

Ein cyf/Our ref: CAS-264986-L3X4
Eich cyf/Your ref: P/2023/0446

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 17 October 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: Cais amlinellol ar gyfer uned storio a dosbarthu gyda rhai materion (tirlunio) a gadwyd yn ol / outline application for storage and distribution unit with some matters (landscaping) reserved

LLEOLIAD/LOCATION: Land To The North Of, Bridge Road North, Wrexham Industrial Estate, Wrexham, LL13 9PS

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) on the additional information about the above, which we received on 23 September 2024.

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

Condition 1: Protected Species

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

We also advise that further consideration is required regarding foul drainage. Further details are provided below.

Protected Species

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

- Grey, R. (2023). Proposed Storage & Distribution Unit Bridge Road North, Wrexham Industrial Estate Preliminary Ecological Appraisal. Etive Ecology
- Grey, R., Proposed Storage & Distribution Unit Bridge Road North, Wrexham Industrial Estate GCN Mitigation Strategy, Version 1, dated 12/09/2024. Etive Ecology Ltd.

- Grey, R., Proposed Storage & Distribution Unit Bridge Road North, Wrexham Industrial Estate, Phase 2 Ecology Surveys, Version 1, dated 12/09/22024. Etive Ecology Ltd.
- Amended proposed site plan: Reference 2002.P.003(B), dated 27/04/23

Great Crested Newts

The information has identified that Great Crested Newts (GCN) are material to the application site.

The application site is located approximately 200m from ponds which have previously been confirmed to support GCN and is contiguous with an existing GCN mitigation area immediately to the west of the site.

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:

- 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;
- There is no satisfactory alternative; and,
- 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 compliance with 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 GCN Mitigation Strategy (Grey, R., Proposed Storage & Distribution Unit Bridge Road North, Wrexham Industrial Estate GCN Mitigation Strategy, Version 1 dated 12/09/22024. Etive Ecology Ltd) provides an adequate basis upon which to consider the potential impacts of the scheme on this species, aspects of the proposed scheme require further development, as follows.

Section 4.3.1 of the GCN Mitigation Strategy refers to Figure 5b in relation to proposed enhancement, management and monitoring measures. Whilst we note and welcome that

the proposed area for this purpose has been increased and will include retained grassland, the creation of hibernacula and planting of native trees, we advise that the creation of a minimum of 2 ponds should also be included within the proposals in order to provide both aquatic and terrestrial habitat within the GCN mitigation area.

Section 4.3.5 of the same document states that a long term habitat management plan will be prepared and provides an outline of proposed measures to be included. As only outline measures are proposed we advise that there is insufficient detail regarding long term management prescriptions. However, we note that Section 4.3.5 states that the details of the long term habitat management plan should be secured by way of condition.

We would be content for this further information to be provided via a suitably worded condition, included on the decision notice. We therefore advise the following condition in respect of GCN is included on any permission granted.

Condition 1: No development or phase of development, including site clearance, shall commence until a Great Crested Newt (GCN) Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should build upon the principles outlined in the ecological report (Grey, R., Proposed Storage & Distribution Unit Bridge Road North, Wrexham Industrial Estate GCN Mitigation Strategy, Version 1 dated 12/09/22024. Etive Ecology Ltd) and include, but not necessarily be limited to:

- The submission (to include proposed timescales and reporting requirements) of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to:
 - fence specifications, locations, construction and maintenance (one-way amphibian fence, prior to and throughout the duration of construction operations)
 - monitoring and maintenance requirements and supervised removal.
- The submission of details concerning on-site terrestrial and aquatic habitat retention, creation and enhancement proposals including plans and timescales;
- 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 indicators)
 - 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
- 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
- The submission of detailed measures including plans designed to prevent the accidental capture/killing of GCN during operational phases of the scheme (including the installation and maintenance of an amphibian-friendly surface water management system that does not include gully pots (or other similar features).
- Details of timing, phasing and duration of construction activities and conservation measures.
- Post-construction monitoring and record dissemination for a period of not less than 25 years. Methodology shall include annual GCN abundance counts and Habitat Suitability Index (HSI) assessments. All ponds (including SuDS water bodies) to be added to the Wales GCN Monitoring Scheme, with individuals/bodies being identified as being responsible for monitoring and reporting works.

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

Justification: To ensure that Great Crested Newts are protected by the development.

Planning Obligation: We consider that a Planning Obligation Section 106 Agreement (as opposed to a Unilateral Undertaking) would be required for this development. We advise that in respect of any such agreement, provisions relating to ecology include:

- identification of relevant land to be subject to the planning obligation and managed for long term biodiversity conservation purposes;
- 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)
- management plan review, at a minimum 5 years
- transfer of legal interest 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 the commencement of the operational phase of the proposals
- Tenure and any proposed changes to tenure shall be carried out to the satisfaction of the LPA in consultation with NRW

We also advise that the works are carried out under licence. 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 that any changes to proposals between planning consent and the licence application may affect the outcome of a licence application.

Bats

We note the ecological reports submitted in support of the above application (referenced

above). From the information submitted, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document 'Natural Resources Wales Approach to Bats and Planning (2015)'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

As this is a lower risk case for bats, we consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Furthermore, we advise that the proposed development is not likely to harm or disturb bats or their breeding sites and resting places at this site, provided the measures described in the ecology report (Grey, R. (2023). Proposed Storage & Distribution Unit Bridge Road North, Wrexham Industrial Estate Preliminary Ecological Appraisal. Etive Ecology) are implemented, specifically the recommendation for a climb and inspect survey as detailed in Section 4.3.4 prior to any tree felling and lighting recommendations as detailed in Section 4.3.5. We therefore advise that these measures are secured against any planning permission granted for this proposal to the satisfaction of your Authority.

Please consult us again if any further information shows that this is no longer a lower risk case for bats.

Otter and Water vole

We have reviewed the ecological reports (referenced above) submitted in support of the application and concur with the assessment in respect of otters and water vole. We therefore have no further comment in respect of otters and water vole.

Protected Sites

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.

This application for the erection of a new storage and distribution unit proposes connection of foul water to the mains sewer. Ultimately, the suitability of foul drainage arrangements for the proposed development is a matter for your Authority to determine. However, we are satisfied that our concerns can be overcome by your Authority following our [Advice](#) specifically the section titled '*What does this mean for development proposals involving connection to public wastewater treatment works?*'

We therefore advise you 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.

Contaminated Land

We have reviewed the submitted Phase 1 and 2 Contaminated Land Assessment, Caulmert Limited, Document Ref: 5125-CAU-XX-XX-RP-V-0300.A0.C2, dated: June 2023 and note that the results identify that the majority of concentrations of potential contaminants of concern have been recorded below the laboratory method detection limit, with the exception of some localised metals and total petroleum hydrocarbons (TPH). Based on the results we concur with the conclusion that due to the nature of the contamination identified and the cohesive nature of the material, the mobility and migration of leachable fractions of this contamination is reduced.

We also concur with the conclusions of the above report that there are no potential significant risks to Controlled Waters from identified contamination and therefore have no further comment in relation to contaminated land.

Other Matters

Wrexham Industrial Estate is known to support a number of notable species of invertebrate including a nationally important population of grizzled and dingy skipper butterflies. We recommend you seek the advice of your in-house ecologist with regard to the overall ecological significance of any impacts on the grizzled and dingy skipper butterflies listed under Section 7 of the Environment (Wales) Act 2016.

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.