



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-122233-H2D8
Eich cyf/Your ref: P/2020/0425
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18/09/2020

Dear Sir/Madam,

**BWRIAD / PROPOSAL: GORSAF BWER TANIO NWY (LLAI NA 10 WM) / GAS FIRED
POWER STATION (LESS 10 MW)**

**LLEOLIAD / LOCATION: LAND SOUTH OF BRIDGE ROAD, ADJACENT TO UNIT R1
BRIDGE, WREXHAM INDUSTRIAL ESTATE**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 13/8/2020.

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

Summary of Requirements:

Requirement 1 (Flood Risk): The Planning Authority to be satisfied that there are overriding reasons for considering granting the application contrary to national planning policy on development and flood risk.

Summary of Conditions:

Condition 1 (Protected Species – great crested newts): Species Conservation Plan

Condition 2 (Biosecurity): 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

Condition 6 (Land contamination): Drainage scheme

Flood Risk

Your authority has confirmed (email from Matthew Phillips, 1/9/2020) that you consider that the planning application proposes highly vulnerable development. Our Flood Risk Map confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in TAN15.

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 and emergency services 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 or emergency services 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 review the submitted flood consequences assessment (FCA) and we would advise that your Authority should refuse the planning application on planning policy grounds.

Requirement 1: The Planning Authority to be satisfied that there are overriding reasons for considering granting the application contrary to national planning policy on development and flood risk. Satisfactory evidence must then be provided to demonstrate that the risks and consequences of flooding can be managed to be acceptable level, in accordance with TAN15.

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 request sufficient time to review the applicant's FCA. 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.

Finally, as your Authority will be aware, under the Town & Country Planning (Notification) (Wales) Direction 2012 and more specifically Category I relating to Flood Risk Area Development, where the Planning Authority is minded to grant permission, there is a requirement to refer applications for emergency services or highly vulnerable development within Zone C2 to Welsh Government.

Protected Species

Great Crested Newts

The application site has been subject to assessment in respect of the great crested newt. The ecological submissions confirms the predicted presence of the species in the environs of the application site. The submission, however fails to identify the overall national importance of the population of great crested newts present within and in the environs of the Wrexham Industrial Estate.

In our view, the overall proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places. Great crested newts (GCN) and their breeding 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 (TAN5).

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if it satisfies an appropriate Habitats Directive derogation purpose and two tests before a licence can be issued from Natural Resources Wales.

In the case of development, the applicable derogation purpose is:

“Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.”

Furthermore, the licence can only be issued by NRW on condition that there is:

“no satisfactory alternative”, and that

“the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”

Paragraph 6.3.7 of TAN5 states that your Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCNs on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In our view, we consider that construction of the proposal has the potential to adversely affect the great crested newt at this site. We therefore consider that construction is subject to the provisions of a derogation licence issued by NRW

We welcome the proposed habitat securement and enhancement proposals. We would welcome proposed measures including the construction of a new pond.

We consider the planning submission including ecological report is satisfactory for the purposes of demonstrating the proposal is not likely to be detrimental to the maintenance of

the favourable conservation status of the local population of GCN, provided any subsequent consent is subject to the imposition of planning conditions/obligations in respect of great crested newt.

Condition 1 – Species Conservation Plan

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 Staton. T. (2020). Preliminary Ecological Appraisal for Proposed Stor Generators at Bridge Road, Wrexham. Ensafe Consultants. Unpublished.)
- Submission of updated details and plan concerning GCN avoidance and mitigation measures include fence construction and maintenance. Submission to include timescales and reporting requirements;
- Details of measures designed to prevent the accidental capture/killing of newts post construction. This is essentially the design and construction of an amphibian friendly surface water management system.
- Submission of a long term site management that includes habitat management prescriptions; contingency measures if fish or invasive non-native species are detected; licensing requirements for undertaking habitat management and surveillance; current and any proposed tenure to the compensation area; persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposals that are capable of being implemented in the event of failure to undertake identified or contingency actions;
- Submission of details concerning the installation and maintenance of an amphibian friendly surface water management system that does not include gully pots;
- Details of timing, phasing and duration of construction activities and conservation measures
- Timetable for implementation demonstrating that works are aligned with the proposed development
- Submission and implementation of an ecological compliance audit (ECA). The purpose of the Ecological Compliance Audit is to evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPI's) that are to be used for the purposes of assessing and evidencing compliance.
- Persons responsible for implementing the works
- If one or ponds are constructed, post construction monitoring and record dissemination for a period of not less than 25 years. All ponds 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 biennial abundance counts and Habitat Suitability Index (HSI) assessments. Each water body shall be individually numbered on site. Frequency of monitoring visits shall be increased in the event of fish and or aquatic invasive non-native species are detected;

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

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

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officer's 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.

Invasive Non-Native Species

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 future 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:

- (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 Risk Assessment

The submission and implementation of a biosecurity risk assessment. Provisions of this assessment must include consideration of and inform proposed landscaping schemes.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management, and avoid the introduction, of any invasive non-native species at the site

Land Contamination

In the absence of any site investigation or similar reports we have relied on your authority's information indicating that the site was previously used for the manufacture of explosives; our response may be substantially different if this is not the case. Our response is also based on the presence of two water courses (including Redwither Brook) that flow through the site and then into the Cott Beverages Source Protection Zone approximately 300m to the south

west and then the Afon Clywedog 900m south west from the site. We also note that the Site is in the Dee Water Protection Zone.

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, 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 4 (Contamination verification report)

Prior to the 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 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 (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 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 water quality.

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 (Drainage scheme)

No development shall commence until a drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall comply with [Welsh Statutory National Standards for Sustainable Drainage Systems \(SuDS\)](#) and be carried out in accordance with the approved details.

Justification: A drainage scheme should be submitted to ensure necessary measures are approved prior to commencement of development or phase of development and implemented to prevent the deterioration of water quality within a sensitive site.

The applicant will also need to refer to and adhere to the following guidance:

- Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
- 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.
- Refer to the [Environment Agency's \(2017\) 'Approach to Groundwater Protection'](#)

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.

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

Flood Risk Activity Permit

There is a 'Main River' adjacent to the site. A bespoke Flood Risk Activity Permit (Environmental Permitting Regulations England & Wales, 2016) may be required for any works in, over, under or near a main river or within a flood plain. Further advice and guidance is available on our website at: <http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/>

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.

Permitting

The operator needs to satisfy (based on aggregated net rated thermal input) the requirements of The Environmental Permitting (England and Wales) Regulations 2016, as amended. Particularly SI 2018 No. 110 The Environmental Permitting (England and Wales) (Amendment) Regulations 2018 on implementing the requirements of the Medium Combustion Plant Directive and new controls on Specified Generators. We recommend that the applicant liaises with NRW's Permitting Service for further advice.

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