



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-218676-V9N6
Eich cyf/Your ref: P/2023/0280

Maes Y Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd
LL572DW

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

15/06/2023

Annwyl Syr/Madam / Dear Sir/Madam,

**BWRIAD / PROPOSAL: HYBRID PLANNING PERMISSION;
(A) OUTLINE PERMISSION (ALL MATTERS RESERVED) EXCEPT FOR MEANS OF
ACCESS FOR ERECTION OF UP TO 3 WAREHOUSE AND DISTRIBUTION UNITS (USE
CLASS B8) AND
(B) FULL PLANNING PERMISSION FOR DEMOLITION, MEANS OF ACCESS,
EARTHWORKS, DRAINAGE, LANDSCAPING, ECOLOGY ZONE AND RELATIVE
ECOLOGICAL MITIGATION MEASURES, AND ANCILLARY WORKS.**

**LLEOLIAD / LOCATION: LAND EAST OF BRYN LANE, WREXHAM INDUSTRIAL
ESTATE**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the
above, which we received on 24/05/2023.

**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 protected sites. 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, a condition and
planning obligation regarding protected species should be attached to any planning
permission granted. Without the inclusion of this condition and obligation, we would
object to this planning application.**

Protected Sites – 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.

This application proposes connection of foul water to the mains sewer. The information set out in the section titled 'What does this mean for development proposals involving connection to public wastewater treatment works' has been submitted with the application.

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.

Protected Species

We note the following reports have been submitted in support of the above application:

- Kenwright, T. (2023). Preliminary Ecological Appraisal: Plot 3A, Wrexham Industrial Estate, Bryn Lane, Wrexham, LL13 9UT, United Environmental Services Ltd. (Unpublished Report No UES03448/01)
- Kenwright, T. (2023). Ecological Impact Assessment: Plot 3A, Wrexham Industrial Estate, Bryn Lane, Wrexham, LL13 9UT, United Environmental Services Ltd. (Unpublished Report No UES03448/22)
- Smith, D. (2023). Great Crested Newt Method Statement: Plot 3A, Wrexham Industrial Estate, Bryn Lane, Wrexham, LL13 9UT, United Environmental Services Ltd. (Unpublished Report No UES03448/23)
- Fulton, N. (2023).). Great Crested Newt Impact Assessment : Plot 3A, Wrexham Industrial Estate, Bryn Lane, Wrexham, LL13 9UT, United Environmental Services Ltd. (Unpublished Report No UES03448/23)

Great Crested Newts (GCN)

GCN is considered likely to be present within the boundary of the application site. We therefore consider the overall proposal has the potential to cause disturbance to GCN and/or loss or damage to their resting places. GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

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 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*”.

Paragraph 6.3.7 of TAN5 states that your Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

We consider that it is possible that the species utilizes the site for breeding, foraging, dispersal or sheltering purposes. In our view, we consider that construction and operational phases of the proposal have the potential to adversely affect GCN.

When taking into account component attributes of conservation status including long term prospects and extent of habitat, we consider that the scheme currently fails to demonstrate no detriment to the maintenance of the favourable conservation status of the local population of GCN. However we consider the imposition of both planning conditions and obligations will address outstanding issues, provided any revised and amended submissions propose alternative long-term tenure of ecology areas, and further evidence is presented in respect of the favourable conservation status test (i.e. justification of why “like for like” is not relevant in respect of this specific case).

Condition 1: No development shall commence until an amphibian 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:

- a) Build upon the principles outlined in the ecological report (Smith, D. (2023). Great Crested Newt Method Statement: Plot 3A, Wrexham Industrial Estate, Bryn Lane, Wrexham, LL13 9UT, United Environmental Services Ltd. (Unpublished Report No UES03448/23))
- b) Submission of details and associated plans concerning GCN avoidance and mitigation measures including: fence design, specifications and proposed locations; fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements;
- c) Submission of further details concerning on-site and/or off-site compensatory proposals including plans, extent, access, current and proposed tenure (tenure to accord with a body defined as responsible under Part 7 of the Environment Act 2021). Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. Submission to include timescales and reporting requirements;
- d) Submission of a long term site management plan (for a duration of *not* less than 25 years) that includes:-
 - i. defined aims and objectives (including targets that can be used as key performance indicators for monitoring purposes);
 - ii. habitat management prescriptions for aquatic and terrestrial habitats;
 - iii. appropriate amphibian reasonable avoidance measures;

- iv. contingency prescriptions if fish and/or invasive non-native species (INNS) are detected;
 - v. site liaison, wardening, incident reporting and response arrangements;
 - vi. detail of the skills and competencies required by those undertaking the works or activities including whether they require European Protected Species licenses for the activities proposed;
 - vii. provision for periodic review mechanism for the Environment Management Plan; and
 - viii. contingency measures that are capable of being implemented in the event of failure to undertake or appropriately implement / correct management or surveillance prescriptions including any required actions arising from unforeseen situations;
 - ix. current and proposed changes to tenure of the ecology area (freehold tenure of the ecology area to be approved by the discharging Authority in consultation with Natural Resources Wales and be informed by the definition of a “responsible” body under Part 7 of the Environment act 2021) to ensure appropriate control over the land is established and the effective targeted delivery of long-term actions;
 - x. details of persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; and
 - xi. reporting requirements associated with species surveillance and habitat management.
- e) Submission of measures designed to prevent the accidental capture/killing of newts (amphibians) during operational phases of the scheme (i.e. post construction). This is essentially the installation and maintenance of an amphibian friendly surface water management system that does not include gully pots (or other similar features);
- i. Details of timing, phasing and duration of construction activities and conservation measures
 - ii. Timetable for implementation demonstrating that works are aligned with the proposed development
 - iii. Ecological Compliance Audit, including key performance indicators
 - iv. Persons responsible for implementing the works
 - v. Post construction monitoring and record dissemination for a period of not less than 25 years. All ponds to be added to the Wales Great Crested Newt Monitoring Scheme, (see [Cofnod](#) with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual [*or biennial*] abundance counts and Habitat Suitability Index (HSI) assessments. Each water body shall be individually numbered on site. In respect of biennial surveillance, frequency of monitoring visits shall be increased in the event of fish and or aquatic invasive non-native species are detected;
 - vi. Post construction monitoring plan. Monitoring plan to include:
 - vii. Submission of a biosecurity risk assessment

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

Planning Obligations: We advise that any subsequent consent is also subject to the imposition of planning obligations as well as conditions. We suggest that planning obligations include provisions concerning the below:

- a) A defined commuted sum and/or requirement for index-linked ground rent service charges to resource ecological surveillance, management and wardening (as informed by the updated Ecological Management Plan).
- b) Management Plan review and update.
- c) Funding to cover the cost of input from Public Bodies if required to review monitoring results/undertake liaison and comment on proposed Environment Management Plan Reviews.
- d) Tenure and any proposed changes to tenure to be carried out to the satisfaction of the discharging Authority in consultation with Natural Resources Wales to ensure the implementation of long-term measures is secure. Tenure to accord with the definition of a “responsible” body under Part 7 of the Environment Act 2021. This to include timescale for completing land transfer prior to the operational phase of the proposals.

We advise that the future owner/occupier is included as a signatory to the Section 106 Agreement.

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.

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

Garmon Lewis

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