

Ein cyf/Our ref: CAS-267321-R5D1
Eich cyf/Your ref: P/2023/0388

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 25 November 2024

Annwyl Syr/Madam / Dear Sir/Madam,

**BWRIAD/PROPOSAL: CODI ESTYNIAD AR WARWS A CHANOPI BAE LLWYTHO /
ERECTION OF WAREHOUSE EXTENSION AND LOADING BAY CANOPY**

**LLEOLIAD/LOCATION: F LLOYD PENLEY LTD, BRIDGE ROAD, SOUTH WREXHAM
INDUSTRIAL ESTATE, WREXHAM**

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 05 November 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. If this information is not provided, we would object to this planning application. Further details are provided below.

Protected Species

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

- Ecological Compliance Audit (Amended), reference UES03411/08, United Environmental Services Ltd.
- Great Crested Newt Method Statement, 09/04/2024 reference UES03411/06, dated 09/04/2024, United Environmental Services Ltd.
- Biosecurity Risk Assessment (Amended), reference UES03411/08, United Environmental Services Ltd.
- Preliminary Ecological Appraisal, 03/02/2023, reference UES03411/05, United Environmental Services Ltd.

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

The proposal has the potential to kill, injure, disturb GCN, or damage or destroy their breeding sites and resting places at this site. 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 compliance with the third test only.

We consider that the current submission is insufficient for the purposes of demonstrating that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of GCN. Our advice regarding this is as follows.

GCN Method Statement

In our Statutory Pre-Application advice dated 13/04/2023 (reference: CAS-212348-M6X1) we advised that further information should be submitted in the form of a GCN Conservation Plan. We also advised that a GCN Impact Assessment in relation to ponds within 250m of the application site should be carried out to inform whether further GCN presence / absence surveys would be necessary.

The application site has been subject to an extant European protected species derogation licence issued by NRW under the provisions of Regulation 53 (2) of the Conservation of Habitats and Species Regulations 2010 (NRW Reference No: 56838b:OTH:EPS:2017). Conditioned surveillance is required until 2032.

Land to the north-east and west of the application site constitutes long-term GCN (and butterfly) mitigation land associated with the construction of HMP Berwyn. The NRW Reg. 53(2) licence number in respect of HMP Berwyn is 53419. Conditioned monitoring is to be implemented until December 2042. Note that over 500 GCN were relocated to the aforementioned mitigation land under the provision of this licence.

Section 4.1 of the GCN Method Statement states: *“At present, a suitable receptor area and compensation site has not yet been identified”*.

It also states: *“Full details of the proposed habitat creation and management will need to be detailed at a later date, which can be secured through a suitability worded planning condition.*

The habitat creation and compensation measures will also form part of the EPS mitigation licence application and will therefore be agreed with Natural Resources Wales."

Section 5 of the GCN Method Statement refers to the creation of a "LEMP" (presumably referring to a Landscape and Ecological Management Plan) once a receptor/compensation site is agreed and that this could be secured through a suitably worded condition. We advise that any LEMP should consider the management of the GCN receptor and compensation area and any proposed amenity landscaping around the development.

However, insufficient information has been submitted to enable these details to be secured through a condition and we therefore advise that the following further information should be submitted in an updated GCN Method Statement:

- a) The location and size of the proposed GCN receptor and compensation area
- b) Details regarding GCN habitat creation and enhancement to include terrestrial and aquatic habitat provision
- c) Details regarding the long-term provision of financial resources
- d) Submission of a long-term site management plan (for a duration of not less than 25 years) that includes defined aims and objectives; habitat management prescriptions site liaison and wardening; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to tenure of the compensation area; persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposed dates for updating or revising the management plan
- e) Occupancy (or ideally freehold ownership) of the dedicated compensation area must accord with the definition of a "responsible" body as defined in Part 7 of the Environment Act 2021.

Biosecurity Risk Assessment

We note the submission of the Biosecurity Risk Assessment and reference to off-site Invasive Non-Native Species. However, there is no consideration of the amphibian fungus *Chytrid*. We therefore advise that further information regarding measures to prevent the introduction and spread of the *Chytrid* fungus should be submitted in the form of an updated Biosecurity Risk Assessment.

Ecological Compliance Audit

The submitted Ecological Compliance Audit does not include Key Performance Indicators (KPI's) for either on-site or off-site compensatory measures or biosecurity. We therefore advise that this information should be submitted in the form of an updated Ecological Compliance Audit.

We advise that the above additional information should be submitted to address our concerns prior to determination, to inform the decision-making process. The submission 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.

Contaminated Land

We have reviewed the following document:

- Phase 1, Preliminary Risk Assessment, February 2023, Shape Consulting Engineering Ltd

We are satisfied with the Preliminary Risk Assessment and broadly agree with the recommendations for further investigations as set out in Table 7-4.

We consider that the controlled waters at this site are not of the highest environmental sensitivity and/ or close enough to the site to be of concern, therefore, we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site. It is recommended that the requirements of Planning Policy Wales and the [Land Contamination Risk Management \(LCRM\)](#) guidance should be followed. The applicant should also refer to the Environment Agency's guidance: [Protect groundwater and prevent groundwater pollution - GOV.UK \(www.gov.uk\)](#)

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.