

Ein cyf/Our ref: CAS-243433-G5X1
Eich cyf/Your ref: P/2023/0500

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 06 December 2023

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: Erection of storage and distribution warehouses (class B8)

LLEOLIAD/LOCATION: H Pack Packaging UK, Davy Way, Llay Industrial Estate, Llay, LL12 0PG.

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the additional information for the above, which we received on 23 November 2023.

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 consideration is required regarding foul drainage. Further details are provided below.

We also advise that based on the information submitted to date conditions regarding protected species and biosecurity should be attached to any planning permission granted, and the document identified below should be included in the approved plans and documents on the decision notice:

- **TEP, 2022. Report No. 9529.002**

Without the inclusion of these conditions and document we would object to this planning application.

Protected Sites – Foul Drainage

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. We therefore advise you to consider whether the proposals, as submitted, would increase the volume of foul discharge from the site in planning terms.

We note from the consultation response dated 12 September 2023 that Dŵr Cymru/Welsh Water (DCWW) have advised a Hydraulic Modelling Assessment to be conditioned to any planning permission granted for this application, as the Gresford Wastewater Treatment Works is “unlikely to have sufficient capacity” to accommodate the proposal. The information set out in the section titled ‘What does this mean for development proposals involving connection to public wastewater treatment works’ has been submitted with the application.

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.

Protected Species

Great Crested Newts

There are multiple records of Great Crested Newt (GCN) within 155m of the application site. The application site has been subject to assessment in respect of GCN. The ecological submission (TEP, 2022. Report No. 9529.002) confirms the presence of GCN within and in the environs of the application site.

We note that only eDNA surveys have been carried out and that one of the ponds, where a negative result was recorded, has been shown to previously support GCN.

We therefore advise that the overall proposal has the potential to cause disturbance to GCN and/or loss or damage to their resting places. GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN 5).

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 consider that the construction and operational phases of the proposal have the potential to adversely affect GCN at this site. On the basis of the information submitted, we consider that the proposed scheme will, subject to the inclusion of a condition as advised below, avoid harming and disturbing the local population of GCN.

We therefore advise that the following condition should be attached to any permission granted by your authority for the above application:

Condition 1: No development shall commence until a GCN Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan shall include, but not necessarily be limited to:

- (a) Build upon the principles outlined in the ecological report (reference Anon. (2022). Land Adjacent to H-pack. Davy Way. Llay, Wrexham, LL12 0PG. The Environment Partnership. (Unpublished Report No.: 9529.002))
- (b) 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; fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements
- (c) Submission of further details concerning compensatory proposals including plans, extent, access, current and proposed tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. Submission to include timescales and reporting requirements;
- (d) Submission of a long-term site management plan (for a duration of not less than 25 years*) that includes:
 - defined aims and objectives (including targets that can be used as key performance indicators for monitoring purposes);
 - habitat management prescriptions for aquatic and terrestrial habitats;
 - contingency prescriptions if fish and/or invasive non-native species (INNS) are detected;
 - site liaison, wardening, incident reporting and response arrangements;
 - 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;
 - current and proposed changes to tenure of the ecology area (tenure of the ecology area to be approved by the discharging Authority in consultation with Natural Resources Wales and be materially informed by the definition of a “responsible” body under Part 7 of the Environment Act 2021) to ensure appropriate control over the land is established and the effective targeted delivery of long-term actions; and
 - provision for periodic review mechanism for the Environment Management Plan;
- (e) Ecological Compliance Audits to evidence compliant implementation of all ecological avoidance, mitigation and compensation works. Including key performance indicators.
- (f) Submission of measures designed to prevent the accidental capture/killing of GCN 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);
- (g) Details of timing, phasing and duration of construction activities and conservation measures

- (h) Timetable for implementation demonstrating that works are aligned with the proposed development
- (i) Persons responsible for implementing the works
- (j) Post Construction Monitoring Plan

Should you be minded to grant permission for the above planning application without attaching the condition as described above to the permission, we ask that you notify us under the provisions contained in Section 28I of the Wildlife and Countryside Act 1981 (as amended).

Bats

We note that the ecological report submitted in support of the above application (TEP, 2022. Report No. 9529.002) has identified that bats are likely to be present at the application site (foraging and commuting). 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 its natural range.

Furthermore, we advise that the proposed development is not likely to harm or disturb the bats or their breeding sites and resting places at this site, provided the avoidance measures described in the bat report are implemented.

We advise that the report must therefore be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted, to secure the recommendations and mitigation in respect of bats.

Biosecurity

We consider biosecurity to be a material consideration owing to the location/nature of the proposal. We would therefore welcome any subsequent consent including the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We advise this assessment includes:

- (i) appropriate measures to control any identified Invasive Alien Species (IAS) Invasive Non-native Species (INNS) on site; and
- (ii) measures or actions that aim to prevent INNS/identified diseases being introduced to the site for the duration of construction (and operational phases) of the scheme.

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 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.

Land Contamination

We note the application site is located approximately 220m from Astbury Quarry, which is an active authorised landfill site.

We consider that the controlled waters at this site are not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

These comments are based on our assumption that gross contamination is not present at this location. If, during development, gross contamination is found to be present at the site the Local Planning Authority may wish to re-consult Natural Resources Wales.

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

E-bost/E-mail: northplanning@cyfoethnaturiolcymru.gov.uk

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.