

Ein cyf/Our ref: CAS-249884-R5P6
Eich cyf/Your ref: P/2024/0070

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Date: 12 March 2024

Dear Sir/Madam,

PROPOSAL: OUTLINE APPLICATION FOR ERECTION OF DWELLING (ALL MATTERS RESERVED)

LOCATION: LAND AT GARDEN HOUSE, LANE FROM A528 CROSS FOXES PH TO ST HILARYS CHURCH, ERBISTOCK, WREXHAM, LL13 0DL

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 22 February 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, protected sites and 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 sites (Construction Environmental Management Plan) should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

Protected Species

Bats and Great Crested Newts (GCN)

We note that the Preliminary Ecological Assessment (The Environment Partnership; Report No.: 10163.002; 2023) submitted in support of the application recommends further survey for bats and GCN.

Bats/GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats/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 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 further information is needed to assess the extent of adverse effects on the bats and GCN and any avoidance or mitigation measures required. This 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.

The Preliminary Ecological Assessment states:

“5.7 GCN require both aquatic and terrestrial habitat for breeding. Both habitats are present on site. It is recommended that further assessment of the two water bodies on site is undertaken. Environmental DNA (eDNA) surveys should be undertaken of the two onsite waterbodies in order to confirm the presence/absence of GCN and inform any future planning application. eDNA samples can only be taken between mid-April to June (inclusive)...”
“...5.12 Additional survey will be required on buildings with moderate or low bat roost suitability which will be directly impacted by the development. This would include dusk emergence bat surveys to watch, listen for and record bats exiting or entering the buildings.”

We concur that further surveys are required in respect of bats and GCN. In the meantime, we are unable to give you any assurance that the proposal 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 also advise that the following condition should be attached to any planning permission for this scheme to ensure appropriate avoidance and mitigation measures in respect of external lighting.

Condition 1: 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, notably bat species, GCN and otter
- 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 [Guidance Note 08/23: Bats and Artificial Lighting at Night](#). Lighting shall accord entirely with the details so approved for the duration of the construction and operation of the development.

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

Protected Sites

River Dee and Bala Lake Special Area of Conservation (SAC)

The application is located 50m from the River Dee and Bala Lake SAC. We have concerns that a significant effect from the proposed development on the SAC cannot be ruled out. We have identified the following potential impact pathways to features of these sites from this application:

1. Direct and indirect impacts to otter
2. Indirect construction impacts
3. Phosphorus (Foul Drainage)

1. Direct and indirect impacts on otter

European otter *Lutra lutra* is a feature of the River Dee and Bala Lake SAC. The Preliminary Ecological Appraisal states:

“3.60 Otters require riparian habitats for foraging and commuting with wetlands or woodland in close proximity for shelter. As no fish were observed in the onsite ponds and therefore it is considered unlikely that otter would venture into the site given there are more suitable habitats along the river Dee. Therefore, no further consideration is required in respect of this species.”

However, we advise that ponds within the catchment of the River Dee and Bala Lake SAC provide important foraging habitats for otters during the spring, when they use the pond-scape to feed primarily on frogs during the amphibian breeding season. Ponds therefore provide important foraging habitats for otter.

We therefore advise that your Authority’s Habitats Regulations Assessment should consider direct and indirect impacts on otter from this proposal. This should include consideration of external lighting. The above lighting condition should therefore be attached to any planning permission for this scheme to secure appropriate mitigation measures. Provided those measures are implemented, we do not consider that indirect impacts of the proposed development would adversely affect the integrity of the River Dee and Bala Lake SAC.

2. Indirect impacts during the construction phase

The Preliminary Ecological Appraisal states:

“5.3 Standard pollution prevention and dust control measures should be set out in a contractors Construction Environmental Management Plan (CEMP) and implemented during site clearance and construction works. The CEMP will identify measures to ensure the potential for indirect impacts on retained habitats within and adjacent to the site.”

The below condition should therefore be attached to any planning permission for this scheme to secure appropriate mitigation measures. Provided those measures are implemented, we do not consider that indirect construction impacts of the proposed development would adversely affect the integrity of the River Dee and Bala Lake SAC.

Condition 2: No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed.
- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- Resource Management: details of fuel and chemical storage and containment, details of waste generation and its management; details of water consumption, wastewater and energy use.
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

As the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended), your authority must, before deciding to give consent for a project which is likely to have a significant effect on a SAC, either alone or in combination with other plans or projects, make an appropriate assessment of the implications of the project for that site in view of its conservation objectives. You must for the purposes of the assessment consult NRW and have regard to any representations we make within such reasonable time as you specify. In the absence of that assessment, NRW cannot advise that the proposals would not result in an adverse effect upon the SAC.

3. Phosphorus (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](#) (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 no information has been submitted in respect of foul drainage, therefore, 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' or 'What does this mean for development proposals involving private sewage treatment systems' of that advice.

Provided this advice is followed and you are able to conclude that the development is not likely to have a significant effect on the SAC, we would have no objection to the proposal. However, 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).

River Dee Site of Special Scientific Interest (SSSI)

NRW consider the proposals have the potential to impact upon the River Dee SSSI. Providing the impact pathways referenced above for the SAC are adequately addressed, NRW consider the features of the SSSI will also be adequately safeguarded.

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.

Yours faithfully,

Tristan Williams

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.