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09/06/2021

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: OUTLINE APPLICATION FOR ERECTION OF CLASS B1 AND B8 INDUSTRIAL UNITS INCLUDING ACCESS AND LAYOUT

LLEOLIAD / LOCATION: LAND AT OAK ROAD, WREXHAM INDUSTRIAL ESTATE, WREXHAM (MAJOR)

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 20/05/2021

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 and contaminated land should be attached to any planning permission granted.

Condition 1: Protected Species

Condition 2: Contaminated Land

Protected Species

Great Crested Newt (GCN)

The application site has been subject to survey and assessment in respect of great crested newt.

- Roe, R. Land at Oak Road, Wrexham Industrial Estate: Ecological Assessment Report: Version 4. Kingdom Ecology. 2021.

Although this proposal is unlikely to affect the features, functionality or integrity of any statutory designated sites of ecological interest, land within and in the environs of the Wrexham Industrial Estate has been considered to support a nationally important population of the great crested newt.

In our view, the overall proposal has the potential to cause disturbance to great crested newts (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 they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

We consider the submitted proposals demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts, provided any subsequent consent is subject to the provisions of both planning conditions and obligations.

We note that SUDS water bodies are proposed in the ecology/heritage area. To date, we are unaware if management issues have been effectively considered in respect of these ponds including any access requirements and the legal and operational implications of managing these features if occupied by great crested newts.

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:

- Build upon the principles outlined in the ecological report (reference Roe, R. (2021). Land at Oak Road, Wrexham Industrial Estate: Outline Management Plan. Kingdom Ecology. Unpublished.)
- Submission of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to fence design, specifications and locations; considerations of access issues; monitoring and maintenance requirements; and supervised removal. Submission to include proposed timescales and reporting requirements;
- Submission of a long term site management plan (not less than 25 years) that includes defined aims and objectives; habitat management prescriptions; contingency measures if fish or invasive non-native species (INNS) are detected; proposals that are capable of being implemented in the event of failure to undertake or to appropriately undertake identified or contingency actions; site liaison and wardening; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to the freehold tenure of the compensation area; tenure of the ecology and heritage area to be approved by the

LPA in consultation with NRW; persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposed dates for updating or revising the management plan.

- 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).
- Details of timing, phasing and duration of construction activities and conservation measures.
- Timetable for implementation demonstrating that works are aligned with the proposed development.
- Ecological Compliance Audit, including key performance indicators.
- Persons responsible for implementing the works.
- Post construction monitoring and record dissemination for a period of not less than 25 years. All ponds (including SUDS water bodies) to be added to the Wales Great Crested Newt Monitoring Scheme, (see <https://www.cofnod.org.uk/LinkInfo?ID=7> with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual abundance counts and Habitat Suitability Index (HSI) assessments. Each water body, including SUDS ponds, shall be individually numbered on site.
- Submission of a biosecurity risk assessment.

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

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officers 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.

We advise that the LPA's decision on the application accords with advice and representations provided by the LPA's own ecological advisor.

Contaminated Land

The following documents have been submitted:

- The Oaks, Oak Road, Wrexham Industrial Estate, Wrexham, LL13 9RG, Phase 1 (Desk Study) Investigation Report, Opus International Consultants

Limited, Report Ref: V-R6399.00, Dated: March 2017;

- The Oaks, Wrexham Industrial Estate, Phase 2 Site Investigation Report, TerraConsult, Report Ref: 4292/01 Issue 2, Dated: 21st May 2019

The site has been identified as being of higher sensitivity due to its location over a Principal Aquifer and within Source Protection Zone 3, its close proximity to two water courses (Redwither Brook at 3m south-west and the River Clywedog at 15m south-east) and the presence of three groundwater abstraction points immediately to the east of the Site. It is noted, however, that a considerable thickness of cohesive superficial deposits is present which significantly limited the vertical migration of groundwater (and any entrained contamination) into the underlying aquifer. In addition, the abstraction licence relates to process water and not a potable water supply.

The desk study has not identified historical land uses which may result in significant contamination (noting the main ordnance works were outside of the Site area); this was also confirmed by the results of the subsequent site investigation, whereby concentrations of contaminants of potential concern were not identified in concentrations which have the potential to cause significant pollution to Controlled Waters receptors.

In general, we are satisfied with the results presented and the conclusion that the Site does not pose a significant risk to Controlled Waters. However, we require clarification on the following:

- Clarification of whether surface water sampling has been undertaken. This should form part of a Site Investigation when a site is in such close proximity to a surface water course (or two in this case).
- We understand that six post-investigation gas and groundwater monitoring visits were completed, but note that only one round of groundwater samples was recovered. Clarification is therefore required on the rationale behind not taking further samples.

Unsuspected contamination

We note that due to topography and dense vegetation, there were areas of the Site which were unable to be investigated, and as such there remains the potential for unsuspected and unforeseen contamination to be present. As such, we recommend the inclusion of the below condition to ensure any unsuspected contamination is dealt with appropriately.

Condition 2: 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.

Protected Sites and Foul Drainage

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 note the application site is within the catchment of the River Dee and Llyn Tegid 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 bullet point list given 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).

Flood Risk

We acknowledge receipt of the FCA & Surface Water Drainage Strategy (Ref TOW-TCL-HDG-XX-RP-D-0500 dated April 2021, compiled by TerraConsult) submitted with this latest application. This document focuses on surface water control measures. The Local Planning Authority should consult internally with colleagues fulfilling the role of Lead Local Flood Authority (LLFA) to determine whether the surface water drainage strategy is adequate.

No built development or changes to ground level are proposed in Development Advice Map (DAM) Zone C2, so we have no concerns in relation to fluvial flood risk. If proposals do

affect a DAM Zone C2 at any time during the consultation process, we would wish to be reconsulted.

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

Environmental Management

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under the Environmental Permitting Regulations 2016. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

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 Redwither Brook and Clywedog, designated "main rivers". This includes any proposed pedestrian link bridges and attenuated surface water discharge structures. 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>

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

Yn gywir / Yours faithfully,

Rhys Jones

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning

Cyfoeth Naturiol Cymru / Natural Resources Wales