

Ein cyf/Our ref: CAS-239784-C6V4
Eich cyf/Your ref: P/2023/0674

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 10 November 2023

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: Codi 2 estyniad i ddarparu cyfleusterau i ymwelwyr / Erection of 2 no. extensions to provide visitor facilities

LLEOLIAD/LOCATION: Brymbo Iron and Steelworks, Heritage Centre, New High Street, Brymbo, Wrexham, LL11 5AX

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 09 October 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 foul drainage. 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, conditions regarding protected species and contaminated land should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

Protected Sites

Special Area of Conservation (SAC)

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 information submitted that the development has the potential to increase the amount of phosphorus being discharged from the site. As such, we refer you to our Planning Advice and advise you to seek further information from the applicant. We note that information has already been submitted in respect of confirming the foul drainage will connect to the mains sewer. However, we advise you to seek further information as identified in the section titled 'What does this mean for development proposals involving connection to public wastewater treatment works' of that advice.

Should you conclude that the proposed development is likely to have a significant effect on the SAC, please consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Site of Special Scientific Interest (SSSI)

We have considered the ecology report (Cutts, R. (2022). Brymbo Heritage Area: Preliminary Ecological Appraisal. Enfys Ecology. Reference EE/373/LB) submitted in support of the above application. Based on the information submitted, we consider that the proposed development is not likely to damage the features for which Coedwig Ffossil Brymbo Fossil Forest SSSI is of special interest.

Protected Species

Bats

We note that the bat report submitted in support of the above application (Cutts, R. (2023). Brymbo Heritage Area: Machine Shop, Pattern Shop and Foundry Area. Preliminary Roost Assessment, Emergence Surveys and Bird Survey. Enfys Ecology. Reference No EE.672b.LB) has identified that bats are present at the application site. From the information submitted, we consider that the proposed development represents a higher 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). Where bats 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 the proposed development is likely to harm or disturb the bats or their breeding sites and resting places at this site. Therefore, we advise that the below conditions should be attached to any planning permission for this scheme to ensure appropriate avoidance and mitigation measures. Provided those measures are implemented, we do not consider that the proposed development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

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

- Build upon the principles outlined in the ecological report (Cutts, R. (2023). Brymbo Heritage Area: Machine Shop, Pattern Shop and Foundry Area. Preliminary Roost Assessment, Emergence Surveys and Bird Survey. Enfys Ecology. Reference No EE.672b.LB)
- Submission of further details (including plans) of all bat roost retention, compensation and enhancement measures including identified roost access points (retained or proposed)
- Details of timing, phasing and duration of construction activities and conservation measures
- Timetable for implementation and demonstrating that works are aligned with the proposed phasing of the development
- Actions to be taken in the event that previously unidentified species of bat are found
- A scheme to audit the implementation of ecological measures, including key performance indicators
- Persons responsible for implementing the works
- Post construction monitoring and record dissemination for a period of not less than 5 years

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

We would have no objection to the conservation plan including other species considered by the LPA to be material to the planning decision making process

Justification: To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development.

Great Crested Newts

We note that the ecological report submitted in support of the above application (Cutts, R. (2022). Brymbo Heritage Area: Preliminary Ecological Appraisal. Enfys Ecology. Reference EE/373/LB) has identified that Great Crested Newts (*Triturus cristatus*) have been found within the application site.

This species is protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended).

Section 6.5.1 of the report confirms the presence of Great Crested Newts (GCN) through bottle trapping/torching surveys. A summary method statement is included within the report and reference is made to a detailed method statement for GCN being submitted within the European Protected Species licence application.

However, we advise that the proposed working methods and details regarding compensation areas are not sufficient to 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 therefore advise that the following condition should be attached to any permission granted by your authority for the above application:

Condition 2: No development shall commence until a Great Crested Newt 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:

- Further details and associated plans concerning GCN reasonable avoidance and mitigation measures including, but not limited to, one-way amphibian fence design and locations (prior to and throughout the duration of any work).
- Measures to be taken to prevent or reduce accidental capture or killing of GCN including installation of permanent amphibian fencing into the boundary fence line.
- Details of timing, phasing and duration of construction activities and conservation measures.
- Details of initial aftercare and long-term maintenance.
- Biosecurity Risk Assessment
- a timetable for implementation demonstrating that works are aligned with the proposed phasing of the development.
- Persons responsible for implementing the works.

Justification: To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development.

We would have no objection to the conservation plan including other species considered by the LPA to be material to the planning decision making process.

NRW would refer the Local Authority to the Chief Planning Officer's letter dated 01 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.

Barn Owl

We note that the ecological report (Cutts, R. (2023). Brymbo Heritage Area: Machine Shop, Pattern Shop and Foundry Area. Preliminary Roost Assessment, Emergence Surveys and Bird Survey. Enfys Ecology. Reference No EE.672b.LB) identified evidence of barn owls (*Tyto alba*) within the application site. Barn owls are listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended); the birds, their nests, eggs and young are fully protected at all times throughout the UK. It is also an offence to intentionally or recklessly disturb barn owls at an active nest site with eggs or young or before eggs are laid, or to disturb the dependent young.

Section 8.2.2 of the report confirms nesting barn owls in the wall to the west of the site. Any works within 100m of an active barn owl nest would require appropriate and effective mitigation to be implemented. We advise that the following condition should be attached to any permission granted by your authority for the above application:

Condition 3: No development shall commence until a Barn Owl 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:

- Submission of further details (including plans) of all barn owl conservation proposals including nesting site/roost access points (retained or proposed)
- Details of protective measures to be taken to minimise the impacts

- Details of timing, phasing and duration of construction activities and conservation measures
- Timetable for implementation and demonstrating that works are aligned with the proposed phasing of the development
- A scheme to audit the implementation of ecological measures, including key performance indicators
- Persons responsible for implementing the works
- Post construction monitoring and record dissemination

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

Justification: To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development.

We advise the Applicant that as currently proposed, the works could cause disturbance to barn owl. We advise that as barn owl is listed as a Schedule 1 species in the Wildlife and Countryside Act 1981 (as amended), disturbance to barn owl nests, eggs or dependent young is not permissible unless licenced by NRW through a Schedule 1 disturbance licence.

Due to the confirmed presence of bats and barn owls within the application site we advise that the following lighting condition should be attached to any permission granted by your authority for the above application:

Condition 4: Prior to commencement of development, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. This scheme shall consider existing and proposed lighting together with any spillage originating from internal locations. Details shall include:

- An assessment of lighting in respect of wildlife interests of the site, including bats and barn owls
- Details of the siting and type of external lighting and internal light spillage during and post development. This shall include plans illustrating the location and type of lighting together with isolux drawings
- Details to demonstrate that light spillage will not affect wildlife sensitive areas. This shall include plans illustrating projected or retained bat emergence points; together with retained or proposed features planned to be functionally used by bats for foraging/dispersal purposes
- Measures to monitor light spillage once development is operational (post construction light monitoring)
- Ecological compliance audit external lighting key performance indicators.
- Provisions of the scheme shall accord with the provisions of the Institution of Lighting Professionals and Bat Conservation Trust: [Guidance Note 08/23: Bats and Artificial Lighting at Night](#)

Lighting shall accord entirely with the details so approved for the duration of the operation of the development.

Justification: A lighting plan should be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species.

Contaminated Land

We have reviewed the following submitted reports relating to the ground conditions within the development site:

- Brymbo Steelworks Heritage Area: Land Contamination Review for Brymbo Heritage Trust. Smith Grant LLP, Report Reference number: R2762-R01-v2-Final, November 2019.
- Drainage Strategy – Proposed Development of Brymbo Heritage Project. Bingham Rawlings Partnership, Document Ref: 4866-BRP-XX-XX-RP-C-0001, August 2023.

We note that there is a low risk to controlled waters with no remedial actions proposed.

However, due to the previous use of the application site, we advise that the following condition regarding unsuspected contamination should be included within any permission granted for this application.

Condition 5: 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.

Drainage

We note that the site is located within an area serviced by a mains sewer network – we therefore understand that a connection to mains sewer would be sought for foul water disposal. We would wish to be reconsulted if this is not the case.

The drainage strategy states that infiltration to ground (SuDS) methods are not viable due to the presence of historical contamination around the site from the last 200 years and therefore all drainage features would be lined with impermeable material to prevent surface water runoff entering the ground. Provided this is adhered to we have no further comment on site drainage from a land contamination perspective.

The SuDS Approval Body (SAB) within the Lead Local Flood Authority (as cited in the Flood and Water Management Act 2010) is the appropriate body to provide advice on the management of surface water drainage from new developments.

We also have the following advice for the Applicant:

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit. Environmental permits from NRW may be required (during construction and operation) and we recommend early consultation with the relevant NRW permitting teams to ensure all permits are in place prior to commencement of development.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the [*CL:AIRE Definition of Waste: Development Industry Code of Practice*](#). This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, NRW should be contacted for advice at an early stage.

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

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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.