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

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

26/05/2022

Dear Sir/Madam,

PROPOSAL: OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR UP TO 7 DWELLINGS

LOCATION: LAND AT MILL BROOK CLOSE, LAVISTER, WREXHAM

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with additional information about the above, which we received on 09/05/2022.

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 provide overriding reasons in respect of flood risk and further consideration is required regarding foul drainage. If this information is not provided, we would object to this planning application. Further details are provided below.

Flood Risk

The planning application proposes highly vulnerable development (residential). Our Flood Risk Map confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in TAN15 and the Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls partially into Flood Zone 2 (Rivers).

The amended proposed block plan (drawing no. 76136 / RJC / 004; Roger Parry and Partners) now shows 9 dwellings rather than the previous 7 (to note, the application is still listed as an outline application for up to 7 dwellings on your website).

The accompanying email from the agent, dated 06/05/2022, states:

"Regarding flood risk, the planning application proposes highly vulnerable development, residential development. The application site falls within Zone C2 of the Development Advice Map (DAM) contained in TAN15 (2004). However, at this location the Flood Map for Planning

(FMfP) is the best available information on flood risk. The FMfP identifies the application site to be in Flood Zone 1, meaning there is less than a 0.1% chance of flooding in a given year."

However, our records show that the dwellings on the amended proposed block plan are still also located partially within Flood Zone 2 (Rivers) and entirely within DAM Zone C2. Therefore, we consider that our previous advice, dated 23/03/2022 (our ref: CAS-184134-J6L9), remains valid, as outlined below.

We refer you to Section 6 of TAN15 and the Chief Planning Officer [letter](#) from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2.

In the first instance, your Authority should make a planning policy decision on the application. Therefore, unless we receive written confirmation from your Authority that you believe there are overriding reasons to consider granting planning permission, despite the site's location within Zone C2, we do not intend to comment on the risks and consequences of flooding, and we would advise that your Authority should refuse the planning application on planning policy grounds.

The decision as to whether a development should be considered contrary to TAN15 policy is entirely a matter for your Authority. However, if you provide overriding reasons and require our advice, we advise you there is no flood consequences assessment (FCA) supporting the planning application and this will be required to assess compliance with test iv (in paragraph 6.2). We will then provide you with technical advice on the acceptability of flooding consequences in accordance with Appendix 1 of TAN15.

If the FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then we would object to the application.

Please inform us, in accordance with advice in paragraph 11.7 of TAN15, if you are minded to grant permission for the above application contrary to our advice and allow sufficient time for further representations to be made before any consent is granted.

Flood Risk Activity Permit

Please advise the Applicant that the Environmental Permitting Regulations (2016) require them to obtain a bespoke Flood Risk Activity Permit for any works or structures located in, under, over or within 8 metres of the bank top of the Lavister Brook, a designated "main river". Further advice and guidance is available on our website at:

<http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/flood-risk-activity-permits-information/?lang=en>

Foul Drainage and 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 phosphate levels for all river SACs across Wales. As part of this package, we issued a [Planning Position Statement](#), in which we advised that any proposed development that might increase the amount of phosphate within a river SAC catchment could lead to damaging effects to the SAC. Therefore, such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC. We have also issued [Planning Advice](#) (May 2021) which gives specific advice in respect of foul drainage arrangements for new developments.

We note from the information submitted that the development has the potential to increase the volume or concentration of wastewater and associated phosphate levels being discharged from the site via mains sewer connection. However, we note that a submitted letter from Welsh Water dated 14/03/2022 (their ref: PLA0064124) states: *“We can advise that Lavister WwTW has a phosphate permit. This matter will need to be considered further by the local planning authority.”*

As per our [Planning Advice](#), development connecting to an existing public wastewater treatment works that has the capacity and associated phosphorus stripping facility to accommodate additional wastewater is unlikely to increase phosphorus inputs to a SAC beyond what has already been assessed and permitted by NRW. However, your authority, should examine the appropriate assessments carried out in respect of the extant environmental permit(s), along with any new information or changes in circumstances, to ensure that an adverse effect on site integrity can be ruled out. Should you need to obtain a copy of the relevant appropriate assessment, please contact: datadistribution@cyfoethnaturiolcymru.gov.uk

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 and Bala Lake SAC, please consult us on your appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Protected Species

We have reviewed the following submission:

- Stirling, P. (2021). Preliminary Ecological Appraisal: Mill Brook Close. Arbor Vitae Environment Ltd. Unpublished

The Preliminary Ecological Appraisal includes the following conclusions:

*“It is unlikely that bats use the site and the proposals will have no impact upon this group....
...The proposed development will have no impact upon GCN [Great Crested Newt] and no further survey work is required....
...There was no evidence to suggest that otters are using Mill Brook and it is unlikely to provide feeding opportunities for this species. The channel might be used occasionally for*

commuting individuals and should therefore remain free from disturbance including direct interference and illumination...”

We have no further comments to provide on this aspect.

Groundwater

Please note that the site is located within a Source Protection Zone (SPZ). We advise that the SPZ should be considered when designing and installing the drainage system. Given the potential volumes generated by the development an Environmental Permit will likely be required. We would advise the applicant to see our website for more details on Environmental Permit requirements: [Natural Resources Wales / Protecting groundwater](#)

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