

Ein cyf/Our Ref: CAS-220645-V5P5
Eich cyf/Your Ref: P/23/0131

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

Dyddiad/Date : 14 July 2023

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: Demolition of existing school and construction of a new school building within the existing site, including sports facilities and associated landscaping, access and engineering works, temporary staff car park, construction compound and classrooms during construction

LLEOLIAD / LOCATION: Bishop Hedley High School, Gwaunfarren Road, Merthyr Tydfil, CF47 9AN

Thank you for consulting Cyfoeth Naturiol Cymru (CNC) / Natural Resources Wales (NRW) about the above, which we received on 20/06/2023.

We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:

Conditions 1-5: Land Contamination

Condition 6: Construction Environmental Management Plan

Please note, without the inclusion of these conditions we would object to this planning application. Further details are provided below.

We also request that an informative is attached to any planning permission granted as explained below.

Land Contamination

Further to our letter of 14 June 2023, reference CAS-218757-P4W7, we have now considered the following document: "*BISHOP HEDLEY SCHOOL CAMPUS, MERTHYR TYDFIL Site Investigation Report 14075/FG/22/SI/RevB prepared by Integral Geotechnique (Wales) Limited*".

We would broadly concur with the recommendation made in section 10.5.2 of the Report for a further programme of groundwater sampling and testing (land west of Galon Uchaf rd.) and would advise the following conditions are included on any planning permission granted to provide control over that work:

Condition 1

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 **[largely completed]**
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 2 Contamination verification report

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 3: Unsuspected contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification:

To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Condition: 4 Piling

No development shall commence until details of piling or any other foundation designs using penetrative 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/foundation designs shall be implemented in accordance with the approved details.

Justification:

Piling/foundation 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 – surface water drainage

We advise an informative is included on any decision notice informing the applicant to obtain the approval of the SuDS Approving Body (SAB) for their management of surface water.

We advise that infiltration of surface water drainage into the ground should only be permitted for parts of the site where it has been demonstrated there is no resultant unacceptable risk to controlled waters. This should be informed by the applicant's existing ground investigations and/or remediation strategy. If this is not properly controlled, the development may create pathways for pollution to controlled waters.

Informative - waste on site

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the [CL:AIRE Definition of Waste: Development Industry Code of Practice](#). This

voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterized both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays

European Protected Species - Bats

We have considered the following additional documents submitted in support of the application:

- Bat Survey (southern site), by Ecological Services Ltd, dated May 2023, V1.0
- Ecological Impact Assessment, by Ecological Services Ltd, dated 1 June 2023, V1.0
- Preliminary Ecological Assessment and Bat Survey, by Ecological Services Ltd, dated 31 May 2023

The Preliminary Ecological Assessment and Bat Survey, by Ecological Services Ltd, dated 31 May 2023 has identified bats are present at the application site (a confirmed bat roost was present in Building B1).

Bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats are present and a 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 development works to be authorised are for the purpose 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.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied. Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the third test only.

On the basis of the above reports, we do not consider the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Therefore, in line with the 'Dear CPO' letter issued by Welsh Government on 1st March 2018, we request that the following informative is attached to any planning permission granted by your Authority:

Warning: A European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at [Natural Resources Wales / Apply for a protected species licence](#).

Please note, any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

Our advice on pollution prevention and the condition for a Construction Environmental Management Plan remain as set out in our letter of 14 June 2023, reference CAS-218757-P4W7.

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.

Yn gywir / Yours faithfully

Claire McCorkindale

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning

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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.