated 19/02/2024) and the Layout Plan V13 dated 19/04/2024 suggests that the cable routing may be very close/adjacent to or possibly cross a tributary of the River Clywedog, to connect with the solar farm development. We understand from our meeting with the applicants on 28/06/24 that there will not be any river crossings and the red line boundary would be amended to confirm this. However, as an updated red line boundary plan does not appear to have been submitted we advise that an updated plan should be submitted in order to clarify this matter.

The proposed construction works have the potential to cause pollution through site clearance operations, the cut and fill exercise and general groundworks for the cable trenches, access tracks and compound areas. Due to the proximity of the River Clywedog in the northern section of the application site we are concerned that silt contamination in addition to oils and fuel associated with construction plant could enter the watercourse during the construction phase.

The applicant advised us that they had discussed the potential for a Construction Environmental Management Plan (CEMP) to be conditioned with the LPA to demonstrate how such impacts would be addressed. We would have no objection to a satisfactory CEMP being conditioned and would expect to be consulted on any subsequent discharge of that condition. We therefore advise that the following condition should be included within the decision notice should consent for the project be granted.

Condition 4: No development or phase of development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containment areas,

appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.

- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use. Please refer to [GPP 2 Above ground oil storage | NetRegs | Environmental guidance for your business](#) and [GPP 26 Safe storage - drums and intermediate bulk containers | NetRegs | Environmental guidance for your business](#)
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures, incident response plan and silt management. Please refer to [gpp6-working-on-construction-and-demolition-sites.pdf \(netregs.org.uk\)](#).
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details. These should also be provided to: WrexhamFlintshireEnvironmentTeam@cyfoethnaturiolcymru.gov.uk prior to commencing the construction phase
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

The proposed development is located within the Dee Water Protection Zone. Any storage of certain chemicals above specific thresholds once the construction phase is complete, may require a DPZ consent. The applicant is advised to visit NRW's website for further information ([Natural Resources Wales / Dee Water Protection Zone](#)), and contact the local environment team with regards to advice on any consenting requirements: WrexhamFlintshireEnvironmentTeam@cyfoethnaturiolcymru.gov.uk

The developer must ensure that key personnel will be conversant with pollution prevention requirements (both during the construction phase, as well as throughout the operation of the ESS), including how to deal with any emergency and/or spills and mitigate any offsite impact. The developer is advised to refer to the following guidance:

- [gpp-21-final.pdf \(netregs.org.uk\)](#)
- [gpp-22-dealing-with-spills.pdf \(netregs.org.uk\)](#)

We note the submission of an Outline Battery Safety Management Plan (ARC Ltd, ARC-1206-001-R1 dated November 2023). Operational pollution risks associated with battery storage are likely to be related to the event of a fire. As such we advise that the North Wales

Fire and Rescue Service (NWFRS) should be satisfied that these risks are adequately mitigated by a site fire prevention plan.

Designated Landscape

Our advice relates to the development's potential impacts on the landscape character and visual amenity of the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) / National Landscape (NL), and the statutory purpose of the designation to conserve and enhance its natural beauty.

We advise that the proposals are unlikely to result in any significant effects on either the landscape character or visual amenity of the AONB/NL due to:

- The distance of separation between the site and key publicly accessible viewpoints within the AONB/NL which are generally at locations over 3km distant (e.g. LVIA VPs 8 and 9).
- The influence of existing industrial elements and electrical infrastructure on the character of views towards the site from the AONB/NL.
- The nature of the landscape context surrounding the site which includes existing screening elements (e.g. existing treed embankment alongside site); and
- The mitigation proposals which include additional screening planting/bunds, earthworks to reduce the floor level (and relative height) of the substation infrastructure, and use of recessive colours for the proposed storage containers and substation buildings.

In our Statutory Pre-Application advice to the developer, we recommended that cross sections of the proposed planted bunds be submitted to illustrate the depth of the planting proposed, the grade (slopes) of the bunds, and the relationship between these elements. We also advised that a cross-section should be provided which shows the bund planting and the proposed substation infrastructure to illustrate whether there would be any potential issues where canopies might be restricted due to the proximity of the planting to the infrastructure.

The reason for these recommendations was to ensure your Authority has sufficient information to verify that the proposed planting and bunding are achievable and appropriate, and that they would adequately mitigate local landscape and visual impacts.

During our meeting with the applicants held on 28/06/24 we advised that they should discuss our recommendations with the Local Planning Authority to determine whether the submission of the cross sections was required.

We consider that cross sections would be beneficial for the reasons outlined above, and your Authority may wish to request these to support your assessment of the local landscape and visual impacts, and the potential mitigation of these impacts.

Flood Risk

Our Flood Risk Map confirms the site includes a small area of Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 2 (Rivers).

Given the limited extent of flood risk and location of flood risk shown to be affecting the application site (and in the absence of a flood consequences assessment) we consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks to these areas.

Any culverts or crossings proposed within the development boundary and other infrastructure affecting watercourses may require approval from the Lead Local Flood Authority. Culverts or preferred open span crossings should be appropriately sized in line with industry standards. We therefore advise further discussion with the Lead Local Flood Authority regarding this matter.

Protected Sites

Special Area of Conservation (SAC)

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, we are satisfied that there is unlikely to be a source of additional nutrients and/or a pathway for impacts. 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.

Ancient Woodland

The application site is located approximately 15m away from an area designated as Ancient Semi Natural Woodland. Please refer to our Advice to planning authorities considering proposals affecting ancient woodland (published 26 November 2021) for further information: [*Natural Resources Wales / Advice to planning authorities considering proposals affecting ancient woodland*](#)

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.