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18/02/2022

Annwyl Syr/Madam / Dear Sir/Madam,

**BWRIAD / PROPOSAL: ERECTION OF INDUSTRIAL UNITS (CLASS B2/B8)
CONSTRUCTION OF PARKING AREAS AND ASSOCIATED DEVELOPMENT**

**LLEOLIAD / LOCATION: LAND EAST OF BRYN LANE, WREXHAM INDUSTRIAL
ESTATE, WREXHAM, LL13 9UT**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 12/01/2022.

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. 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, Biosecurity and Land Contamination should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

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 phosphorus 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 (or phosphorus) 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 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 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' 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).

Protected Species (PS)

Great Crested Newt (GCN)

We note that the following ecology reports submitted in support of the above application have identified that GCN are present at the application site. GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended):

- O'Neil, W. (2021). Plots 1A and 1B, Land off Bryn Lane Wrexham Industrial Estate: Proposed Commercial Development- Habitat Management Plan. Etive Ecology Ltd. (Unpublished).
- O'Neil, W. (2021). Proposed Commercial Development Plots 1A and 1B Land off Bryn Lane, Wrexham Great Crested Newt Mitigation Strategy. Etive Ecology Ltd. (Unpublished).

Although the above reports have been submitted, we advise that there is insufficient information to assess potential effects on GCN, and how any effects will be avoided or mitigated. We advise that further information is required to assess the extent of adverse effects on the species 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.

We advise that the application currently lacks required detail in respect of:

- 1) Confirmation of the size of the area to be specifically managed for GCN in relation to the size of the development. Owing to the national importance of the site; we advise that the overall ecology area must be at least equivalent in area to the size of the development.
- 2) Details of avoidance and mitigation measures in respect of GCN.

- 3) Details of the surface water management system to evidence that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN.
- 4) Details concerning the overall ecology area, including a component dedicated GCN compensation area and its associated long-term management, including but not limited to:
 - a) Extent (the size of the GCN compensation area within the overall ecology area should equate to the overall size of the footprint of the area to be developed)
 - b) Duration and methodology of long-term surveillance
 - c) Tenure
 - d) Management
 - e) Monitoring prescriptions
 - f) Adverse factor management prescriptions
 - g) Licensing requirements for management and surveillance
- 5) Measures to ensure the ecological security of ecology areas

Attributes of conservation status include habitat extent, habitat quality, population size and long-term prospects. We therefore advise that the scheme as proposed fails to demonstrate no detriment to the maintenance of the favourable conservation of the local population of GCN.

However, we consider that it is possible for your Authority as the relevant LPA to conclude that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN provided (a) a supporting statement is supplied in respect of addressing concerns articulated above together with (b) the imposition of the below planning conditions and obligations.

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:

- 1) Build upon the principles outlined in the ecological reports:
 - a. O'Neil, W. (2021). Plots 1A and 1B, Land off Bryn Lane Wrexham Industrial Estate: Proposed Commercial Development- Habitat Management Plan. Etive Ecology Ltd. (Unpublished).
 - b. O'Neil, W. (2021). Proposed Commercial Development Plots 1A and 1B Land off Bryn Lane, Wrexham Great Crested Newt Mitigation Strategy. Etive Ecology Ltd. (Unpublished).
- 2) Submission of details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to: 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;

- 3) Submission of further details concerning the dedicated GCN compensation area including plans, extent, access, current and proposed tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. Submission to include timescales and reporting requirements;
- 4) Submission of a long-term site management plan (for a duration of not less than 25 years that includes the following:
 - a) defined aims and objectives (including targets that can be used as key performance indicators for monitoring purposes);
 - b) habitat management prescriptions for aquatic and terrestrial habitats;
 - c) contingency measures if fish and/or invasive non-native species (INNS) are detected;
 - d) site liaison, wardening, incident reporting and response arrangements;
 - e) detail of the skills and competencies required by those undertaking the works, surveillance or activities including whether they require European Protected Species licences for the activities proposed;
 - f) provision for periodic review mechanism for the Environment Management Plan; and
 - g) Plans for Ecological Compliance Audits to evidence compliant implementation of all ecological avoidance, mitigation and compensation works.
- 5) 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;
- 6) 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;
- 7) Reporting requirements associated with species surveillance and habitat management.
- 8) Submission of an audit report that reviews proposed measures designed to prevent the accidental capture/killing of newts (amphibians) during operation. 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);
- 9) Details of timing, phasing and duration of construction activities and conservation measures
- 10) Timetable for implementation demonstrating that works are aligned with the proposed development
- 11) Ecological Compliance Audit, including key performance indicators
- 12) Persons responsible for implementing the works
- 13) Post-construction monitoring plan. Monitoring plan to include:
 - a) Methodology: the [Wales Great Crested Newt Monitoring Scheme](#) shall be used with surveys being carried out on an [annual] basis;
 - b) Duration: Not less than 25 years;
 - c) Surveys shall be abundance counts and habitat quality assessments using Habitat Suitability Index (HSI) scores;

- d) Identification of individuals/bodies being responsible for monitoring and reporting results;
 - e) Each water body shall be individually numbered on site.
- 14) Submission of a biosecurity risk assessment (see below).

We advise that any subsequent consent should also be subject to the provisions of a planning obligation (Section 106 Agreement/Unilateral Undertaking). Suggested planning obligation provisions should consider the following within any preliminary “Heads of Terms” document and subsequent obligation:

- (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) Liaison with regulatory bodies
- (e) 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.
- (f) Restrictions on the future use of a dedicated component great crested newt mitigation area

In respect of bullet point ‘e’ (securing long term measures) we advise that in respect of the dedicated GCN compensation area, your Authority gives due consideration to the tenure of this area according with the definition of a “responsible” body under Part 7 of the Environment Act 2021.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, you would need a revised ecology report that takes account of such changes. Please consult us again if any updated or revised ecology report concludes that the proposal is more likely to have an adverse impact on the GCN population and/or alters the detail or implementation of mitigation or compensation measures.

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

Derogation Licence

We understand that the application site has previously been subject to an extant derogation licence (Reference: 67880:OTH:EOPS:2015).

This scheme was partially implemented without compensatory measures. The net outcome of this licence would therefore have been to the detriment to the maintenance of the favourable conservation status of the local population of GCN.

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.

Bats

We note the ecological reports submitted in support of the above application (referenced above). From the information submitted, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document 'Natural Resources Wales Approach to Bats and Planning (2015)'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

As this is a lower risk case for bats, we consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Furthermore, we advise that the proposed development is not likely to harm or disturb the bats or their breeding sites and resting places at this site, provided the avoidance measures described in the bat report are implemented, specifically the recommendations in respect of external lighting.

Please consult us again if any further information shows that this is no longer a lower risk case.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases.

We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include:

- 1) appropriate measures to control any INNS on site; and
- 2) measures or actions that aim to prevent INNS

being introduced to the site for the duration of construction and operational phases of the scheme.

Condition 2 – Biosecurity - No development, including site clearance, shall commence until a Biosecurity Risk Assessment and associated Method Statement that considers invasive non-native species and specific diseases (e.g. Chytrid) has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to prevent the introduction of, and where present control, removal or for the long-term management of, invasive species both during construction and operation. The risk assessment shall consider landscaping and other related plans. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to prevent or control the spread and effective management of any invasive non-native species and listed diseases at the site.

Land Contamination

Based on the information submitted to us, we have concerns with the proposed development due to the historical agricultural/farm use and the surrounding drainage ditches and the underlying Secondary A and Principal Aquifers.

The following submitted report has been reviewed:

- E3P, Phase I Geoenvironmental Site Assessment, Bryn Land, Wrexham Industrial Estate, Ref 14-892-R1-1 Dated August 2021

The report recommends intrusive ground investigation to confirm the conceptual model, this is considered necessary and could be required by conditions.

In the absence of additional information being provided, we would advise that you should only grant planning permission for this scheme if the conditions listed below are attached to the planning permission.

We consider the above report (Ref: 14-892-R1-1) addresses Part 1 of condition 2 below.

Condition 3 - Land Affected by Contamination - No development, 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:
 - a. all previous uses
 - b. potential contaminants associated with those uses
 - c. a conceptual model of the site indicating sources, pathways and receptors
 - d. 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.

5. 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 4 - Contamination Verification Report - Prior to the occupation or operation 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 5 - Long Term Monitoring Plan - Prior to the occupation or operation of the development, a long-term monitoring plan for protected sites and 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 protected sites, 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 protected sites.

Condition 6 - 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.

Condition 7 - Surface Water Drainage - 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: 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.

Condition 8 – Piling - No development, or phase of 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

Informative to LPA

These conditions have 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 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.

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