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SA19 6HW

ebost/email:
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11/02/2021

Annwyl Syr/Madam / Dear Sir/Madam,

**BWRIAD / PROPOSAL: THE ERECTION OF 8 LOW-ENERGY HOUSES
CONSTRUCTED USING 'SOLCER, POSITIVE ENERGY' DESIGNS AND THE
ASSOCIATED INFRASTRUCTURE WORKS.**

LLEOLIAD / LOCATION: HEOL CENNEN FFAIRFACH LLANDEILO, SA19 6UL.

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 26th January 2021.

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

Requirement 1: Flood Risk - The Planning Authority to be satisfied that there are overriding reasons for considering for 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.

Requirement 2: Foul drainage – further information is required to demonstrate that either the foul drainage will be discharged to the main sewerage system or that it is not reasonable to connect to the mains.

Requirement 3: Protected Sites: Further information is submitted to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application

Condition 1: A Construction Environmental Management Plan (CEMP) submitted to and approved in writing by your Authority.

Condition 2: Contaminated land.

Requirement 1: Flood Risk

The planning application proposes highly vulnerable development of 8 new houses. 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.

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.

Requirement 2: Foul Drainage

No information has been submitted regarding the disposal of foul waters from the proposed development. We refer you to Welsh Government Circular 008/2018 on the use of private sewerage in new development, specifically paragraphs 2.3-2.5 which stress the first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. We note the proposed development is in a publicly sewered area and as such, we would expect the site to connect to the mains sewerage system.

We therefore advise that if they haven't already done so, the Applicant should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

- Formally approach the sewerage undertaker regarding a connection under Section 106 or a requisition under Section 98 of the Water Industry Act (WIA) 1991.
- Serve notice for connection under Section 106 of the WIA 1991 if the sewerage undertaker has refused connection.
- Provide details of the reasons given by the sewerage undertaker if it has refused connection under section 98 or section 106 of the WIA 1991 and confirmation that they have appealed against this decision.
- Demonstrate that it is not reasonable to connect to the public foul sewer.
- Where it is not reasonable to connect to the public foul sewer, demonstrate that they have considered requesting that the sewerage undertaker adopt their proposed system.

The Applicant should be aware that should a connection to the mains sewer not be feasible, they will also need to demonstrate that the proposal would not pose an unacceptable risk to the water environment. Welsh Government Circular 008/2018 advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6 of the Circular, in order to justify the use of private sewerage.

The Applicant should also be aware that should a connection to the mains sewer not be feasible, they will need to apply for an environmental permit or register an exemption with us. As stated above, we expect developers discharging domestic sewage to connect to the public foul sewer where it is reasonable to do so. We will not normally grant a discharge permit for a private sewage treatment system where it is reasonable to connect to the public foul sewer. We also expect discharges of trade effluent to connect to the public foul sewer where it is reasonable to do so and subject to the sewerage undertaker granting a trade effluent consent or entering into a trade effluent agreement.

Septic tanks and small sewage treatment works may be registered as exempt from the requirement to obtain an environmental permit if certain criteria are met. Please note,

should a permit be required, further information may be required as part of that application and the Applicant is therefore advised to hold pre-application discussions with our Permitting Team on 0300 065 3000, at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the permit requirements. It is important to note that a grant of planning permission does not guarantee that a permit will be granted, should a proposal be deemed to be unacceptable (either because of environmental risk or because upon further investigation, a connection to mains sewer was feasible). The Applicant should ensure that they have all the required permissions, consents, permits and any other approvals in place prior to commencement of works on the site.

More information, including a step by step guide to registering and the relevant application forms are available on our [website](#). Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations. We also refer the Applicant to Guidance for Pollution Prevention 4 on the [NetRegs website](#), which provides further information.

Please note, lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the Water Industry Act 1991 and we may refuse to issue an environmental permit for private treatment facilities in such circumstances.

Requirement 3: Protected Sites:

Further information is submitted to carry out a Habitat Regulation Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) prior to the determination of any planning application submitted.

From the information provided, NRW consider that the proposals may affect the Special Area of Conservation (SAC). The application is located within 500m of the River Tywi SAC site.

On the 21st January 2021 we issued a [planning position statement](#) regarding the deterioration in the condition of riverine Special Areas of Conservation (SACs) due to the potential to increase phosphate levels. The statement presents our planning view on the [published evidence](#), which shows the phosphate levels in the SAC are not compliant with targets set.

In our opinion, any planning application that is likely to increase the concentration of organic materials discharged directly or indirectly into the SAC catchment, has the potential to increase phosphate levels causing further deterioration. Therefore, development proposals must be able to demonstrate phosphate through the Habitat Regulations Assessment (HRA) process that there is unlikely to be a significant adverse effect on the SAC.

We consider that your Authority requires further information as set out in our standing advice ([Interim Planning Advice Following River SAC Compliance Report](#)), which was published with the planning position statement and the evidence report and provided to your Authority, to support your HRA.

Condition 1: A Construction Environmental Management Plan (CEMP).

We advise that a condition should be attached to any planning permission your Authority may grant to produce a site-specific Construction Environmental Management Plan (CEMP) detailing all necessary pollution prevention measures for the construction phase of the development.

No development or phase of development, including site clearance, shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed <prior to commencement of development or phase of development or specified activity> and implemented for the protection of the environment during construction.

Condition 2: Contaminated land

We note the Factual Validation Report (ref. R899/04/2527 (FINAL) dated Nov. 2004). Due to the sites previous use in gas manufacture, we recommend that your Authority, on the receipt of a full planning permission application, only grant planning permission if you attach the following conditions, as the site may be impacting on the Afon Cennen and Afon Tywi.

Condition

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be 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 site investigation results and the detailed risk assessment (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 (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reasons

Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity, being on Secondary A Aquifer and contamination is known/strongly suspected at the site due to its previous industrial uses.

Verification report

Condition

Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the 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 any plan (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, and for the reporting of this to the Local Planning Authority.

Reasons

To demonstrate that the remediation criteria relating to controlled waters have been met, and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Long-term monitoring

Condition

Reports on monitoring, maintenance **and any contingency action** carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reasons

To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Unsuspected contamination

Condition

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 the developer has submitted and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reasons

Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

Piling

Condition

Piling or any other foundation designs using penetrative methods shall not be 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 groundwater.

Reason

There is an increased potential for pollution of controlled waters from inappropriate methods of piling.

Informative

In relation to the proposed development, in so far as it relates to land contamination, Natural Resources Wales only considered issues relating to controlled waters and relevance of regulatory regimes where Natural Resources Wales is the enforcing authority, such as Environmental Permitting Regulations (EPR, 2016).

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

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'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 \(2017\) 'Approach to Groundwater Protection'](#)

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

Yn gywir / Yours faithfully

Giles Cuthbert

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales