



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-206509-K3F0
Eich cyf/Your ref: P/2022/1052

Maes Y Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd
LL572DW

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

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk
Ffôn/Phone: 03000 65 3786

31/01/2023

Dear Sir/Madam,

BWRIAD / PROPOSAL: ESTYNIAD I WARWS PRESENOL, NEWIDIADAU I IARD WASANAETH A MYNEDFA NEWYDD / EXTENSION TO EXISTING WAREHOUSE, ALTERATIONS TO SERVICE YARD AND NEW ACCESS

LLEOLIAD / LOCATION: DRAGON PACKAGING, UNIT 47 AND 48 CLYWEDOG ROAD NORTH, WREXHAM INDUSTRIAL ESTATE WREXHAM, LL13 9XN

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 11th January 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 European Protected Species and 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, conditions regarding European Protected Species and Land Contamination should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

European Protected Species

We have reviewed the submitted ecological report (reference Clark, E. (2021). Preliminary Ecological Appraisal: Dragon Packaging, 47- 48 Clywedog Road North Wrexham Industrial Estate, Wrexham LL13 9XN. United Environmental Services Ltd. (Unpublished Report No UES03537/01)

Great Crested Newt (GCN)

Section 3.3.1 states “Due to the presence of a small amount of suitable terrestrial habitat which will be impacted on site, proximity to areas of suitable terrestrial habitat (dense scrub, dry ditch and scattered trees) and the relative proximity to known breeding populations, it is

possible that GCNs and other common amphibians are present within the northern section of the site”.

We consider that Wrexham Industrial Estate and its environs supports a nationally important population of great crested newt. This species and its breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and they classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN 5).

In our view, we consider that construction and operational phases of the proposal have the potential to adversely affect the great crested newt at this site. We therefore advise in support of the application, that the applicant provides an overall framework strategy statement in respect of conserving great crested newt both during, and post construction. Within the Pre-application Consultation Report, Plan Red, November 2022, Document Reference: FI009-03V2, paragraph 3.3 states “UES has been appointed by the applicant to prepare the Framework Strategy sought by NRW which will be submitted in support of the application.” It appears that no such Strategy document has been submitted to date. The Framework Strategy shall include outline approaches in respect of Great Crested Newt avoidance, mitigation, habitat provision and management, consideration of preventing incidental capture or killing (during and post construction); biosecurity and evidencing compliance with implementation of conservation proposals.

We would also advise that you include a condition within any permission for an Amphibian Conservation Plan to be submitted:

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:

- (i) Build upon the principles outlined in the ecological report (Clark, E. (2021). Preliminary Ecological Appraisal: Dragon Packaging, 47- 48 Clywedog Road North Wrexham Industrial Estate, Wrexham LL13 9XN. United Environmental Services Ltd. (Unpublished Report No UES03537/01))
- (ii) Submission of details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to: amphibian fence design, specifications and proposed locations; consideration of access issues across fence lines); fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements
- (iii) Submission of further details concerning the provision of an amphibian conservation area. Details to include plans, extent, habitat creation and enhancement proposals (ideally including pond construction) access, together with current and any proposed changes to tenure;

- (iv) Submission of a site management plan for the ecology area. Details to include
- defined aims and objectives
 - habitat management prescriptions for aquatic and terrestrial habitats;
 - Detail of the skills and competencies required by those undertaking the works, surveillance or activities including whether they require European Protected Species licenses for the activities proposed;
 - provision for periodic review mechanism for the Environment Management Plan; and
 - current and proposed changes to tenure of the ecology area (freehold tenure of the defined ecology area to be approved by the discharging Authority in consultation with Natural Resources Wales) to ensure appropriate control over the land is established and the effective targeted delivery of long-term actions;
 - Monitoring and surveillance (25 years)
- (v) Submission of measures designed to prevent the accidental capture/killing of newts (amphibians) during the operational phase of the proposal. 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);
- (viii) Ecological Compliance Audit, including key performance indicators
- (ix) Persons responsible for implementing the works
- (xi) Submission of a biosecurity risk assessment

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

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

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, the applicants would need a revised ecology report that takes account of such changes.

We can provide further advice once consulted on the additional information to be provided, as explained in the PAC report.

Please also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

We would also advise the applicants separately, that the implementation of the proposed development is subject to regulation under the provisions of a derogation licence. 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 European Protected Species

We concur with the assessment and conclusions in respect of hazel dormouse, water vole and otter.

Protected Sites

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 from the information submitted within sections 7.12 to 7.15 and 8.37 to 8.39 of the Planning Statement that the applicants believe that the development will not increase the amount of phosphorus being discharged from the site. Paragraph 3.6 of the Pre-application Report states “The applicant maintains that the proposals as an employment use with no accommodation for overnight stays will not give rise to a material increase, and therefore no significant effect, on phosphorus being discharged from the site. The applicant will provide written justification to the local planning authority in support of its position.” We refer you to our Planning Advice, and ultimately it would be the view of the Local Planning Authority to determine whether there would be an increase to the amount of phosphorus being discharged from the site, as a result of the proposed development.

Provided this advice is followed and that 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, we would advise that the LPA consult us on their Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Land Contamination

We refer to the submitted Phase 1 Site Investigation Report, Integra Consulting, Ref: 3340-SI, Aug 2022 and would broadly agree with the recommendations. The report states within Table 2 that “much of the site appears to have been developed for the production of munitions associated with WWII. A mineral railway line runs along the NW border of the site, extending beyond the boundaries of the site”. We have land contamination concerns as there is the potential for historic contamination, and the site is of high sensitivity in terms of controlled waters. We therefore advise that you also include the following conditions on any planning permission granted:

Condition 2– No development 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 3 - Prior to the occupation of the 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 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. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Condition 5 - No development shall commence until details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Justification:

Piling/foundation details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

Condition 6 - 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.

Land Contamination advice to the applicant:

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

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 characterized both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays

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'](#)

Flood Risk

The site lies within Zone A of the Development Advice Maps (DAM) contained within Technical Advice Note 15 Development and Flood Risk (July 2004).

TAN15 advises that for development located in Zone A the justification test is not applicable and surface water requirements apply. The acceptability criteria is for no increase in flooding elsewhere to occur as a result of the development. Given the location of development in Zone A, we advise that surface water requirements should be assessed. We note it is for the Local Planning Authority's Land Drainage Department to comment on the suitability of these proposals.

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,

Gareth Thomas

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