

Ein cyf/Our ref: CAS-244811-S9G7
Eich cyf/Your ref: P/2023/0400

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Dyddiad/Date: 19 December 2023

Annwyl Syr/Madam/Dear Sir/Madam,

**BWRIAD/PROPOSAL: ADEILADU 3 UNED DDIWYDIANNOL GAN GYNNWYS PARCIO
AR Y SAFLE A CHAEL GWARED A THANC TANDDAEAROL NA DDEFNYDDIR /
ERECTION OF 3 NO LIGHT INDUSTRIAL UNITS INCLUDING SITE PARKING AND
REMOVAL OF DISUSED UNDERGROUND TANK**

**LLEOLIAD/LOCATION: LAND ADJACENT TO LVW WAREHOUSE RHOSDDU
INDUSTRIAL ESTATE OLD RHOSROBIN WREXHAM**

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the additional information for the above, which we received on 13 December 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, 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 contaminated land and protected species should be attached to any planning permission granted and the document identified below should be included in the approved plans and documents condition on the decision notice. Without the inclusion of these conditions and document we would object to this planning application.

Approved Document: Sibley, J., December 2023, Preliminary Ecological Assessment, Rhosddu Industrial Estate, Arbtech Consulting Limited

Foul Drainage and Protected Sites

We note the application site is within the catchment of the River Dee & 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.

This application proposes connection of foul water to the mains sewer. However, no information has been provided to confirm whether Dŵr Cymru/Welsh Water (DCWW) can accept the foul flows from the proposed development following the review of permits.

Where a wastewater treatment works permit has been reviewed against revised phosphorus targets and, in some cases, varied accordingly, new developments connecting to the associated public sewer should still be subject to a Habitats Regulations Assessment (HRA) by your Authority. While the phosphorus impacts of new connections should be considered on a case-by-case basis, it is likely that a conclusion of no likely significant effect could be drawn in some cases in the context of water quality impacts where the following apply:

- the environmental permit for the associated wastewater treatment works has been reviewed against revised conservation objectives for water quality
- there is capacity in place to accommodate the additional wastewater in compliance with revised permit limits
- the sewer network and associated WwTW has the hydraulic capacity for new connections without leading to an increase in the environmental impact of storm overflows

For such development proposals, we advise your Authority seeks the following information in support of a planning application:

- confirmation of how foul drainage will be managed
- scale plans showing the location of the nearest public sewer and proposed connection point

Your Authority should consult with the sewerage undertaker, as statutory consultee, on the potential for a development to connect to a public sewer, and receive a copy of their formal response confirming:

- there is capacity to treat additional wastewater from the proposed development within revised environmental permit limits, or
- the necessary treatment capacity to remain within revised environmental permit limits will be delivered within the agreed Asset Management Plan (AMP) and that when implemented the treatment capacity will ensure that additional wastewater generated in consequence of the proposed development will remain within the revised permit limits and
- that the sewer network and associated WwTW has the hydraulic capacity to accommodate additional wastewater without contributing to an increase in frequency or duration of storm overflows.

The scope of a HRA may need to be wider than the scope of the permit review and consider other site characteristics, new information or changes in circumstances.

Where appropriate, your Authority is advised to condition timing of development to correspond with delivery of future improvements at wastewater treatment works scheduled under AMP. Grampian conditions may be used but, as development specific mitigation,

should be considered on a case-by-case basis at Appropriate Assessment. Where future improvements or enhancements are required to enable a treatment works to meet reviewed permit limits, conclusions of no likely significant effect or no adverse effect on site integrity can only be made if those improvements within the AMP are certain at the time of the HRA.

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.

Contaminated Land

We note from the Design and Access Statement that the concrete apron is to be broken out and a large (25,000l) tank is to be “purged & removed”.

However, there is no information on how the tanks and any contamination of the sides and base are to be dealt with and no information regarding any pipelines between the tank and where the fuel was pumped to. Therefore, we advise that the following conditions should be attached to any permission granted by your authority for the above application to ensure that any contamination from the storage of petrol/ diesel is adequately dealt with:

Condition 1: No development or phase of development, in a specific parcel of land known to be / suspected of contamination, 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
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.
3. 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.
4. 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.

Condition 2: Prior to the occupation or operation of the development or phase of 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.

Condition 3: Prior to the occupation or operation of the development or phase of development, a long-term monitoring plan for water quality and land contamination shall be submitted and approved in writing by the Local Planning Authority. The long-term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken
- Timescales for the long-term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for 3 years)
- Timescales for submission of monitoring reports to the LPA e.g. annually
- Details of any necessary contingency and remedial actions and timescales for actions
- Details confirming that the contingency and remedial actions have been carried out

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Justification: A land contamination long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on water quality and flood risk.

Condition 4: 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.

Condition 5: No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Justification: To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution.

European Protected Species

We note that the ecology report submitted in support of the above application (Sibley, J., December 2023, Preliminary Ecological Assessment, Rhosddu Industrial Estate, Arbtech Consulting Limited) identified that Great Crested Newts are unlikely to be present at the application site.

However, our records indicate that Great Crested Newts (*Triturus cristatus*) have previously been recorded in the vicinity of 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). Please refer to our Protected Sites advice and suggested condition above in respect of Great Crested Newts.

Where Great Crested Newts 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 note that Table 7, Section 4 of the report includes a precautionary working method in relation to amphibians including Great Crested Newts, however we advise that additional information should be provided in respect of reasonable avoidance measures.

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

Condition 6: No development shall take place until a Great Crested Newt Reasonable Avoidance Measures scheme has been submitted to and approved in writing by the Local Planning Authority. The Reasonable Avoidance Measures shall include:

- Build upon the principles of the Preliminary Ecological Appraisal (Sibley, J., December 2023, Preliminary Ecological Assessment, Rhosddu Industrial Estate, Arbtech Consulting Limited)
- Details and associated plans concerning Great Crested Newt reasonable avoidance and mitigation measures
- Measures to be taken to prevent or reduce incidental capture or killing of Great Crested Newts.

The measures above shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Great Crested Newt Reasonable Avoidance Measures scheme is implemented, which protects the species affected by the development.

Biosecurity

We also consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern Invasive Non-Native Species (INNS) and diseases (e.g., Chytrid).

We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Condition 7: 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 must include:

- (i) appropriate measures to control any INNS on site;
- (ii) measures or actions that aim to prevent INNS from being introduced to the site for the duration of construction and operational phases of the scheme.

The risk assessment shall consider landscaping and other related plans.

The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to prevent or control the spread and effective management of any invasive non-native species and listed diseases at the site.

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.