

Ein cyf/Our ref: CAS-251435-R4D4
Eich cyf/Your ref: P/2024/0155

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 09 May 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 above, which we received on 22 March 2024.

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 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 should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

Protected Species

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 (Unpublished).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 (Unpublished).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.

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

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 are constructed as opposed to the scrapes currently proposed and that an updated plan is submitted to confirm this.

We also advise 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 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 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

A site investigation does not appear to have been undertaken in order to characterise the proposed main development site and surrounding areas including the cable corridors. Such a site investigation would provide evidence on:

- The depth to groundwater across the development area
- Groundwater flow directions and the nature of hydraulic gradients.
- The permeability of the near surface ground materials (the superficial deposits)

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.

We therefore advise that the following further information should be submitted in relation to the potential impacts on controlled waters:

- A bespoke intrusive site investigation and monitoring strategy for the proposed ESS development site using a combination of trial pits, boreholes and monitoring wells to characterise the environmental conditions (the nature of the geology and hydrogeology) upon which and within which the proposed ESS infrastructure will operate. Groundwater conditions should also take into consideration predicted climate change effects such as those arising from predicted warmer and wetter winters, drier summers and greater occurrences of extreme climatic events.
- An updated drainage strategy based on the findings of a 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.
- Develop a conceptual site model (CSM) for the proposed development site and assess source-pathway-receptor linkages and the potential that pollution incidents could occur during the lifetime of the ESS infrastructure. The CSM must consider the influence that the cut-and-fill exercise will have on surface and groundwater flows as these are likely to change because of the cut-and-fill exercise. The CSM must also consider the potential that the buried cabling could act as a source of hazardous chemicals during the lifetime of the infrastructure and could also facilitate the transmission of chemicals along the cable routes given that they could act as higher permeability corridors for the transmission of chemicals.
- The proposed route for the underground cables passes alongside 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, 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.

- Assess how the proposed ESS development would mitigate against pollution incidents and consider the degree to which such risks could be designed out through engineering controls.
- 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 planning authority.

Please 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/government/uploads/system/uploads/attachment_data/file/684441/gp3-groundwater-protection.pdf). 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 proposed construction works have the potential to cause pollution. However, we note that a Construction Environmental Management Plan (CEMP) has not been submitted with the application.

As insufficient information has been submitted for us to be able to assess whether the risks of pollution during the construction phase will be adequately managed, we advise that further information should be submitted in the form of a CEMP. We advise the developer to follow best practice as highlighted in the guidance: GPP6 [gpp6-working-on-construction-and-demolition-sites.pdf \(netregs.org.uk\)](https://netregs.org.uk/gpp6-working-on-construction-and-demolition-sites.pdf) particularly in relation to silt management.

Oil and chemicals must be stored under cover within bunded areas and located at least 10 metres away from any ditch or surface water drain. Spill kits must be located adjacent to chemical storage and readily available in case of spillages. Please refer to relevant GPPs:

- [GPP 2 Above ground oil storage | NetRegs | Environmental guidance for your business](#)
- [GPP 26 Safe storage - drums and intermediate bulk containers | NetRegs | Environmental guidance for your business](#)

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 BESS), including how to deal with any emergency and/or spills and mitigate any offsite impact. The developer is advised to refer to the relevant guidance:

- [gpp-21-final.pdf \(netregs.org.uk\)](https://netregs.org.uk/gpp-21-final.pdf)

- gpp-22-dealing-with-spills.pdf (netregs.org.uk)

We also advise the developer to liaise with the local environment team so that contact can be made with key personnel, prior to commencing the construction phase (WrexhamFlintshireEnvironmentTeam@cyfoethnaturiolcymru.gov.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.

The outline drainage strategy suggests that there is no planned river crossing for this development. However, the red line boundary in Figure 1.1 (Drainage Strategy, JBA Consulting, Version S3.P04 dated 19/02/2024) and the Layout Plan V13 dated 19/04/2024 suggest 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. Further information should be provided clarifying the proposed crossing methods for the above water bodies.

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 distance (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 were achievable and appropriate, and that they would adequately mitigate local landscape and visual impacts.

The Pre-Application Consultation Report (February 2024) does not appear to reference our advice above and no cross sections of the proposed bunds have been provided as part of the application. We therefore reiterate 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 impacting on 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). 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.

However, the application as submitted is unlikely to increase the amount of phosphorus entering the catchment. Therefore, we are satisfied that the proposal is not likely to have a significant effect on the River Dee and Bala Lake SAC.

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 Nov 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.