

Wrexham County Council

15/03/2023

Annwyl / Dear Ms Holman,

BWRIAD / PROPOSAL: Adeiladu 9 annedd ac adeilad swyddfa / erection of 9 dwellings and office building.

LLEOLIAD / LOCATION: Gamford House, Gamford Lane, Wrexham, LL12 0EW

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about the above, which we received on 09/02/2023.

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 and protected species. 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 land and groundwater contamination 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 this document and these conditions we would object to this planning application.

Document:

Phase 1 Environmental Site Assessment Report, Envirosolutions, Dec 202 ref:CL101.

Conditions:

- Condition - Land affected by contamination
- Condition - Contamination verification report
- Condition- Long term monitoring plan
- Condition - Unsuspected contamination

Protected Sites and 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](#) (July 2022), 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 foul water disposal is proposed via the installation of a septic tank or package treatment plant, rather than connecting to the mains sewer. The Phosphorus Statement (December 2022 by Appleton Deeley planning + landscape) submitted in support of the application suggest that foul water discharge would be directed to an existing pond and reed beds to be *'used to offset phosphorus generated by the proposed uses'*. However, the location of the proposed system has not been included on the proposed block plan.

According to our records, the proposed development is located within 206m of a publicly sewered area. The distance of the mains from the proposal is given consideration according to the size of the development. To determine whether a development is within a 'sewered area' NRW measures the number of proposed properties x 30m. If a mains sewer line is located within the calculated radius then we would consider the proposal to be within a publicly sewered area, as in this case (9 x 30m = 270m).

The installation of private sewage treatment facilities within publicly sewered areas is not normally considered environmentally acceptable because of the greater risk of failures leading to pollution of the water environment compared to public sewerage systems.

Section 6.6.21 of Planning Policy Wales states 'Any development discharging domestic sewage should connect to the foul sewer where it is reasonable to do so. Development proposing the use of non-mains drainage schemes will only be considered acceptable where connection to the main sewer is not feasible...'

Government guidance on private sewerage in Welsh Government Circular 008/2018 stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered.

We therefore advise the Applicant to either amend their proposals to ensure that the foul drainage is connected to the mains sewerage system or provide detailed evidence to demonstrate that it is not reasonable to connect.

The Applicant should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

- Formally approach the sewerage undertaker regarding a connection under Section 106 or a requisition under Section 98 of the Water Industry Act (WIA) 1991.
- Serve notice for connection under Section 106 of the WIA 1991 if the sewerage undertaker has refused connection.

- Provide details of the reasons given by the sewerage undertaker if it has refused connection under section 98 or section 106 of the WIA 1991 and confirmation that they have appealed against this decision.
- Demonstrate that it is not reasonable to connect to the public foul sewer.
- Where it is not reasonable to connect to the public foul sewer, demonstrate that they have considered requesting that the sewerage undertaker adopt their proposed system.

The Applicant should be aware that should a connection to the mains sewer not be feasible, they will also need to demonstrate that the proposal would not pose an unacceptable risk to the water environment. Welsh Government Circular 008/2018 advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6 of the Circular, in order to justify the use of private sewerage.

As stated above, we expect developers discharging domestic sewage to connect to the public foul sewer where it is reasonable to do so. We will not normally grant a discharge permit for a private sewage treatment system where it is reasonable to connect to the public foul sewer. We also expect discharges of trade effluent to connect to the public foul sewer where it is reasonable to do so and subject to the sewerage undertaker granting a trade effluent consent or entering into a trade effluent agreement.

Furthermore, we refer you to the section in our Planning Advice titled 'What does this mean for development proposals involving connection to public wastewater treatment works'.

Ultimately, the suitability of foul drainage arrangements for the proposed development is a matter for your Authority to determine.

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

Protected Species

NRW holds records of protected species at this site (bats and Great Crested Newts – GCN). We have reviewed the Preliminary Ecological Appraisal (PEA) dated 13/03/2022 by Tyrer Ecological Consultants Ltd and we concur with its conclusions and recommendations.

Bats, GCN and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where these species 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.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats/GCN on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In line with the recommendations of the PEA report we do not consider that there is adequate information to assess potential effects of the proposed development on bats and GCN present at this site.

We therefore advise that further bat and GCN surveys are undertaken in line with nationally agreed guidelines to establish presence/absence. The results of the surveys must be included in an updated Ecological Assessment report together with the proposed mitigation prior to determination of this application. Mitigation must be designed, based on the results of the additional survey undertaken and taking into consideration any direct impacts from the development as proposed.

Therefore, we raise concerns with the development as currently proposed, and recommend that the application remains undetermined until it can be demonstrated that the proposal will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Land and Groundwater contamination

We have reviewed the Phase 1 Environmental Site Assessment Report, Envirosolutions, Dec 202 ref:CL101.

The site lies on a Secondary A aquifer and is within a source protection zone and is therefore considered sensitive with respect to controlled waters. We note the recommendation to undertake further investigation in the form of a phase 2 intrusive site investigation. We recommend the following conditions are attached to any planning permission granted.

Condition - Land affected by contamination

No <development or phase of development>, <in a specific parcel of land known to be / suspected of contamination (refer to plan)>, shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, have 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.

Note to the LPA:

This condition has been recommended as Natural Resources Wales is satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing.

In line with the advice given in Planning Policy Wales we understand that the Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission. Should the LPA decide to obtain the necessary information under condition we would request that this condition is applied.

This condition is a sequential condition. The information submitted to date is considered to have satisfied part 1 (a preliminary risk assessment) of this condition.

Condition - Contamination verification report

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 - Long term monitoring plan

Prior to the <occupation or operation> of the <development or phase of development>, a long term monitoring plan for 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 x 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 groundwater quality.

Condition - Unsuspected contamination

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.

Informative / advice to applicant:

Model Procedures and good practice

Natural Resources Wales recommends that developers should:

1. Follow the risk management framework provided in [Land contamination risk management \(LCRM\)](#)
2. Refer to '[Land Contamination: a guide for developers](#)' (WLGA, 2017) for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.
3. Refer to the [Environment Agency's \(2017\) 'Approach to Groundwater Protection'](#)

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.

Yn gywir / Yours sincerely,

Cinzia Sertorio

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales