

Wrexham County Borough Council
The Guildhall,
Wrexham
LL11 1AY

27/04/2020

For the attention of Mared Rees-Jones:

Dear Mared,

**PROPOSAL: OUTLINE PLANNING PERMISSION FOR UP TO 450 DWELLINGS (CLASS C3 USE), PROVISION OF 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 CHILDREN'S PLAY AREAS AND INFORMAL OPEN SPACE, SURFACE WATER ATTENUATION, VEHICLE ACCESSSES, 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
LOCATION: Former Site of Brymbo Steelworks, Brymbo, Wrexham**

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 23/03/2020.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. Otherwise, we would object to this planning application.

Requirement 1: Protected Species: We advise that further information is required to assess the extent of adverse effects on the Great Crested Newts 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.

Requirement 2: Confirmation that the application site does not lie within the SSSI boundary

Condition 1: Biosecurity: No development or phase of development, including site clearance, 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.

Condition 2: Geoscience: Universal condition for development on land affected by contamination

Condition 3: Geoscience: Verification Report

Condition 4: Geoscience: Unsuspected contamination

European Protected Species

Great Crested Newts

Following the comments provided in our letter dated 6th September 2019, we note the Brymbo Park, Great Crested Newt Framework Strategy (Wardell Armstrong, March 2020). Whilst we welcome the proposed framework, we would provide the following comments:

Paragraph 1.3.4 – EMP - In our view the Brymbo Heritage Trust (BHT) strategy was required to address current land use and management issues. Consequently, the submitted GCN Strategy needs to compliment and dovetail with this strategy

Paragraph 1.3.6 - GCN Historic Conservation Status. Paragraphs are needed on:

1. Historic conservation status (including c.5000 eggs translocated from the 'Hot pool');
2. Current conservation Status (unfavourable / recovering); and
3. Favourable conservation status (including overall targets for the two component schemes).

Part 2 - Potential impacts - We agree that the potential impacts include:

1. Impacts of killing, injury or disturbance during construction;
2. Impacts of loss of habitat during construction;
3. Impacts of incidental capture/killing in road surface water management systems; and
4. Indirect recreational impacts.

Paragraph 2.4.6 - Ty Cerrig - Has consideration been given to the structure of the soil at the site?

Paragraph 2.5.3 - In our view the fence appears to constitute a partial barrier to newt dispersal.

Paragraph 2.5.4 – Layout – We have no concern with the extent of development. However, we advise that a component of the green areas of the Ty Cerrig development include a dedicated GCN conservation area where access can be controlled.

Paragraph 2.5.6 - Risk of GCN - We agree that risks are relatively low. However, we still consider there to be a risk and advise that the scheme is constructed under licence. Consideration should be given to newts being found during the relocation of the fence. (when fencing is either removed or displaced).

Paragraph 2.5.7 - GCN Licence/assessment - We advise that the licence covers the entirety of the development site (red land) and for a duration of 5-10 years. We advise that applications include the detail of all green areas.

Paragraph 3.3 - Enhancement for GCN - We advise that the existing enhancement proposals were required to address previous unfavourable conservation status issues.

We advise that additional conservation restoration proposals are included. This should form part of the green areas of the Ty Cerrig component development. This area should be subject to controlled public access.

Paragraph 4.1 - Land Transfer - The land transfer proposal is welcomed. Confirmation of the completion date and the proposed ownership of the green areas of the remainder of the site should be provided.

We advise that the green areas of the proposed development are also transferred to a 3rd sector body.

We advise that land transfer of component developments is completed before the occupation of the second half of the (component) developments.

Paragraph 4.2 - Funding - It is not appropriate for Heritage Lottery to pay for EPS compensatory measures/actions. This would be contrary to the polluter pays principle.

We advise that all development is subject to the imposition of index linked ground rent service charges. This to be based on a costed management plan covering:

- (a) Ecological Surveillance;
- (b) EPS habitat management;
- (c) Wardening

It is also advocated that a lump (commuted) sum is also provided.

Paragraph 4.2.3 - We advise reference to restoring as opposed to maintaining the GCN population

Paragraph 5.1.1 - Monitoring - Clarification should be provided with regards to what happens in relation to monitoring after 21 years. We advise that monitoring will be required

for at least 25 years. If funded by ground rent monitoring can effectively resourced on an in-perpetuity basis. This is consistent with other schemes in Wales

Clarification should be provided with regards to measures that ensure BHT undertakes monitoring and has the required licences/competencies for long term management & surveillance.

Paragraph 5.1.6 - Remedial measures - Clarification should be provided as to how these measures would be funded.

In addition to the detail provided in the Great Crested Newt Framework Strategy, we advise the following topics require consideration:

1. Biosecurity (see section below).
2. Ecological compliance audit - We advise that Tier 3 ECA will be required.
3. Specific Compensation Area - We advise that part of the green space incorporates a dedicated GCN conservation area.
4. Amphibian friendly surface water management system - No apparent consideration of an amphibian friendly surface water management system.
5. SUDS - Does the scheme require SUDS proposals including detention or retention ponds?

We advise that these are also subject to annual surveillance and licences will be required for managing these features.

Bats

We consider the assessment in respect of bats to be satisfactory. We therefore concur with the conclusions and recommendations in respect of bats.

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. We therefore 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

Condition 1: Biosecurity: No development or phase of development, including site clearance, 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.

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:

- (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.

Site of Special Scientific Interest

The proposed development site lies within Coedwig Ffossil Brymbo Fossil Forest Site of Special Scientific Interest (SSSI).

The Wildlife and Countryside Act 1981 (as amended) places a duty on public authorities in exercising their functions, so far as this is likely to affect the flora, fauna, geological or physiographical features of a SSSI, to take reasonable steps consistent with the proper exercise of their functions to further the conservation and enhancement of those features.

Requirement 2: Confirmation that the application site does not lie within the SSSI boundary

All the plans within the various documents show part of the SSSI within the planning application area. However, Section 6.28 of the Planning Statement states that development proposals are outside of the SSSI, as follows:

6.28 There is one statutory designated site and 14 non-statutory designated sites within 2km of the Site, the closest being Coedwig Fossil Brymbo Fossil Forest SSSI, designated for geological value rather than nature conservation. Development proposals are located entirely outside of the SSSI and will not impact upon the geological features for which the SSSI is designated. The other non-statutory designated sites are considered too distant and/or lacking ecological connectivity for proposals on the Site to impact upon them.

However, NRW note an area of the SSSI to the North and to the South West of the SSSI follows the edge of a track which is clearly identifiable on the ground and on the maps used for the various reports within the planning application. If this is not a mapping error and the area remains as part of the planning application, then NRW request an assessment of the impact on the geological SSSI.

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 2: Geoscience: Universal condition for development on 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; 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 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 longterm monitoring are implemented to prevent unacceptable risks from contamination.

Condition 3: Geoscience: Verification Report

Prior to the occupation or operation of the development or phase of 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 4: Geoscience: 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.

Advice to LPA

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 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.

Flood Risk

The application site lies marginally within Zone B as defined by the Development Advice Map referred to under TAN 15 Development and Flood Risk (July 2004), and is shown to be located outside the 0.1% (1 in 1,000) annual exceedance probability (AEP) event flood outline on the NRW Flood Risk Map. We do not hold any records of flooding at the site.

The development proposal is for mixed use development, including 450 dwellings, a primary school and a small district centre. A Flood Consequences Assessment (FCA) has been prepared in support of the planning application by Wardell Armstrong (ref: ST16882, April 2019). The FCA demonstrates that the site is not at risk of flooding from tidal sources or from fluvial flood risk from main rivers. There appears to be a land drain west of the site, and a small ordinary watercourse located south-east of the site, and some limited sections of the site are shown to be at risk of flooding from surface water. We therefore recommend that the Lead Local Flood Authority (LLFA) is consulted to see if they hold any further information in respect to these watercourses and to obtain their comments relating to surface water flood risk.

The FCA also includes a surface water drainage strategy. We would advise that Wrexham County Borough Council, in its duty as the SuDS Approving Body (SAB), is consulted in order to advise on the suitability of the drainage design, including techniques available to calculate surface water rates of discharge and soakaway infiltration and to ensure that off-site risks are not increased due to this development proposal, as well as in relation to recent legislative changes requiring developers to obtain drainage approval from the SuDS Approving Body (SAB). We do not provide advice in this regard.

Foul Drainage

We note that site drainage for foul water will be to the local mains sewer network operated by DCWW, consultation with DCWW should be sought to ensure the increased capacity can be accommodated.

Please do not hesitate to contact us if you require further information or clarification of any of the above.

Other Matters

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: <https://cdn.naturalresources.wales/media/686847/dpas-consultation-topicsaugust-2018-eng.pdf?mode=pad&rnd=131819256840000000>. We have not considered potential effects

on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

Advice for the Developer:

Contamination

Natural Resources Wales recommends 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 “Guiding Principles for Land Contamination” (which has been adopted by NRW) for the type of information required to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, e.g. human health.

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 onsite under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether 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 onsite operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

Natural Resources Wales recommends that developers should refer to our: - Position statement on the Definition of Waste: Development Industry Code of Practice and; - website at www.naturalresourceswales.gov.uk for further guidance. Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016

Developers should ensure that all contaminated materials are adequately characterised both

chemically and physically, and that the permitting status of any proposed offsite operations is clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

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-ppgsand-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.

Landfill:

According to our records the proposed development site is located near to land that is, or has been, used for the deposition of waste material. We would therefore advise you to consult with the local authority's Environmental Health and Building Control Departments, as they may hold detailed records, and may wish to make appropriate recommendations in respect of landfill gas investigation/remedial work. The developers should be made aware of the existence of the landfill site(s) so that they can decide whether to make their own investigations into the presence of landfill gas. It should also be noted that Waste Management Paper 27 states "It has been found that many sites which have taken only supposedly 'inert' waste have produced gas".

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Yn gywir / Yours sincerely,

Daniel Davies

Daniel Davies

Uwch Cynghorydd, Cynllunio Datblygu / Senior Advisor, Development Planning

Cyfoeth Naturiol Cymru / Natural Resources Wales