

Ein cyf/Our Ref: CAS-254997-Q1Y5
Eich cyf/Your Ref: P/2024/0288

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

Dyddiad/Date: 16 May 2024

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD/PROPOSAL: RHYDDHAU AMOD 7 (ECOLEG), 9 (CYNLLUN CADWRAETH), 10 (DATGANIAD O DDULLIAU ADEILADU), 11 (HALOGIAD) A 14 (DATGANIAD O DDULLIAU COEDYDDIAETH) O APÊL I BENDERFYNIAD APP/H6955/A/20/3258703 (P/2019/0835) / DISCHARGE OF CONDITIONS 7 (ECOLOGY), 9 (CONSERVATION PLAN), 10 (CONSTRUCTION METHOD STATEMENT), 11 (CONTAMINATION) AND 14 (ARBORICULTURAL METHOD STATEMENT) OF APPEAL DECISION APP/H6955/A/20/3258703 (P/2019/0835)

LLEOLIAD/LOCATION: LAND AT TUPA, PENLEY HALL DRIVE, PENLEY, WREXHAM, LL13 0LU

Thank you for consulting Cyfoeth Naturiol Cymru (CNC) / Natural Resources Wales (NRW) about the above, which we received on 30/04/2024.

We do not recommend that your Authority discharges Condition 9 for the reasons outlined below.

We have no objection to the discharge of Condition 7 and have no comment on the remaining conditions.

Condition 9

We note submission of a report (Roe, R. 2024, Land at Tupa, Penley Hall Drive, Penley, Wrexham Planning. Conservation Plan. Kingdom Ecology Report No KE24/305/01) for the purposes of discharging Condition 9 and provide the following advice.

- *9a: Implementation of the proposed mitigation and compensation measures as set out in the Addendum Report - Extended Phase One Survey and Ecological Impact Assessment Land South of Tupa, Penley, Wrexham*

We acknowledge the submitted bat and great crested newt conservation proposals.

In respect of the compensation bat roost, we advise the applicant that the associated EPS licence application should include further information on the detailed design of the structure including confirmation that the roof will be lined with slates

- *9b: Submission and implementation of a long term post construction surveillance and monitoring scheme. Monitoring methodology and reporting shall accord with the online Wales GCN Monitoring Scheme and shall include monitoring of the bat roost*

We note the proposed GCN monitoring prescription in Section 4.2 of the plan. The submitted methodology does not appear to have considered the requirement to undertake surveillance in accordance with the methodology of and results reported through the Wales GCN Monitoring Scheme.

We advise that surveys should be carried out either annually or biennially and based on abundance counts together with habitat suitability index scores. If surveys are undertaken biennially, in the event of fish and/or invasive non-native species being detected, works must be undertaken annually until eradication has been demonstrated over an approved number of years.

We note the submitted bat monitoring proposals and advise that monitoring should be carried out over a longer duration. However, we would be content for a suitable time period to be confirmed as part of the EPS licence application.

- *9c: The submission and implementation of long term proposals concerning the tenure, funding arrangements, management and wardening of the compensation area and bat roost*

We consider the submitted tenure proposals for the ecology area to be unsatisfactory. We advise the freehold tenure of the ecology area should be transferred to a body that accords with the definition of “responsible” under Part 7 of the Environment Act 2021.

We acknowledge provisions of the conservation plan (Section 2.1.3) concerning management plan delivery. However, no detail has been provided in respect of actual costings.

We note the submitted management prescriptions. However, no consideration appears to have been given to:

- (i) Requirements for species licences for habitat management and bat roost maintenance works;
- (ii) Prescriptions for controlling fish;
- (iii) Prescriptions for control of invasive non-native species

We note the wardening proposals in Section 4.1 of the conservation plan which states that one visit every 6 months should be carried out. We advise that one visit at least every two months should be completed.

- *9d: Details relating to the submission of a compliance audit, carried out by a qualified ecologist, independently of the appointed principal ecologist*

We note the ecological compliance audit proposals in Section 4.3 of the submitted conservation plan. We advise that the submission should include defined key performance indicators.

Therefore, further to our advice above we consider the ecological submission to be unsatisfactory for the purposes of discharging Condition 9.

Condition 7

We note submission of a report for the purposes of discharging Condition 7 (reference (Roe, R. (2024). Land at Tupa, Penley Hall Drive, Penley, Wrexham Planning Condition 7- Great Crested Newt RAMS, Kingdom Ecology (Unpublished report No KE24/305/01). We consider the report to be satisfactory and have no objection to the discharge of this condition.

Protected Sites and Foul Drainage

We advise that your Authority be mindful of the High Court's recent judgment in regard to the Fry case (C G Fry & Son Ltd v SSHCLG [2023] EWHC 1622). We understand the implication of the Fry judgement is that where there is an application for a discharge of condition, it will need to be ascertained whether there is a need for a Habitats Regulations Assessment (HRA) in respect of the wider development, even if the conditions being discharged do not affect the principle of the development. We suggest you seek your own expert advice on this matter, to properly inform your determination of the application as submitted. Should you decide that an HRA is required, we would refer you to our Advice to Planning Authorities on our website: [Natural Resources Wales / Advice to planning authorities for planning applications affecting phosphorus sensitive river Special Areas of Conservation](#)

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,

Pauline Gallagher Brown

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.