

Ein cyf/Our Ref: CAS-233729-T6Y0
Eich cyf/Your Ref: P/2023/0422

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 17 August 2023

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD/PROPOSAL: Erection of one class b1 building (light industrial) and one class b8 building (warehouse building) (in retrospect)

LLEOLIAD/LOCATION: Land To The North And West Of Maelor Gasworks, Cross Lanes, Wrexham, LL13 0UW (Minor)

Thank you for consulting Cyfoeth Naturiol Cymru (CNC) / Natural Resources Wales (NRW) about the above, which we received on 25/07/2023.

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. 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, a condition regarding land contamination should be attached to any planning permission granted. Without the inclusion of this condition we would object to this planning application.

Protected Species

Great Crested Newts (GCN)

We note that this is retrospective application and that the site is subject to a number of extant European Protected Species (EPS) licences relating to GCN (WG 634 and NRW 63479a:OTH:EPS 2015) between 2009 and 2015). However, works appear to have been completed on site which has resulted in the destruction of one GCN breeding pond and significantly damaged another.

GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017. 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 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 there is insufficient information to assess potential effects on GCN, and how any effects will be avoided or mitigated.

We advise that further information is required to assess the extent of adverse effects on the GCN 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.

We advise that a GCN Conservation Scheme should be submitted prior to approval. Provisions of this scheme must include:

- Submission of details and associated plans concerning GCN avoidance and mitigation measures including: fence design, specifications and proposed locations; consideration of access issues across fence lines (including PROW if applicable); fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements;
- Submission of measures designed to prevent the accidental capture/killing of newts (amphibians) during operational (and decommissioning) phases of the scheme (i.e. post construction). 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);
- Submission of details concerning on-site and/or GCN habitat restoration proposals including plans, extent, access, current and future changes to tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. Submission to include timescales and reporting requirements;
- Submission of a long-term site management plan. Details shall include:
 - a) defined aims and objectives (including targets that can be used as key performance indicators for monitoring purposes);
 - b) habitat management prescriptions for aquatic and terrestrial habitats;
 - c) contingency measures that are capable of being implemented in the event of failure to undertake or appropriately implement / correct management or surveillance prescriptions including any required actions arising from unforeseen situations including those if fish and/or invasive non-native species (INNS) are detected;
 - d) site liaison, wardening, incident reporting and response arrangements;
 - e) detail of the skills and competencies required by those undertaking the works or activities, including whether they require European Protected Species licenses for the activities proposed;
 - f) Current and proposed changes to tenure of the ecology area (as informed by the definition of a responsible body under Part 7 of the Environment Act 2021 freehold tenure of the ecology area to be approved by the discharging Authority in consultation with Natural Resources Wales) to ensure appropriate control over the land is established and the effective targeted delivery of long-term actions;

- g) details of persons or bodies responsible for undertaking management and surveillance together with required skills and competencies;
 - h) reporting requirements associated with species surveillance and habitat management; and provision for periodic review mechanism for the Management Plan.
- Details of timing, phasing and duration of construction activities and conservation measures;
 - Timetable for implementation demonstrating that works are aligned with the proposed development;
 - Ecological Compliance Audit, including key performance indicators;
 - Persons responsible for implementing the works;
 - Post construction monitoring plan. Monitoring plan to include:
 - Methodology: The [Wales Great Crested Newt Monitoring Scheme](#) shall be used with surveys being carried out on an [annual] basis;
 - Duration: Not less than 25 years;
 - Surveys shall include abundance counts and habitat quality assessments using Habitat Suitability Index (HSI) scores;
 - Identification of individuals/bodies being responsible for monitoring and reporting survey results.
 - Each water body shall be individually numbered on site.
 - Submission of a biosecurity risk assessment

Once an appropriate conservation plan has been submitted, the detail shall be used to inform an appropriate planning obligation (Section 106 Agreement). We anticipate that component provision of the planning obligation will include:

- Funding mechanism, e.g. a commuted sum;
- Tenure and proposed changes to tenure;
- Timescales for completing works including proposed changes in tenure.

In the meantime, we are unable to give you any assurance that the proposal 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.

Land Contamination

We note that your Authority's Contaminated Land officer has requested full land contamination conditions so that any potential residual contamination from the former Maelor gasworks can be assessed. We concur with this view and we therefore advise that the following conditions are attached to any planning permission granted for this proposal:

Land affected by contamination

Condition 1: 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 *[largely completed]*.

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 *[largely completed]*. 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 *[largely completed]*.

3. 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.

Contamination verification report

Condition 2: 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

Unsuspected contamination

Condition 3: 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.

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.

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.

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

Rhys Jones

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.