



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-128757-K5Q2
Eich cyf/Your ref: P/2020/0649

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09/11/2020

Dear Sir/Madam,

BWRIAD / PROPOSAL: OUTLINE PLANNING PERMISSION FOR UP TO 300 DWELLINGS (CLASS C3 USE), A PRIMARY SCHOOL (2-FORM ENTRY), SMALL DISTRICT CENTRE COMPRISING UP TO 1,395 SQ.M OF CLASS A1 RETAIL, UP TO 372 SQ.M OF CLASS A3 RESTAURANT / PUBLIC HOUSE, UP TO 465 SQ.M OF CLASS D1 USE, MULTI-FUNCTIONAL GREEN INFRASTRUCTURE, INCLUDING INFORMAL OPEN SPACE, SURFACE WATER ATTENUATION, VEHICLE ACCESSES, CAR PARKING, ENGINEERING WORKS, PUBLIC FOOTPATHS AND HARD AND SOFT LANDSCAPING, UNDERGROUND SERVICES, AND ALL ANCILLARY AND ENABLING WORKS, WITH ALL MATTERS RESERVED EXCEPT FOR VEHICULAR ACCESS FROM BRYMBO ROAD

LLEOLIAD / LOCATION: LAND AT THE FORMER BRYMBO STEELWORKS, BRYMBO

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 20/10/2020

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following conditions to the permission. Otherwise, we would object to this planning application.

Summary of Conditions:

Condition 1 (Protected Species): Submission of a Great Crested Newt (GCN) Conservation Plan.

Condition 2 (Biosecurity): Submission of a Biosecurity Risk Assessment.

Condition 3 (Land contamination): Land affected by contamination

Condition 4 (Land contamination): Contamination verification report

Condition 5 (Land contamination): Long-term monitoring plan

Condition 6 (Land contamination): Unsuspected contamination

Protected Sites

A part of the proposed development site lies within Coedwig Ffossil Brymbo Fossil Forest Site of Special Scientific Interest (SSSI) which is designated for its geological interest. The Design and Access Statement (October 2020) and Planning Statement (October 2020) state that this area will be open space. In view of the nature of the special interest, we advise that this proposal for outline planning permission is unlikely to damage the special interest of the SSSI. However, detailed landscaping proposals for this parcel of land will need to be agreed at the Reserved Matters stage to ensure that the proposals do not damage the SSSI interest.

European Protected Species

Great crested newts

We note that the following report has been submitted in support of the application: Preliminary Ecological Assessment, Wardell Armstrong (August 2020), Land at the Former Brymbo Steelworks.

As identified in the report, great crested newts may use the site for foraging/sheltering purposes and could be affected by the proposed works. We therefore advise that reasonable avoidance measures will need to be agreed as a condition of any planning permission. Details of appropriate management of green infrastructure within the site, for the benefit of amphibians, will also need to be agreed as either a condition or planning obligation of any subsequent planning permission.

Condition 1 – GCN Conservation Plan

No development shall commence until a GCN Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should include:

- Details of amphibian reasonable avoidance measures to prevent or reduce incidental capture or killing;
- Detail of amphibian friendly surface water management scheme;
- Details of initial aftercare and long-term maintenance and management of green infrastructure present on site and within the environs of the proposed development site. Details to include specific prescriptions for the benefit of amphibians;
- Imposition of index linked ground rent service charge to support management of green infrastructure. Payments to cover site management, wardening and interpretation and surveillance. (*Alternatively, this could be included as a provision of a planning obligation, e.g. Section 106 Agreement*).

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

Bats

We consider the assessment in respect of bats to be satisfactory and concur with the conclusions and recommendations. We advise that the proposal is not likely to be

detrimental to the maintenance of the favourable conservation status of any local populations of bat.

Dormouse

We consider the assessment in respect of dormice to be satisfactory and concur with the conclusions. We advise that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of dormouse.

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 the risk assessment must include:

- (i) appropriate measures to control any INNS on site; and
- (ii) 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 with the potential to impact on invasive species, shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive species both during construction and operation. 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 control the spread and effective management of any invasive non-native species at the site.

Land Contamination

Based on the previous land use of the site as a steel works and open-cast coal mine we consider the site to have the potential for land contamination. We note that reclamation works were completed in 2005, but the extent of remediation of the land is not known. We therefore request the following suite of conditions be imposed on any planning permission granted:

Condition 3 – Land affected by contamination

No development of land known to be / suspected of contamination, 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:
 - i. all previous uses
 - ii. potential contaminants associated with those uses

- iii. a conceptual model of the site indicating sources, pathways and receptors
 - iv. 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 4 – Contamination verification report

Prior to the occupation/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 LPA. 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/operation of the development, a long term monitoring plan for 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
- 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 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 controlled waters.

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.

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.

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.

Advice for the Developer

Land contamination

In addition to the above conditions with respect to land contamination, we would recommend that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the Environment Agency's '[Guiding Principles for Land Contamination](#)' 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 \(2018\) 'Approach to Groundwater Protection'](#)

The applicant should also note that 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 characterised 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.

Pollution prevention

During the construction phase you should take any precaution to prevent contamination of surface water drains and local watercourses. Oils and chemicals should be stored in bunded areas and spill kits should be readily available in case of accidental spillages.

For further guidance please refer to GPP 5 and PPG 6 at the following link: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list>

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Bryn Griffiths

Uwch-gynghorydd - Cynllunio Datblygu / Senior Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales