
From: South East Planning <southeastplanning@cyfoethnaturiolcymru.gov.uk>
Sent: 25 May 2023 10:10
To: Planning DC
Subject: P/23/0065 - Land To The South West Of The A470/A4102 Roundabout At Rhydycar (major) - NRW Response NRW:01215171
Attachments: Rhydycar West, Merthyr Tydfil (Stat Pre-App) V1 (CAS-187572-H2Q1).pdf; Land To The South West Of The A470 A4102 Roundabout At Rhydycar V1 (P.23.0065 (CAS-213279-H7C5) 25.05.23.pdf

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Annwyl Judith

Amgaeaf ein hymateb i'r cais uchod, ac os oes gennych unrhyw ymholiadau, mae croeso i chi gysylltu â mi.

Cofion Cynnes

Dear Judith

Please find attached our response to the above application, if you have any queries please do not hesitate to contact me.

Kind Regards
Annabelle Evans

Tîm Cynllunio Datblygu / Development Planning Team
Cyfoeth Naturiol Cymru / Natural Resources Wales

www.cyfoethnaturiolcymru.gov.uk / www.naturalresourceswales.gov.uk

Yn falch o arwain y ffordd at ddyfodol gwell i Gymru trwy reoli'r amgylchedd ac adnoddau naturiol yn gynaliadwy / Proud to be leading the way to a better future for Wales by managing the environment and natural resources sustainably.

Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi / Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.

Rivers House,
St Mellons Business Park,
St Mellons,
Cardiff,
CF3 0EY

Carney Sweeney
Brunel House
2 Fitzalan Road
Cardiff
CF24 0EB

ebost/email:
southeastplanning@cyfoethnaturiolcymru.gov.uk

01/06/2022

Annwyl Syr/Madam / Dear Sir/Madam,

STATUTORY PRE-APPLICATION CONSULTATION - TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES) ORDER 2012 AS AMENDED.

BWRIAD / PROPOSAL: OUTLINE APPLICATION FOR ERECTION OF A MIXED LEISURE DEVELOPMENT COMPRISING INDOOR SNOW CENTRE (UP TO 39,200 SQ M), WATERPARK (UP TO 7,500 SQM), INDOOR ACTIVITY CENTRE (UP TO 9,000 SQ M), EXTERNAL ACTIVITY AREAS, HOTEL ACCOMMODATION (UP TO 418 BEDROOMS), FOREST LODGE ACCOMMODATION (UP TO 30 UNITS), CAR PARKING (UP TO 830 SPACES) AND ASSOCIATED EARTHWORKS, ACCESS, DRAINAGE, SERVICING AND UTILITIES CONNECTIONS/INFRASTRUCTURE

LLEOLIAD / LOCATION: RHYDYCAR WEST, MERTHYR TYDFIL

Thank you for providing a requisite notice to us under Article 2D of the above Order. We received a copy of your proposed application on 26/04/2022.

We have concerns with the application as proposed because inadequate information has been provided. To overcome these concerns, you should provide further information in your planning application regarding protected sites (SSSI), European protected species, fully protected species, birds, land contamination and controlled waters and landscape. If this information is not provided, we may object to the planning application when formally consulted by the planning authority. Further details are provided below.

We also advise that based on the information submitted to date, we would ask the planning authority to include conditions regarding biosecurity risk, a construction environmental management plan and land contamination on any planning permission granted. Without the inclusion of these conditions by the planning authority we would be likely to object to the planning permission.

Please note, the conditions above should not be considered exhaustive. If further information is provided to satisfy our concerns, it may be necessary to request further conditions to avoid, mitigate or compensate other environmental effects.

1.0 Protected Sites

The proposed application site is partially located on Cwm Glo a Glyndyrys Site of Special Scientific Interest (SSSI) and is surrounded on three sides by this SSSI. The [citation for this SSSI](#) states '*Cwm Glo a Glyndyrys is of special interest for its extensive areas of marshy grassland, species-rich neutral grassland and acid grassland, and for the association of these habitats with others including woodland and heath. It is also of special interest for its outstandingly diverse assemblage of grassland fungi, including 32 species of waxcap *Hygrocybe* spp, making it one of the best sites in Britain.*'

Planning Policy Wales (Edition 11) PPW 11, 6.4.17 provides for the protection of a SSSI from development '*...within or adjacent to their boundaries...*' that would be damaging. It states: '*There is a presumption against development likely to damage a SSSI...*'.

Local Development Plan policy EnW2 (Internationally and Nationally Protected Sites and Species) provides the local policy context for nationally protected sites. Proposals are also required to promote wider ecosystem resilience in accordance with Policy EnW1 (Nature Conservation and Ecosystem Resilience).

The Planning Statement (5.2.11) states that part of the application site includes 6ha of the SSSI. The Illustrative Masterplan indicates that the Indoor Snow Centre and associated earthworks and access road are proposed to be located within part of the SSSI to facilitate the use of the hillside topography.

This results in permanent loss of part of the SSSI. The 6ha loss of the 181ha SSSI equates to between 3%-4% of the SSSI land area. In addition, the scheme has the potential to negatively affect additional areas of the SSSI bordering the development through a range of pathways, including changes in hydrology and hydrogeology; and the impact from likely increases in public access and/or recreation.

We note the Planning Statement repeatedly states that compliance with policies EnW1 and EnW2 depend on the precise details of offsite ecological management which are yet to be firmly established. No further details have been provided on what this includes.

Therefore, further information to include the offsite ecological management should be submitted with the planning application to allow us to fully advise the planning authority on the potential environmental effects. Given there will be a need to offset the loss of SSSI land, offsite compensation for unavoidable damage, following the stepwise approach in local and national policy, should be provided. The planning application should clearly set out what mitigation and compensation measures are necessary to ensure the nature conservation value of the SSSI is preserved and enhanced.

We agree this will need to include long-term management plan(s) for habitats within and beyond the application site. The decision as to how this will be secured will require the

input of the planning authority, however we've provided comments below. In addition to the above, and having reviewed the draft application, we also advise there are areas which require further information and/or assessment to understand the impacts on the SSSI. These will also need addressing in the planning application. Where appropriate, we have highlighted potential conditions which we will be seeking, if the application is granted. These are not exhaustive, and you may wish to submit this information with the planning application.

1.1 Detailed comments on draft application

We note the draft application is supported by detailed assessments of species and habitats presented in the Ecological Impact Assessment and undertaken across the proposed development site and wider SSSI. We consider these assessments are suitable to inform the proposals and planning application determination.

The draft application seeks to demonstrate that the scheme has sought to ensure that the built development minimises the impact on Cwm Glo a Glyndyrys SSSI, both in terms of magnitude of land take and of the areas of habitat that would be affected by the scheme.

1.1.1 Long-term management of SSSI

We note the proposal to secure long-term positive management over the remainder of Cwm Glo a Glyndyrys SSSI, which is not affected by the development footprint. This is outlined in Section 5 of the Ecological Impact Assessment, detailed in 5.1.2. We would broadly agree with the suitability of the measures listed here as aspirations to secure better management of the SSSI. However, we require significantly more detail on those measures being proposed and the mechanism which will guarantee the delivery of this work in the longer term. The management commitments should last a minimum 25 years, ensuring there is sufficient financial commitment to cover the delivery and a suitable organisation / management body identified to undertake and supervise the works. This is essential in ensuring the success of any measures proposed. There will also need to be an appropriate programme of monitoring built into any scheme, so that progress can be tracked, any necessary changes identified, and alternative measures put in place.

We would expect this information to be provided as part of any future planning application. It will be important to ensure that details regarding the management of the wider SSSI are specified in a comprehensive management plan, drawn up in close consultation with Natural Resources Wales and Merthyr Tydfil County Borough Council and agreed by all parties.

1.1.2 Ecosystem resilience

The location of the development footprint would result in the separation of a relatively small parcel of the SSSI from the remainder of the designated site at its extreme south-eastern boundary. This will likely lead to potential difficulties with delivering a suitable grazing regime in this area. This situation could also – depending on the precise configuration of the development and location of elevations – present difficulties for dispersal of marsh fritillary butterflies across the site. We seek further information as to how these potential issues will be overcome as part of the future management strategy for the wider SSSI.

We are supportive of the approach to avoid impacts on ecological interests within the development footprint where possible, such as the retention of significant areas of woodland cover in the southern part of the development footprint as detailed in 4.1.2. We also note that the proposal will not affect the areas of woodland present on the site that are included on the ancient woodland inventory. You will be aware of the provision in PPW 11 for the protection of ancient woodland.

We suggest there remains significant potential for the proposal to retain important ecological features and create new habitat within the red line boundary. An example of this could be the establishment of a species-rich sward across the large earth bund supporting the snowdome structure, through retention, and redistribution of, suitable nutrient poor soils and spoil from historic mining operations on the development footprint itself. In this regard we would advise against the use of commercially available seed mixes on site in general and would advocate the retention of existing habitats / soils where possible. It should be ensured that any additional planting for landscape purposes is kept to a minimum and that only appropriate locally native varieties are used to avoid the potential for unsuitable and / or invasive species to spread into the immediately adjacent SSSI.

We note that the marsh fritillary survey undertaken in September 2020 by Sturgess Ecology identified areas of devil's bit scabious at the northern end of the development footprint which would be lost through current proposals. While no webs were found in this area in the 2020 survey, the area nonetheless has the potential to be used by the marsh fritillary butterfly. Therefore, we seek further assessment of the potential impacts on marsh fritillary to be undertaken. The 2020 survey recorded larval webs only a short distance south-west of the area in question, well within the dispersal range of this species.

While it is noted that this development will not affect the known colonies of marsh fritillary on the SSSI (as recorded in September 2020 survey), the Ecological Impact Assessment does not fully quantify the potential loss of habitat which would be brought about by the development. We would expect this aspect to be assessed in more detailed as part of any future planning application.

1.1.3 Hydrological and hydrogeological assessment

Given the proximity of the built development (specifically the ski slope and associated earthworks) to a number of marshy grassland/lowland heath communities (Abercanaid slopes) including areas of M24 mire vegetation (a particularly rare habitat type strongly associated with subsurface base-enriched groundwater flows) we seek further details and assessment regarding the likely impact upon the current hydrological regime in the area. This should assess whether the proposals will alter the quality, quantity or nature/direction of surface or subsurface flows and the likely impact on habitats in that area.

We note that the development footprint also appears to overlap areas of lowland heath and marshy grassland within the SSSI. We also seek further detail on the nature and magnitude of that impact.

1.1.4 Habitat Regulations Assessment

The Ecological Impact Assessment acknowledges a link between the marsh fritillary populations at Cwm Glo a Glyndryys SSSI and the functional landscape area of Blaen Cynon Special Area of Conservation (SAC) metapopulation (the sites being potentially linked through stepping stone habitat in the intervening landscape). As such, the proposal should be screened through a Habitats Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2017 (as amended).

1.1.5 Biosecurity risk

It is also mentioned in the Ecological Impact Assessment that there is Japanese Knotweed and Himalayan Balsam present on site. As such we seek a biosecurity risk assessment from the applicant. This could be submitted with the planning application, or if required, secured through a planning condition. The assessment should include a method statement for construction, including site clearance and disposal of waste, to prevent or ensure the extent of invasive species are not spread throughout or beyond the development area and that best available techniques are utilised to deliver effective invasive species management.

1.1.6 Protection of the water environment

A comprehensive Construction Environmental Management Plan (CEMP) will be necessary to protect both the water environment and SSSI. We would seek to secure a pre-commencement condition for the submission and approval of a detailed final CEMP. It may prove useful to provide an Outline CEMP, setting out a high-level strategy – as part of your planning application. This should particularly focus on addressing and mitigating impacts from silt discharging from construction activities. This is especially important given that the Taff-Cynon stretch is a Moderate waterbody under the Water Framework Directive and is also an [Opportunity Catchment area](#).

1.1.7 Air Quality

We have considered the Air Quality Assessment, Revision 6 by Tetra Tech dated 21/04/2022. We consider the Assessment to use suitable source information and guidance to assess potential impacts on Cwm Glo y Glyndryys SSSI (for example APIS, IAQM guidance on Air Quality Impacts in Designated Nature Conservation Sites, ADMS modelling, Sennybridge Met data windrose).

The Process Contribution (PC) calculated for four ecological receptors at the SSSI indicates that one receptor (E1) exceeds the $0.4 \mu\text{g}/\text{m}^3$ threshold where changes in the annual mean NO_x concentration cannot be dismissed as imperceptible. The results of the subsequent nutrient nitrogen deposition calculation for this receptor, however, did not result in an exceedance of the critical load function. This is expected given that the predicted annual background concentration of NO_x plus PC together is $12.74 \mu\text{g}/\text{m}^3$, which is well below the critical level for NO_x ($30 \mu\text{g}/\text{m}^3$).

We are therefore satisfied with the Air Quality Assessment findings that impacts on nitrogen sensitive features resulting from changes in traffic (as a result of the proposed development) are likely to be negligible.

We note the report concludes the same for Rhydycar West Site of Nature Conservation (SINC) despite this area receiving higher levels of pollution than Cwm Glo y Glynydrys SSSI. We would advise the planning authority to consider the nutrient nitrogen deposition values provided in the Assessment in the context of any nitrogen sensitive biodiversity features of interest at the Rhydycar West SINC as this is not within NRW's remit.

1.1.8 Local Biodiversity

The Ecological Impact Assessment lists a number of Section 7 priority habitats and priority species [Environment (Wales) Act 2016] on the site that will be lost due to this proposal.

These habitats are of principle importance for the purpose of maintaining and enhancing biodiversity in Wales. The applicant should seek advice from the local authority ecologist on these habitats and should be aware that further mitigation/compensation (on or offsite) may be necessary, and this should not conflict with any mitigation/compensation for the SSSI or European protected species.

Similarly, should there be scope to compensate for the loss of these habitats off-site, an assessment should also be undertaken to better understand the pathways for these species to colonise any new sites / areas under consideration.

Where possible, the applicant should look to retain or enhance natural features on site to help improve biodiversity.

2.0 European Protected Species

We note the preparation of the following documents in support of the draft application:

- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-001 (P01) '*Rhydycar West, Merthyr Tydfil. Site Location Plan*' by Holder Mathias Architects dated 14/2/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-010 (P01) '*Rhydycar West, Merthyr Tydfil. Outline Masterplan*' by Holder Mathias Architects dated 14/2/22;
- '*Rhydycar West. Light Spillage Assessment*' by TetraTech dated 4/2/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-011 (P01) '*Rhydycar West, Merthyr Tydfil. Development Parameter Plan*' by Holder Mathias Architects dated 14/2/22;
- '*Rhydycar West. Ecological Impact Assessment*' by Bioscan dated January 2022 encompassing:
 - '*Cwm Glo a Glyndyrys , Merthyr Tydfil. Species Survey Report: Great Crested Newt*' by Bioscan dated February 2022;
 - '*Cwm Glo a Glyndyrys , Merthyr Tydfil. Species Survey Report: Bats*' by Bioscan dated February 2022;
- Drawing PRJ01 TTE 00 ZZ DR L TPP1 (P03) '*Rhydycar West, Merthyr Tydfil. Tree Retention and Removal Plan*' by TetraTech dated April 2022;
- Drawing PRJ01 TTE 00 ZZ DR L TCP1 (P03) '*Rhydycar West, Merthyr Tydfil. Tree Constraints Plan*' by TetraTech dated April 2022.

We note that the application site encompasses part of Cwm Glo a Glyndyrys SSSI and has been surveyed for great crested newts, bats, otters, dormice and water voles.

Great crested newts, otters, dormice and all species of British bats are European Protected Species, legally protected under The Conservation of Habitats and Species Regulations 2017 (as amended). Legal protection relates to the animals themselves and the places they use to rest and breed.

Where a European Protected Species is present and development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation.

A licence may only be authorised if:

- i. The proposed works to be authorised satisfy an appropriate derogation purpose, which in the case of development are for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

These requirements are translated into planning policy through Planning Policy Wales (PPW) February 2021, section 6.4.22 and 6.4.23, and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that the planning authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any European Protected Species on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

On receipt of further information with the planning application, we will be pleased to advise on any planning conditions that may also be required.

2.1 Great Crested Newts (GCN)

As the Ecological Impact Assessment (EcIA) acknowledges, the application site is part of a much broader area of west Merthyr which has long supported great crested newts.

We welcome that GCN surveys were undertaken in 2021 to inform the application and that these survey results have been considered in the context of survey results from previous years for the wider landholding to give an idea of use of the landscape by GCN. With reference to the previous surveys, we note that the 2015 surveys related to the wider landholding and the 2017/18 surveys related to the eastern and southern part of the landholding as shown on Figure 1 in Appendix 1.

2.1.1 2021 survey extent

The EcIA indicates that the 2021 GCN surveys focussed on the current application site boundary with a 250m buffer. However, Figure 2 (in Appendix 2) shows that in the southwest of the application site the buffer was, in places, considerably closer than 250m of the application site boundary and crossed it in two places. Whilst we can see that one pond beyond the application site boundary at this location was surveyed (P48), we seek further information including a revised Appendix 2 Figure 2 to:

- i. confirm where the 250m buffer lies around the full extent of the application site boundary;
- ii. clarify whether any ponds other than P48 exist beyond the application site boundary within a correctly drawn 250m buffer.

2.1.2 Survey results

We note that the 2021 surveys recorded GCN in P11, P29 and P48, with evidence of GCN breeding in P48. Whilst we note that none of these are located within the application site, P29 and P48 are very close to its boundary and P11 lies within the 250m buffer in the north-west.

In consideration of the survey results from the previous survey years we note that GCN have historically also been recorded as present in P15, P17 and P26 within the site boundary and P10 and P38 within the 250m site buffer.

2.1.3 Impact Assessment

Section 4.6 of the EcIA considers the impacts on protected species, with sections 4.6.3 and 5.2.2 referring to great crested newts. Unfortunately, although the EcIA acknowledges that the proposals will result in the loss of GCN breeding sites and terrestrial habitat, and that impacts on the species are likely to be significant, a detailed impact assessment is not included.

We therefore seek a detailed assessment of the potential impacts of the proposals on great crested newts including on:

- GCN breeding ponds within the application site and the 250m buffer;
- Other ponds known to be used by GCN within the application site and the 250m buffer;
- Terrestrial habitat within 50m of ponds used by GCN;
- Terrestrial habitat within 50m-250m of ponds used by GCN; and
- Terrestrial habitat within 250m-500m of ponds used by GCN.

2.1.4 Proposed Mitigation and Compensation

No specific details regarding proposed mitigation and/or compensation are included within the EcIA, and it assumes that there is scope for such measures on the wider landholding much of which is covered by Cwm Glo a Glyndyrys SSSI.

The loss of aquatic and terrestrial habitats will require the provision of a dedicated GCN reserve in the local area, managed specifically for the conservation of GCN.

Compensatory ponds should be provided at a ratio of 2:1 (gain:loss). It is not sufficient to leave this information to a Species Protection Plan (or similar) secured by pre-commencement condition or to the EPS licensing process. A Great Crested Newt Conservation Plan setting out the mitigation and/or compensatory measures that will be put in place should be submitted in support of any planning application.

These measures should include secure long-term (in perpetuity) habitat compensation, habitat and species management and monitoring measures, set out who will be responsible for this and how it will be funded, co-ordinated and implemented. Impacts of the development and proposals for mitigation and compensation should be considered in the context of the current conservation status of GCN and the legal requirement for the proposals to demonstrate that there will be no detriment to the maintenance of the favourable conservation status of the species.

2.1.5 GCN – Summary

We consider that there is insufficient information within the draft application documents to confirm the likely impacts of the proposals on GCN and confirm that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the population(s) of GCN concerned.

We therefore have concerns regarding the above proposal pending the provision of further information regarding great crested newts, European protected species.

We would seek further information to allow the planning authority and NRW to be able to assess whether there is a detriment to the maintenance of the favourable conservation status of GCN. We advise that the information below is provided to inform the determination of the application. We will be pleased to review our position and provide further advice when consulted by the planning authority.

Further Information to be Provided at Planning Application Stage:

A revised GCN Survey Report Figure 2 to:

- i. confirm where the 250m buffer lies around the full extent of the application site boundary;
- ii. clarify whether any ponds other than P48 exist beyond the application site boundary within a correctly drawn 250m buffer.

The submission of a detailed site-wide Great Crested Newt Conservation Plan which should include:

- Detailed assessment of the potential impacts of the construction and operational phases of the scheme on great crested newts, including an assessment of the risks of incidental injury or killing;
- Review of the extent, distribution and quality of GCN habitat to be removed, retained, enhanced and created:
 - GCN breeding ponds within the application site and the 250m buffer;
 - Other ponds used by GCN within the application site and the 250m buffer;
 - terrestrial habitat within 50m of ponds used by GCN;
 - terrestrial habitat within 50m-250m of ponds used by GCN; and
 - terrestrial habitat within 250m-500m of ponds used by GCN.
- Ensuring habitat functionality and connectivity during and post construction;
- A plan showing habitat to be removed, retained, enhanced and created which should identify the extent and location, drawn to an appropriate scale;
- Details of protective measures to be taken to minimise the impacts;
- Submission of further details concerning on-site and off-site GCN habitat compensatory proposals including plans, extent, access, as well as current and proposed tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. In respect of aquatic habitats, pond and associated infrastructure design. Submission to include details of timing, phasing and duration of construction activities and conservation measures.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development

- Details of initial aftercare and principles of long-term maintenance
- Actions to be taken in the event that a larger than anticipated GCN population is encountered during pre-construction update surveys and/or development works;
- Ecological Compliance Audit, including key performance indicators;
- Details of measures to prevent or reduce incidental capture or killing. Measures should be designed to prevent the accidental capture/ killing of newts (amphibians) during operational phases of the scheme. 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 that could trap newts).
- Proposed mechanism for the long-term management of any compensation, including long term financial considerations. We advise this is likely to require both planning conditions and obligations. We suggest the mitigation strategy includes a 'Heads of Terms' document that specifies funding mechanisms, tenure and any changes to tenure, and provisions for updating the management plan.
- Design principles of green and blue infrastructure together with ecosystem resilience. This statement to cross reference with GCN mitigation and compensation measures and the long-term site management plan.
- Submission of a long-term site management plan that includes defined aims and objectives; habitat management prescriptions; surveillance prescriptions based on abundance and habitat suitability; 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 implement identified or contingency actions; site liaison and wardening; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to tenure of the dedicated ecology areas; 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.

2.2 Bats

We welcome that consideration has been given to the presence of bats on the application site and that the results of previous surveys are included to give information on historic use of the site by bats.

2.2.1 Bat roosts in structures

We note that a number of structures are present within the application site and a 250m buffer which have the potential to support roosting bats including the following:

- Within the application site:
 - B6 Stone bridge abutments with metal deck

- B7 Retaining wall
- B8 Stone bridge
- B20 Stone bridge
- B21 Low stone culvert
- Within 250m of the application site boundary:
 - B1 Cyfartha canal tunnel entrance;
 - B2 Concrete wall
 - B3a Square stone structure
 - B3b Retaining wall
 - B4 Stone structure
 - B5 Paired stone retaining walls
 - B9 Stone bridge with metal deck
 - B10 Base of collapsed chimney
 - B11 Abercanaid-Aberdare tunnel
 - B12 Long stone retaining wall
 - B13 Stone wall opposite B12
 - B14 Culvert carrying northern arm of Nant Cwm Pant Bach
 - B15 Low stone culvert
 - B16 Low Stone culvert
 - B17a related small tunnel immediately south-east of B17
 - B17b Low stone bridge/culvert
 - B18 Long supporting wall
 - B19 Retaining wall
 - B22 Culvert carrying southern arm of Nant Cwm Pant Bach

We note that the above structures were visually reassessed for evidence of bats in March 2021. We also note that although most of the structures were identified to have low-high bat hibernation/roost potential, the only follow up surveys undertaken were static detector surveys on B1, B8 and B11 in the same month even though some of the structures had been confirmed roosts in previous surveys (e.g. B8, B10, B12).

We advise that the 2021 bat surveys do not fully accord with published best practice survey guidance. Visual assessments alone are not sufficient to determine bats use of structures, particularly where crevices are present which may conceal bats' presence. Structures identified to have potential to support roosting bats should be subject to further surveys at the appropriate time of year. If they are considered to have summer roost potential, they should be subject to emergence surveys in the period May-August. If they are considered to have hibernation potential then surveys over winter (November-February) will be required.

In the absence of the above information, there is insufficient information to confirm whether there are any bat roosts present within structures and immediately adjacent to the site which may be affected by the proposed development. We would seek further information in this regard to support the application.

2.2.2 Bats in trees

The EclA confirms that the 2021 preliminary tree roost assessment was based on a ground-level assessment using binoculars and focussed on an area in the north-west part of the site. It also confirms that trees outside of this area on the wider site have not yet undergone assessment and that the development boundary changed after the surveys were done and therefore some trees which were outside of the survey boundary and not previously surveyed may now fall within the application site.

Although the tree roost surveys focussed on the area of the proposed ski slope, it appears that the wider site also has trees which may also be affected by the proposals (e.g. construction of hotel, car park, water park, etc.). We advise that these should also be assessed for their potential to support roosting bats.

Of the area that has been surveyed we note that a number of trees with moderate or high potential to support roosting bats were identified as being present. We advise that these, and any others across the wider application site are subject to climbed, endoscope surveys. The results of these surveys should be submitted in support of the application.

2.2.3 Bat activity across the site

We welcome that bat activity transect surveys were undertaken in 2021, and follow on from similar surveys undertaken in 2015, 2016 and 2018 parts of which are relevant to the application site as it is now proposed.

The results of the 2021 surveys confirm that a diverse assemblage of bat species continues to use the site, including rarer species of bats (such as Lesser Horseshoe bat). That being the case we advise that a conservative approach to the lighting of the site is required to ensure that bats can continue to move around and through the developed site.

We welcome the information provided within the Light Spillage Assessment regarding the proposed lighting of the site, to include column lighting for the access roads and low level bollard lighting for the car parking area. We note that it considers the potential impacts of the proposed lighting on sensitive ecological receptors such as bats and welcome that a threshold of 1 lux is used for this purpose.

We consider that lighting matters can be dealt with through an appropriately worded planning condition. However, we take the opportunity to highlight that when the details of lighting are submitted, the following matters will also need to be considered:

- i. confirmation of the device maintenance factor used in the light spill modelling process;
- ii. provision of light spillage drawings (based on a device maintenance factor of 1 if that hasn't already been used) showing the light spill contours in relation to new and retained habitats as shown on the Illustrative Masterplan.

2.2.4 Impact Assessment

In the absence of comprehensive bat surveys of structures and trees across the site, it is not possible to full assess the likely impacts of the scheme on bats and their roosts,

although section 4.6.1 indicates the potential loss of roost sites including for rare species such as lesser horseshoe bats.

We advise that the EcIA includes a comprehensive assessment of the likely impacts of the proposed development on bats and their roosts, taking account of the results of the additional surveys advised above.

2.2.5 Proposed Mitigation and Compensation

No specific details regarding proposed mitigation and/or compensation for the potential impacts on bats are included within the EcIA.

It is not sufficient to leave this information to a Species Protection Plan (or similar) secured by pre-commencement condition or to the EPS licensing process. A site-wide Bat Conservation Plan setting out all the mitigation and/or compensatory measures that will be put in place should be submitted in support of any planning application. These measures should include long term (in perpetuity) habitat and species management and monitoring measures and set out who will be responsible for this and how it will be funded, co-ordinated and implemented.

Impacts of the development and proposals for mitigation and compensation should be considered in the context of the current conservation status of bats and the legal requirement for the proposals to demonstrate that there will be no detriment to the maintenance of the favourable conservation status of the species.

2.2.6 Bats - Summary

We consider that there is insufficient information with the application to confirm the likely impacts of the proposals on bats and confirm that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the population(s) of bats concerned.

We therefore have concerns regarding the above proposal pending the provision of further information regarding bats, European protected species.

We would seek further information to allow the planning authority and NRW to be able to assess whether there is a detriment to the maintenance of the favourable conservation status of bats. We advise that the information below is provided inform the determination of the application. We will be pleased to review our position and provide further advice when consulted by the planning authority.

Further Information to be Provided at Planning Application Stage:

Further surveys in accordance with published best practice of all structures within and adjacent to the site identified to have at least low hibernation/roost potential.

An assessment of trees across the application site for their potential to support roosting bats and climbed, endoscope surveys for any considered to have moderate/high potential to support roosting bats.

The submission of site-wide Bat Conservation Plan which should include:

- Comprehensive assessment of the likely impacts of the proposed development on bats and their roosts, taking account of the results of the additional surveys advised above.
- A plan showing habitat and roosts to be lost, created and retained which should identify the extent and location drawn to an appropriate scale;
- Details of proposed compensatory roosts including proposed siting and design;
- Details of protective measures to be taken to minimise the impacts;
- Details of timing, phasing and duration of construction activities and conservation measures;
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development;
- Details of initial aftercare and long-term maintenance;
- Actions to be taken in event that more bat roosts are encountered during pre-construction update surveys and/or development works;
- Ecological Compliance Audit, including key performance indicators;
- Persons responsible for implementing the works;
- Details of measures to prevent or reduce incidental capture or killing.

2.3 Otters and water voles

Water voles are a fully protected species under the Wildlife and Countryside Act. We note that no evidence of these species was recorded along the watercourses running through or close to the site during the 2021 survey or the previous surveys, though we note the comments that otters may utilise the watercourses on site to move through the area.

However, there does not appear to be a Phase 1 habitat map to confirm where the watercourses are. We therefore advise the following is submitted with any planning application:

A Phase 1 habitat map to confirm the location and distribution of habitats across the site including watercourses.

2.4 Dormice

We welcome that dormouse surveys were undertaken and note that no evidence of dormice was recorded on the application site.

2.5 EPS Licence

We advise that the applicant seeks a European Protected Species licence from Natural Resources Wales under Regulation 55 of The Conservation of Habitats and Species Regulations 2017 before any works on site commence that may impact upon bats or great crested newts. Please note that the granting of planning permission does not negate the need to obtain a licence.

3.0 Birds

We consider the surveys undertaken (contained in the Ecological Impact Assessment by Bioscan dated January 2022 Report Reference E1835R7) to be sufficient to inform the planning application. We welcome that the most up to date survey covers the same area as previous surveys despite the red line application boundary being smaller.

Overall, a good assemblage of birds was found. We advise mitigation should be considered further and addressed in the planning application, ensuring that this does not conflict with the other ecological interests or mitigation and compensation proposed in relation to the SSSI and protected species. Measures should be proposed to compensate for the loss of habitat and should be aimed at maintaining and, where appropriate, improving the retained woodland for species of principal biodiversity importance identified by the surveys (e.g. Willow Tit). Given the net-loss of woodland, the package should also seek to include off-site mitigation or compensation, detailing the size and form, where it is located, how it will be secured, maintained, managed and funded'.

4.0 Land Contamination and Controlled Waters

4.1 Land Contamination

Due to the size of the site, we would seek the submission of detailed historic mapping as part of the desk top study to ensure that no obvious sources of large scale gross contaminative sources have been missed. This should be submitted with any planning application. Our advice regarding land contamination will depend on the outcome of the more detailed historic mapping. If large scale gross contaminative sources are identified, we may require a number of land contamination conditions. In any event we would request a condition relating to unsuspected land contamination.

4.2 Geotechnical / Ground Remediation due to presence of mine workings

Depending upon the methods proposed for remediation of the underground workings associated with the site, we may advise a condition to ensure protection of controlled waters associated with ground improvement / grouting works. We would seek confirmation in the planning application as to the methods proposed for remediation of the underground workings associated with the site.

For your information, we advise the following is the type of information we would require regarding grouting and ground stabilisation works:

4.2.1 Summary of information required as part of grouting and ground stabilisation works.

The following summary should be used as a guide in assessing the type of information NRW would require to be carried out and submitted as part of any proposed grouting and ground stabilisation and excavation of former mine-workings. It should be noted that additional information, not included in this summary may be required during such works.

Vulnerability Survey

- Identify all surface and groundwater features and users in the vicinity of the site including old or existing mine adits and mine-workings, drains and culverted features. In addition, all relevant historic documents held by the appropriate local planning authority should be used to identify any natural or man-made structures beneath or in the vicinity of the site.
- It is important for a walk-over survey to be carried out to validate the vulnerability survey and identify any features not included in the formal records, i.e. disused adits or mine-workings etc.
- In order to notify abstractors in case of grout break-out, licensed surface water abstractions downstream of a site need to be identified. For a main river this would typically be a few kilometres. NRW can supply this information. See also 1.4 "Management".

Procedure

- Location of the area to be grouted.
- Check area against vulnerability survey and historic land-use records.
- Nature of any structures to be grouted, cavities in the sub-strata, mine-workings etc.
- Is grouting to take place above or below the water table?
- Method of grout injection, i.e. as part of an inner/outer "curtain" or individual injection boreholes etc.
- Type of grout to be used, i.e. ratio of cement, water, other material - this should take into consideration whether grouting is to take place above or below water table.
- Thixotropy of the grout, i.e. how far will the grout extend into the cavity when injected. Again this should take into consideration whether the works are above or below water table.
- Duration of grouting works.
- How much grout is to be injected into both individual points and as a total quantity.

Monitoring

- Identification of sites grouting material could emerge, i.e. adits/drains into water courses etc.
- Proposals for monitoring such features during the work, i.e. which ones, frequency of monitoring.
- Confirm details of monitoring with NRW prior to the commencement of workings.
- Agree suitable mitigation measures with the local Environment Officer should any impact on any feature occur during to the workings.

Management

Keep daily records of the following:

- Review previous days grouting operations (where grouted, how much grout used etc).
- Location of areas to be grouted.
- Boreholes used for grouting
- Times of injection into each borehole.
- Quantities of grout to be injected into each borehole (both projected and actual).
- Records if quantity of grout "lost" in a borehole.
- Pressure used in grouting at a borehole.
- Type of grout used.
- Review of monitoring.
- Details of any break-outs of any grout.
- Details of any clean-up of grout at monitoring sites.
- Reporting of information needs to be agreed with NRW prior to the commencement of workings.
- In cases of an unpredicted loss of grout, emergency procedures should be agreed with NRW to include an increase in the frequency of monitoring of any identified surface water features.
- Notification to NRW should either any outbreak or an unpredicted loss of grout occur.
- Notification of identified downstream surface water abstractors in the event of an emergency, i.e. if there was any outbreak of grout into a surface water course.

4.2.2 Materials Management

It is noted that the applicant intends to manage re-use of the coal and iron working spoil via the CL:AIRE Code of Practice. We recommend the applicant contacts CL:AIRE to discuss this intended use. We do not object to the re-use of materials on site, however, as far as we are aware the code of practice cannot currently be used for mining spoil/waste.

5.0 Landscape

Our advice relates to the potential impacts on the Brecon Beacons National Park. The proposal lies within the setting of the National Park, and is unlikely to have a substantial adverse impact on the landscape character and visual amenity of the park.

However, there would be some adverse impact, including moderate adverse impact on viewpoint 10, within the National Park. Further information is required on how visual impacts would be minimised. The colours and materials used in the buildings will be particularly important in reducing visual impact, as will proposals to minimise light pollution.

The indoor snow centre is the largest building, and follows an east-west alignment with the hillside topography at a 1:10 gradient, which reduces the visual impact on the surrounding landscape to some extent.

5.1 Landscape and Visual Appraisal

We are in general agreement with the findings of the LVA. Adverse landscape effects are largely contained to direct impacts on the site and nearby areas.

The visual study area extends 6km to the north and includes parts of the National Park, which lies approx. 2.9km to the north west, at its closest point.

The Park's Special Qualities, as outlined in the Management Plan 2015-20, include its *'sweeping grandeur and outstanding natural beauty' with... 'prominent hilltops with extensive views in all directions'*.

The tall and large-scale buildings within the development would be visible from the park. Mitigation is proposed to the north façade of the indoor snow centre, designed to reduce its visual prominence from the north through the use of muted colours and textured treatment in the elevation. The illustrations in the DAS, however, show white sections to the north elevation and pale colours to the water park and some other buildings. The use of white and pale colours on the buildings would increase their visual impact in views from the National Park. Muted colours are advised, following the principles of Environmental Colour Assessment (see attached NRW report).

The DAS describes grass roofs to all the key buildings, including the indoor snow centre, which should help to integrate the proposal with its surroundings in distant elevated views, such as those from the National Park.

The LVA notes LANDMAP Visual and Sensory Aspect Areas beyond 3km to the north, including Taff Fawr (MRTHRVS393) and Vaynor Uplands (MRTHRVS387), which have high scenic quality and unspoilt character, with panoramic views from the upland parts. These areas are evaluated as High.

The proposal is visible from Landscape Character Area 8: Talybont and Taff Reservoir Valleys, as defined in the National Park's Landscape Character Assessment. This notes that development proposals beyond the park boundary to the south can potentially affect views, particularly from high ground. The specific management guidelines advise: *'protect*

occasional long views which form the backdrop to the area' and 'plan to reduce the visual impact of existing development beyond the National Park boundary and resist applications for future development which would harm the special qualities of the area'.

The LVA assesses minor adverse effects on the landscape character of the National Park during construction and at completion, reducing to negligible at year 15.

The visual effects on viewpoint 10 (Cefn Cil-Sanws) in the National Park is assessed as moderate adverse during construction, at completion and after 15 years.

We agree with these assessments, on the assumption that the intended mitigation would be implemented. Views from this point are panoramic views over Merthyr Tydfil and beyond, down the Taff Valley. The proposal would be seen as an additional development feature in the view, on a currently wooded slope that is unaffected by development. A photowire from this viewpoint is included at Appendix A.

5.2 Light Spillage Assessment

The assessment concludes that there would be no adverse effects on dark skies; provided the appropriate lighting scheme is followed it would meet the Institute of Lighting Professionals criteria. The assessment relates to sensitive ecological and residential receptors but can be applied to landscape receptors.

The risk of lighting over 1 lux on bat corridors is considered negligible. The sky glow limit of ULR 0.0% should be complied with, with no adverse effects on dark sky landscapes. The site lies within Environmental Zone E1, which is Natural and dark. The National Park is an International Dark Sky Reserve and whilst there are views over lit areas, additional light pollution in dark landscapes in views from the park are not desirable.

The assessment advises the use of low-level lighting bollards, downward facing, shielded lighting and warm white LED lights.

The impact of internal lighting is intended to be mitigated by encouraging staff and guests to draw blinds/curtains. We advise that further mitigation should also be considered to reduce the effects of internal lighting from tall buildings. The night-time image in the DAS indicates considerable light spill from buildings.

5.3 Summary

Further information is required on how visual impacts are to be minimised with regards to colours and materials used in the proposed buildings and light pollution.

6.0 Other Matters

Please note, if further information is prepared to support an application, it may be necessary for us to change our advice in line with the new information.

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.

In addition to planning permission, you are advised to ensure all other permits/consents/licences relevant to the development are secured. Please refer to our [website](#) for further details.

Further advice on the above matters could be provided prior to your planning application being submitted, however there would be a charge for this service. Additional details are available on our [website](#).

7.0 Advice for the Developer

7.1 Tree felling

We advise that no tree clearance should take place until it is covered by an approved planning permission. It is an offence under the Forestry Act 1967 to fell more than 5 cubic metres of timber in a calendar quarter without a felling licence unless this is covered by planning permission or falls under one of the exemptions of the act.

7.2 Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately, and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/permits-and-permissions/waste/?lang=en>
<http://naturalresources.wales/permits-and-permissions/waste/waste-permits/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

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

Yn gywir / Yours faithfully

Annabelle Evans

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

Rivers House,
St Mellons Business Park,
St Mellons,
Cardiff,
CF3 0EY

Merthyr Tydfil County Borough
Council,
Unit 5 Traingle Business Park,
Pentrebach,
Merthyr Tydfil,
CF48 4TQ

ebost/email:
southeastplanning@cyfoethnaturiolcymru.gov.uk

25/05/2023

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: OUTLINE APPLICATION FOR ERECTION OF A MIXED LEISURE DEVELOPMENT COMPRISING INDOOR SNOW CENTRE (UP TO 39,200 SQ M), WATER PARK (UP TO 7,500 SQ M), INDOOR ACTIVITY CENTRE (UP TO 9,000 SQ M), OUTDOOR ACTIVITY CENTRE, HOTEL ACCOMMODATION (UP TO 418 BEDROOMS), WOODLAND LODGE ACCOMMODATION (UP TO 30 UNITS), CAR PARKING (UP TO 830 SPACES) AND ASSOCIATED EARTHWORKS, ACCESS, DRAINAGE, SERVICING AND UTILITIES CONNECTIONS/INFRASTRUCTURE

LLEOLIAD / LOCATION: LAND TO THE SOUTH WEST OF THE A470/A4102 ROUNDABOUT AT RHYDYCAR

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 21/03/2023.

We received a statutory pre-application consultation notice for this proposal under Article 2D of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2012. We provided a substantive response to that consultation on 01/06/2022. A copy of our response to the statutory pre-application consultation is contained in Appendix E of the pre-application consultation report submitted to support the application.

We note that the application boundary has been extended since our statutory pre-application advice to include an access to the southeast of the application site.

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 protected sites, European Protected Species and landscape. 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 sites, European Protected Species, landscape and land contamination and controlled waters should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

Protected Sites

The proposed application site is partially located on Cwm Glo a Glyndyrys Site of Special Scientific Interest (SSSI) and is surrounded on three sides by this SSSI. The citation for this SSSI states '*Cwm Glo a Glyndyrys is of special interest for its extensive areas of marshy grassland, species-rich neutral grassland and acid grassland, and for the association of these habitats with others including woodland and heath. It is also of special interest for its outstandingly diverse assemblage of grassland fungi, including 32 species of waxcap Hygrocybe spp, making it one of the best sites in Britain.*'

Planning Policy Wales (Edition 11) PPW 11, 6.4.17 provides for the protection of a SSSI from development '...within or adjacent to their boundaries...' that would be damaging. It states: 'There is a presumption against development likely to damage a SSSI...'

Local Development Plan policy EnW2 (Internationally and Nationally Protected Sites and Species) provides the local policy context for nationally protected sites. Proposals are also required to promote wider ecosystem resilience in accordance with Policy EnW1 (Nature Conservation and Ecosystem Resilience).

We provided detailed advice in relation to protected sites at statutory pre-application consultation stage. We attach a copy of our statutory preapplication consultation response for your reference.

We draw your attention to:

- the development resulting in permanent loss of part of the SSSI (roughly 6ha, between 3-4%)
- the potential for the scheme to negatively affect additional areas of the SSSI bordering the development, including through the impact from likely increases in public access and/or recreation
- our advice as to what information would need to be supplied to enable us to fully advise your authority on the potential environmental effects, mitigation and compensation measures.

With regards to the outline application, we welcome the measures outlined in Environmental Statement (ES) Chapter 8.6 Mitigation and Compensation Proposals: Mitigation and compensation for impacts on Cwm Glo a Glyndyrys SSSI. These aim to ensure that the SSSI that would remain undeveloped as part of the current proposals is managed appropriately for nature conservation, in a manner conducive to the maintenance and enhancement of the special interest of the SSSI.

It is outlined that measures such as widespread cattle grazing at an appropriate rate, significant scrub clearance, use of GPS based cattle collars to control grazing and other practical habitat management interventions will be key to achieving this overall objective.

We note that the planning submission does not include a detailed strategy for habitat management and that the intention is to produce a Compensation and Habitat Management Plan to be secured by a pre-commencement condition.

However, we require more detail to be provided at outline planning application stage as to the proposed habitat management strategy as well as mitigation and compensation measures before we are able to comment fully on this application. We refer you to our statutory pre-application response for details on what we would require including details on ecosystem resilience.

This information could be presented in a similar form to that undertaken for the site's archaeological interest as a Head of Terms document. We recognise that the document will not have the level of detail as the final version at this stage of the planning process but it would however be helpful to establish various parameters for management works and to set clear management objectives with an approximate timeline for delivery.

The document should provide details of the mechanism that will be used to secure the management for the longer term (minimum of 25 years) as well as identifying the suitable organisation / management body who would be responsible for delivering the management and the associated budget to fund the works. A map should be provided illustrating where management works including scrub clearance will be undertaken at the site, how the work will be phased and an appropriate grazing strategy designed to ensure that the different habitats present on the wider application site within Cwm Glo a Glyndyrys SSSI are appropriately managed.

In addition, we note in section 8.6.5 that searching for appropriate off-site compensation areas is currently ongoing, and this will be secured and details outlined in the proposed Compensation and Habitat Management Plan. This should follow the stepwise approach in local and national policy and clearly set out what mitigation and compensation measures are necessary to ensure enhancement and preservation of the SSSI. As above, this information should be submitted prior to determination of the outline planning application to ensure the proposed compensation is suitable for the permanent loss of the SSSI.

Hydrological and hydrogeological assessment

We are satisfied that concerns raised with regard to Hydrological and hydrogeological assessment will be fully addressed by the applicant as part of the development and we have no further comment to make on this aspect.

Habitat Regulations Assessment (HRA)

At statutory pre-application consultation stage we advised *'The Ecological Impact Assessment acknowledges a link between the marsh fritillary populations at Cwm Glo a Glyndyrys SSSI and the functional landscape area of Blaen Cynon Special Area of Conservation (SAC) metapopulation (the sites being potentially linked through stepping stone habitat in the intervening landscape). As such, the proposal should be screened through a Habitats Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2017 (as amended).'*

We advise your Authority, as competent authority for HRA, that the proposal should be screened through a Habitats Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2017 (as amended).

Biosecurity risk

At statutory pre-application stage we advised that further information be submitted with regards to biosecurity at the site.

We note the PAC states *'The presence of these species is acknowledged and the Applicant is committed to their appropriate control and eradication, not just on the application site as part of the construction and operation of the scheme, but also across the wider landholding, as will be secured via the management plan referred to above. The statutory requirements and obligations as regards these species are clear and it is not considered that additional assessments are required to deal with them appropriately'*.

At this stage, in the absence of an appropriate management plan, the information we requested at statutory pre-application stage remains outstanding. This could be addressed via a standalone condition or included in the Compensation and Habitat Management Plan as required above.

Protection of the water environment

At statutory pre-application stage we advised *'A comprehensive Construction Environmental Management Plan (CEMP) will be necessary to protect both the water environment and SSSI'*. We note the PAC report states: *'CEMP requirements are set out throughout the Environmental Statement in the mitigation sections of relevant chapters.'* To ensure adequate protection of the water environment and SSSI we request the following condition to be included on any permissions granted.

Condition

No development, including site clearance, shall commence until a site wide 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.

- 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 and implemented for the protection of the environment during construction.

We would recommend referring to the Guidance for Pollution Prevention (GPP) documents in preparation of the CEMP, particularly GPP5, which can be found here: [GPP 5: Works and maintenance in or near water | NetRegs | Environmental guidance for your business in Northern Ireland & Scotland](#)

Air Quality

We note there have been 'minor amendments' made to the Air Quality Assessment, Revision 6 by Tetra Tech dated 21/04/2022. We are satisfied with the Air Quality Assessment findings that impacts on nitrogen sensitive features resulting from changes in traffic (as a result of the proposed development) are likely to be negligible.

European Protected Species

We note that there is an amended site boundary to include land east of the A470 (new access road) however, the habitat map and other ecological surveys do not cover this land. Accordingly, we cannot advise further on matters in our remit for this land and advise this is addressed. Our advice below relates to the remainder of the site west of the A470.

We welcome the submission of the following documents in support of the outline planning application (all matters reserved) for a mixed leisure development at the above site:

- *'Rhydyrcar West. Environmental Statement Vol I-III'* dated March 2023 encompassing:
 - *'Cwm Glo a Glyndyrys , Merthyr Tydfil. Species Survey Report: Great Crested Newt'* by Bioscan dated February 2022;
 - *'Cwm Glo a Glyndyrys , Merthyr Tydfil. Species Survey Report: Bats'* by Bioscan dated February 2022;

- *'Results of a climb and inspect survey of trees at Cem glo for their potential to support roosting bats – Campaign 1'* by AEcol dated 14/11/22;
- *'Results of a climb and inspect survey of trees at Cem glo for their potential to support roosting bats – Campaign 2'* by AEcol dated 14/11/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-001 (P03) *'Rhydycar West, Merthyr Tydfil. Site Location Plan'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-010 (P3) *'Rhydycar West, Merthyr Tydfil. Outline Masterplan'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-011 (P3) *'Rhydycar West, Merthyr Tydfil. Development Parameter Plan'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-020 (P3) *'Rhydycar West, Merthyr Tydfil. Illustrative Masterplan'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-111 (P2) *'Rhydycar West, Merthyr Tydfil. Development Parameter Sections 2'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-112 (P2) *'Rhydycar West, Merthyr Tydfil. Development Parameter Sections 3'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-120 (P2) *'Rhydycar West, Merthyr Tydfil. Outline Masterplan'* by Holder Mathias Architects dated 7/12/22;
- Drawing RHDR – HMA-LE-ZZ-DR-A-PL-121 (P2) *'Rhydycar West, Merthyr Tydfil. Illustrative Masterplan Sections 2'* by Holder Mathias Architects dated 7/12/22;
- *'Rhydycar West. Light Spillage Assessment (V5)'* by TetraTech dated 4/11/22;

We note that the application site encompasses part of Cwm Glo a Glyndyrys SSSI and has been surveyed for great crested newts, bats, otters, dormice and water voles.

European Protected Species: Legislation and Policy

Great crested newts, otters, dormice and all species of British bats are European Protected Species, legally protected under The Conservation of Habitats and Species Regulations 2017 (as amended). Legal protection relates to the animals themselves and the places they use to rest and breed.

Where a European Protected Species is present and development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation.

A licence may only be authorised if:

- i. The proposed works to be authorised satisfy an appropriate derogation purpose, which in the case of development are for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

These requirements are translated into planning policy through Planning Policy Wales (PPW) February 2021, section 6.4.22 and 6.4.23, and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that the planning authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any European Protected Species on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied. These requirements apply whether an application is full or outline.

Great Crested Newts

The information submitted in respect of great crested newts (GCN) is the same as we considered at statutory pre-application stage, with the exception of a revised Figure 2 in the GCN survey report which confirms where the 250m survey buffer lies around the full extent of the application site boundary. With this information we note that P48 is located beyond the 250m survey buffer.

Survey Results

The 2021 surveys recorded GCN in P11, P29 and P48, with evidence of GCN breeding in P48. Whilst none of these are located within the application site P29 is very close to its boundary and P11 lies within the 250m buffer in the north-west. We note that GCN have historically also been recorded as present in P15, P17 and P26 within the site boundary and P10 and P38 within the 250m site buffer.

Impact Assessment

Although Section 8.5.29 of the Environmental Statement (ES) references impacts on great crested newts (e.g. the loss of GCN breeding sites and terrestrial habitat) and considers that impacts on the species are likely to be significant, a detailed impact assessment is not included. Therefore, we are unable to fully assess the impacts of the proposals on GCN.

Therefore, we seek a detailed assessment of the potential impacts of the proposals on great crested newts including but not limited to:

- GCN breeding ponds within the application site and the 250m buffer;
- Other ponds currently and historically known to be used by GCN within the application site and the 250m buffer;
- Terrestrial habitat within 50m of ponds used by GCN;
- Terrestrial habitat within 50m-250m of ponds used by GCN; and
- Terrestrial habitat within 250m-500m of ponds used by GCN.

Proposed Mitigation and Compensation

No specific details regarding proposed GCN mitigation and/or compensation are included within the ES, although we note that the wider landholding is offered up to deliver conservation measures for the species. A significant proportion of the wider landholding is encompassed by Cwm Glo a Glyndyrys SSSI; any proposals for the delivery of GCN compensation and enhancement measures for this land necessitates that the ES:

- includes an assessment of the impacts of those measures on the notified features of the SSSI;
- demonstrates that they will be compatible with the long-term management of the SSSI for its notified features; and

The loss of aquatic and terrestrial habitats will require the provision of a dedicated GCN reserve in the local area, managed specifically for the conservation of GCN. Additional information should be provided to clarify the area of aquatic habitat to be lost, and the area of aquatic habitat to be provided; this must be sufficient to demonstrate that there will be no net loss in area of aquatic habitat available to GCN.

At this outline application stage, a Great Crested Newt Conservation Plan is required which at least outlines all mitigation and/or compensatory measures that will be put in place. This should include secure long term (in perpetuity) habitat compensation, habitat and species management and monitoring measures, set out who will be responsible for carrying these out, the timing of provision and phasing of conservation measures relative to habitat losses, and how the Plan will be funded, co-ordinated and implemented.

This information is needed to ensure that all the material information to determine the favourable conservation test is considered at the time that the principle of the scheme is established, as per planning policy. It is not sufficient to leave the provision of this information to a Species Protection Plan (or similar) secured by pre-commencement condition attached to any outline consent issued for the scheme, the Reserved Matters stage or the EPS licensing process.

With the broad principles agreed at the outline stage sufficient to determine that there will be no detriment to the favourable conservation status of GCN, we acknowledge that some of the finer details of the proposals could be agreed at the Reserved Matters stage.

Impacts of the development and proposals for mitigation and compensation should be considered in the context of the current conservation status of GCN and the legal requirement for the proposals to demonstrate that there will be no detriment to the maintenance of the favourable conservation status of the species.

GCN – Summary

We consider that there is insufficient information with the application to confirm the likely impacts of the proposals on GCN and confirm that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the population(s) of GCN concerned.

We therefore have concerns regarding the above application pending the provision of further information. We would be pleased to review our position and provide further advice when consulted on the information specified below. We therefore advise that the information below is provided to inform the determination of the application.

Further Information to be submitted:

The submission of a site-wide Great Crested Newt Conservation Plan which should include:

- Detailed assessment of the potential impacts of the construction and operational phases of the scheme on great crested newts, including an assessment of the risks of incidental injury or killing;
- Review of the extent, distribution and quality of GCN habitat to be removed, retained, enhanced and created:
 - GCN breeding ponds within the application site and the 250m buffer;
 - Other ponds used by GCN within the application site and the 250m buffer;
 - terrestrial habitat within 50m of ponds used by GCN;
 - terrestrial habitat within 50m-250m of ponds used by GCN; and
 - terrestrial habitat within 250m-500m of ponds used by GCN.
- That habitat functionality and connectivity is maintained during and post construction;
- A plan showing habitat to be removed, retained, enhanced and created which should identify the extent and location on appropriate scale;
- Details of protective measures to be taken to minimise the impacts;
- Details of on-site and off-site GCN habitat compensatory proposals including plans, extent, access, as well as current and proposed tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. In respect of aquatic habitats, pond and associated infrastructure design, submission to include details of timing, phasing and duration of construction activities and conservation measures;
- For off-site compensation and enhancement proposals within Cwm Glo SSSI, the inclusion of an assessment of the impacts of those measures on the notified features of the SSSI, details to demonstrate that they will be compatible with the long-term management of the SSSI for its notified features and timetable for implementation demonstrating that works are aligned with the proposed phasing of the development;
- Details of initial aftercare and principles of long-term maintenance;
- Actions to be taken in event that a larger than anticipated GCN population is encountered during pre-construction update surveys and/or development works;
- Ecological Compliance Audit, including key performance indicators;
- Details of measures to prevent or reduce incidental capture or killing.

- Proposed mechanism for regulating the construction and operation of the proposal. We anticipate that the long-term management of any compensation will be guaranteed via a suitable planning obligation such as a Section 106. We advise this considers both planning conditions and obligations. We suggest the mitigation strategy includes a 'Heads of Terms' document that specifies funding mechanisms, tenure and any changes to tenure, and provisions for updating the management plan.
- Design principles of green and blue infrastructure together with ecosystem resilience. This statement to cross reference with GCN mitigation and compensation measures and the long-term site management plan.
- Measures designed to prevent the accidental capture/ killing of newts (amphibians) during operational phases of the scheme. 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 that could trap newts).
- Long term financial considerations.
- Submission of a long term site management plan that includes defined aims and objectives; habitat management prescriptions; surveillance prescriptions based on abundance and habitat suitability; 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 implement identified or contingency actions; site liaison and wardening; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to tenure of the dedicated ecology areas; 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. (We would be content to secure this management plan via condition and/or planning obligation.)
- Sets out the detail of the proposed GCN conservation measures that each of the Reserved Matters applications will be required to submit.

Bats

The bat information supporting the application is the same as that we considered at statutory pre-application stage, with the exception of a report on climbed endoscope inspections of trees included in Appendix 8.14.

Bat roosts in structures

We note that a number of structures are present within the application site and a 250m buffer which have the potential to support roosting bats including the following:

- Within the application site:

- o B6 Stone bridge abutments with metal deck
- o B7 Retaining wall
- o B8 Stone bridge
- o B20 Stone bridge
- o B21 Low stone culvert

- Within 250m of the application site boundary:

- o B1 Cyfartha canal tunnel entrance;
- o B2 Concrete wall
- o B3a Square stone structure
- o B3b Retaining wall
- o B4 Stone structure
- o B5 Paired stone retaining walls
- o B9 Stone bridge with metal deck
- o B10 Base of collapsed chimney
- o B11 Abercanaid-Aberdare tunnel
- o B12 Long stone retaining wall
- o B13 Stone wall opposite B12
- o B14 Culvert carrying northern arm of Nant Cwm Pant Bach
- o B15 Low stone culvert
- o B16 Low Stone culvert
- o B17a related small tunnel immediately south-east of B17
- o B17b Low stone bridge/culvert
- o B18 Long supporting wall
- o B19 Retaining wall
- o B22 Culvert carrying southern arm of Nant Cwm Pant Bach

The bat survey report compiles the results of historic bat activity and roost entry/re-entry surveys of the site to roost (from 2015, 2016, 2018), along with the up-to-date surveys that were carried out to support this application, namely a visual inspection of the above structures for evidence of bats in March 2021.

We note that although most of the structures were identified to have at least low bat hibernation/roost potential, the only follow up surveys undertaken were static detector surveys on B1, B8 and B11 in the same month as the visual inspections, even though some of the structures had also been confirmed roosts in previous surveys (e.g. B6, B8, B10, B12). Therefore, we advise that the 2021 bat surveys do not fully accord with published best practice survey guidance. Visual assessments alone are not sufficient to determine bats use of structures, particularly where crevices are present which may conceal bats' presence. Structures identified to have potential to support roosting bats should be subject to further surveys at the appropriate time of year. If they are considered to have summer roost potential, they should be subject to emergence surveys in the period May-August. If they are considered to have hibernation potential, then surveys over winter (November-February) will be required.

Notwithstanding the incidental observation of a *Myotis* roost in B8 during the September 2021 transect survey, there is insufficient information to confirm whether there are any bat roosts present in structures within and immediately adjacent to the site which may be affected by the proposed development. We seek further information in this regard to support the application (see our comments below regarding a Bat Conservation Plan).

Bats in Trees

We welcome that trees on site with potential to support roosting bats have been subjected to further climbed endoscope surveys in November 2022; this information adds to the incidental observation of a brown long-eared maternity roost in T29 in the west of the site during the August dawn transect survey 2021. Whilst we note that a total of 54 trees had potential to support roosting bats, only one appeared to support a roosting bat (an individual Daubenton's bat).

Unfortunately, no map is included with the application to confirm the location of each of the trees surveyed, particularly the one that supported the Daubenton's bat, and whether this tree will need to be felled or pruned to accommodate the proposed development.

If tree roosts will be affected by the proposed development, the application should include details of the mitigation/compensation that will be put in place to offset the loss of this roost. Please refer to our comments below regarding a Bat Conservation Plan.

Bat activity across the site

We welcome that bat activity transect surveys were undertaken in 2021, and follow on from similar surveys undertaken in 2015, 2016 and 2018, parts of which are relevant to the application site as it is now proposed.

The results of the 2021 surveys confirm that a diverse assemblage of bat species continues to use the site, including rarer species of bats (such as Lesser Horseshoe bat). That being the case and given that the application site is not currently subject to artificial lighting, we advise that a conservative approach to the lighting of the site is necessary to ensure that bats can continue to move around and through the developed site.

We welcome the information provided within the Light Spillage Assessment regarding the proposed lighting of the site, to include column lighting for the access roads and low level bollard lighting for the car parking area. We note that it considers the potential impacts of the proposed lighting on sensitive ecological receptors such as bats and welcome that a threshold of 1 lux is used for this purpose.

We consider that lighting matters can be dealt with appropriately worded conditions attached to any outline permission granted for the scheme requiring the following:

Condition

The scheme is implemented in accordance with the principles and commitments in the light spillage assessment report regarding the conservative lighting of the development to ensure that light spill on sensitive ecological receptors is <1lux.

Condition: Lighting Plan (Reserved Matters Applications)

Each reserved matters application shall include full details of the lighting to be installed, for the written approval of the local planning authority. The Lighting Plan shall include:

- Details of the siting and type of external lighting to be used;
- Light spill drawings (based on a device maintenance factor of 1) showing the light spill contours in relation to new and retained habitats as agreed at the outline stage, and on key sensitive areas (e.g. on mitigation/compensatory bat roosts, green infrastructure, attenuation ponds, drainage ditches, and where green infrastructure is intersected by road infrastructure/paths);
- An Environmental Lighting Impact Assessment against conservation requirements for nocturnal protected species
- Details of lighting to be used both during construction and operation.

The lighting shall be installed and retained as approved during construction and operation. Justification: A lighting plan should be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species, habitats and commuting corridors.

Impact Assessment

In the absence of comprehensive, up to date bat surveys of structures across the site, and confirmation of the location of bat roosts on site, it is not possible to fully assess the likely impacts of the scheme on bats and their roosts.

We advise that the ES includes a comprehensive assessment of the likely impacts of the proposed development on bats and their roosts, taking account of the results of the advised additional bat surveys of trees and structures.

Proposed Mitigation and Compensation

No specific details regarding proposed mitigation and/or compensation for the potential impacts on bats of the proposals are included within the ES.

It is not sufficient to leave the provision of this information to a Species Protection Plan (or similar) secured by pre-commencement condition attached to any outline consent issued for the scheme, the Reserved Matters stage or the EPS licensing process.

A site-wide Bat Conservation Plan setting out all the mitigation and/or compensatory measures that will be put in place should be submitted in support of the planning application. This should include secure long term (in perpetuity) habitat compensation, habitat and species management and monitoring measures, set out who will be responsible for carrying these out, the timing of provision and phasing of conservation measures relative to habitat/roost losses, and how the Plan will be funded, co-ordinated and implemented.

Impacts of the development and proposals for mitigation and compensation should be considered in the context of the current conservation status of bats and the legal requirement for the proposals to demonstrate that there will be no detriment to the maintenance of the favourable conservation status of the species.

Bats – Summary

We consider that there is insufficient information with the application to confirm the likely impacts of the proposals on bats and confirm that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the population(s) of bats concerned.

We therefore have concerns regarding the above proposal pending the provision of further information regarding bats, European protected species. We seek further information to be able to assess whether there is a detriment to the maintenance of the favourable conservation status of bats. We advise that the information below is provided to inform the determination of the application. We will be pleased to review our position and provide further advice when consulted by you on the information requested.

Further Information to be submitted:

- Further surveys in accordance with published best practice of all structures within and adjacent to the site identified to have at least low hibernation or summer roost potential.
- A map to confirm the location of each of the trees surveyed for the presence of bat roosts, their potential to support roosting bats, the location of the tree that supported the Daubenton's bat, and whether this tree and T29 (supporting the Brown Long-eared bat roost) will need to be felled or pruned to accommodate the proposed development.
- A site-wide Bat Conservation Plan which should include:
 - Comprehensive assessment of the likely impacts of the proposed development on bats and their roosts, taking account of the results of the additional information requested in 1 and 2 above;
 - A plan showing habitat and roosts to be lost, created and retained which should identify the extent and location drawn to an appropriate scale;
 - Details of proposed compensatory roosts including proposed siting and design;
 - Details of protective measures to be taken to minimise the impacts;
 - Details of timing, phasing and duration of construction activities and conservation measures;
 - Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development;
 - Details of initial aftercare and long-term maintenance;
 - Actions to be taken in event that more bat roosts are encountered during preconstruction update surveys and/or development works;
 - Ecological Compliance Audit, including key performance indicators;
 - Persons responsible for implementing the works;
 - Details of measures to prevent or reduce incidental capture or killing.

Otters

We note that otters may utilise the watercourses on site to move through the area and welcome the habitat map and watercourses map to confirm where watercourses/waterbodies exist on site.

Dormice and Water Voles

We note that no evidence of either dormice or water voles has been found on site.

EPS Licence

We advise that the applicant seeks a European Protected Species licence from Natural Resources Wales under Regulation 55 of The Conservation of Habitats and Species Regulations 2017 before any works on site commence that may impact upon bats or great crested newts. Please note that the granting of planning permission does not negate the need to obtain a licence.

Birds

We have considered section 8.6 of the ES and note there is no specific mention to compensation/mitigation for woodland birds. However, we are of the view that overall the mitigation proposed will suffice the most relevant species effected.

Landscape

Our landscape advice relates to the development's potential impact on the Bannau Brycheiniog National Park (BBNP) landscape character, visual amenity, special qualities, and visual setting, and its accordance with national policy.

We note the BBNP boundary is around 3km to the north. As an outline application, the submitted information is high level, therefore this places a reliance on landscape issues being addressed at the Reserved Matters stage.

Landscaping

We note that the ES landscape chapter is split and there appears to be no landscape mitigation measures at this Outline application stage. Overall impacts on the BBNP in the LVIA appendix 12.3 are assessed as 'small' during construction and completion, reducing to 'negligible' by year 15, but the LVIA relies on *'the establishment of woodland and trees is likely to soften views of the proposed development, which would help integrate it into its surroundings'*, however, no soft landscape mitigation measures are described or shown on a plan. Viewpoint 10 (Cefn Cil-Sanws) is taken within the BBNP 4.5km from the site, the photowire visualisation shows the proposed buildings are of such a height and scale that the roofs and part of the elevations will be seen above even the existing mature tree canopy and emphasises the importance of the roofscape and elevation treatment in helping to integrate the proposal into the sloping valley landscape. We note that at pre-application stage our comments quote TIR landscape consultancy as assessing the LVIA impact at viewpoint 10 as 'moderate adverse' but in the planning application this has been revised to 'medium-small'. We request further clarification as to how/why this assessment has changed.

At this outline stage we request the provision of further detail (i.e. a parameters plan) depicting the location/ extent of planting to be provided. The reason for this is that we have been unable to find plans showing the extent of planting. However, the LVIA appears to be relying on planting to mitigate the impact of the proposals on views from the BBNP.

Building materials and colours

The DAS (page 53) confirms *'materials and detailing are at this stage only shown indicatively, these will be chosen to ensure that the visual impact of the development is fully minimized'*.

Green roofs appear to be proposed but the extent and type of green roof is unclear and the building highlighted below is consistently shown without a green roof and faces the BBNP. Given the extent of green roofs proposed, their establishment and ongoing maintenance and management will be key to delivering landscape mitigation. We consider that monitoring and a programme for replacement of failing areas is needed.



Light spillage

Lighting concerns have been further assessed in the 'Light Spillage Assessment' dated November 2022 by Tetra Tech. We note the conclusion is that the indicative lighting scheme does not conflict with national or local planning policies and will meet the Institute of Lighting Professionals criteria for sky glow levels or obtrusive light levels for residential and ecological receptors.

We consider that, given the scale and valley side location of the proposed buildings, it will be the detailed design of the buildings in terms of the use of green roofs, appropriate colours/finishes, and lighting that will be key to successfully minimising the impact on views from the BBNP.

Summary

We request the following information to be submitted prior to determination of the application:

- a parameters plan identifying the extent of planting proposed.
- An explanation as to why viewpoint 10 is now described as 'medium-small' when it was previously described as 'moderate adverse'

In addition, conditions to be attached to any outline consent granted for approval at reserved matters stage requiring the submission for approval of:

- Details of building materials.
- An Environmental Colour Assessment to inform the final finishes and colours of the main buildings.
- A Detailed Landscape Scheme including management and monitoring of external works but also the green roofs of buildings.
- A Detailed Lighting Scheme.

The purpose of the above is to ensure the visual impact on the BBNP is minimised.

Land Contamination and Controlled Waters

We note a summary of site history is provided within section 7 of the Phase 1 Geo-environmental Assessment and CMRA Report, however, there have not been any historic maps appended or submitted and as such we are unable to review the extent of the review of historic mapping (study area) or substantiate details provided in Table 7-1.

Given uncertainty around risk to controlled waters associated with land contamination as set out within the Environmental Statement and Phase 1 Geo-environmental Assessment, along with the consideration of the size and complexity of the site development, we recommend the following conditions are imposed upon any planning permission granted.

For your information, we refer you to our statutory pre-application response for the type of information we would require regarding grouting and ground stabilisation works.

Condition

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

Prior to the occupation 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

Prior to the occupation of the development a long term monitoring plan for land contamination (where necessary) 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 controlled waters.

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 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: 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.

Condition

No infiltration of surface water drainage into the ground is 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 controlled waters. The development shall be carried out in accordance with the approval details.

Justification: To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution.

Condition

No development shall commence until details of piling, grouting or any other ground improvement / foundation designs using penetrative and, or grouting methods sufficient to demonstrate that there is no unacceptable risk to groundwater have been submitted to and approved in writing by the Local Planning Authority. The piling and grouting designs shall be implemented in accordance with the approved details.

Justification: Piling and grouting details should be submitted to ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development.

Informative/ advice to applicant

Natural Resources Wales recommends that developers should:

1. Follow the risk management framework provided in [Land contamination risk management \(LCRM\)](#)
2. Refer to '[Land Contamination: a guide for developers](#)' (WLGA, 2017) 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'](#)

Flood Risk

We note the application boundary is different to that at statutory pre-application stage and now includes an access to the south east of the site serving the 'Woodland Lodge Accommodation'. The Flood Consequences Assessment has not been updated to reflect this amendment. Part of this new access is within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 2 and 3 Rivers.

For completeness we advise the FCA should be updated to reflect the amended site boundary.

For your information, our advice on this amended boundary is, given the scale and nature of the proposed development within Zone C2/ Flood Zone 2 and 3 Rivers (access road) we consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks.

We refer the applicant to our [website](#) for further advice and guidance is available.

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

Tree felling

We advise that no tree clearance should take place until it is covered by an approved planning permission. It is an offence under the Forestry Act 1967 to fell more than 5 cubic metres of timber in a calendar quarter without a felling licence unless this is covered by planning permission or falls under one of the exemptions of the act.

Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately, and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer: <http://naturalresources.wales/permits-and-permissions/waste/?lang=en>
<http://naturalresources.wales/permits-and-permissions/waste/waste-permits/?lang=en>

Further guidance can be found on the GOV website here: <https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

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

Yn gywir / Yours faithfully

Annabelle Evans

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