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06/04/2020

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: ENGINEERING WORKS INCLUDING PROVISION OF DRAINAGE CHANNEL/ SWALE AND CULVERT/OUTFLOW, RAISING THE LEVEL OF THE LAND, AND CREATION OF SITE ACCESS ROAD

LLEOLIAD / LOCATION: FORMER ARDAGH SITE, DRAGON PARC, ABERCANAID

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 04.03.2020.

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

Condition 1: Documents and Plans

The following documents to be included within the condition identifying approved plans and documents on the decision notice:

Land at Dragon Parc engineering works FCA, Version 3, dated February 2020, Drawing Number BMQ-JBAU-XX-XX-DR-C-0001

Conditions 2-6: Land contamination

Condition 7: European Protected Species

Flood Risk

We understand the proposal is for site engineering works, as part of a flood mitigation strategy, in order to facilitate a flood map challenge and remove the proposed site from Zone C2, in preparation for a mixed use development. We have considered the present application within that context.

We have reviewed the submitted flood model received via email from George Baker (JBA) on the 04.03.2020 and are satisfied that it is fit for the purpose of informing a Flood Consequences Assessment (FCA).

We have also reviewed the amended FCA (Land at Dragon Parc engineering works FCA, Version 3, dated February 2020). This FCA was updated to include further detail on the survey undertaken on the Nant Canaid culvert, as recommended in the advice we provided to George Baker, dated 15.01.2020, and as attached to our previous letter (Reference CAS-107913-C5F4).

With regards to the information presented in the FCA, as you are aware from previous advice we have given, we are concerned about the functionality of the Nant Canaid culvert should a flood event occur. The FCA confirms that a full survey of the Nant Canaid culvert has not been undertaken, due to the uneven terrain of the river bed. It also confirms that there are a number of inlets between the Nant Canaid North and Nant Canaid West, some of which have been classed as 'critical' by Merthyr Tydfil County Borough Council (Section 4.2 in the submitted FCA). We are also aware that none of the culverts are under the control of the applicant, in terms of future maintenance arrangements.

In the view of the above, we believe a precautionary approach should be taken when considering the flood risk at the application site. We have therefore considered the FCA data for the 1% (1 in 100 year) plus climate change allowance and the 0.1% (1 in 1000 year) flood events plus 95% blockage scenario. Our comments are as follows:

The FCA considers the flood risk to the site, post development, i.e. on completion of the following works: reprofiling the site to 157mAOD; raising the southern section to 155mAOD; and constructing a swale around the site to divert overland flows from the Nant Canaid watercourses (Section 4.4 in the FCA)). The FCA shows that in the 1% (1 in 100 year) event plus climate change allowance, plus 95% blockage, the development plateau is predicted to be flood free. In the 0.1% (1 in 1000) flood event plus 95% blockage, flood depths of approximately 100mm are predicted. However, this depth of flooding is within the tolerable limits of section A1.15 of TAN15, i.e. depth >600mm.

Access roads within the site are shown to be flood free, although overland flows from the Nant Canaid are shown to reach a depth of up to 400mm along the road south of the site. The previously submitted illustrative layout plan (Planning Ref P/17/0144) which has now been superseded, indicated an access road from the north of the site; if this route is retained, it is shown to be flood free in all scenarios.

With regards to the potential impacts from the development on flood risk elsewhere i.e. off site, the FCA indicates that in events up to a 0.1% return period there is no change in flood levels outside the site boundary in accordance with the requirements in Section A1.12 in TAN15. However, the FCA states that during a 0.1% flood event plus 95% blockage, flood depths on the commercial/industrial sites to the north of the development site increase by up to 100mm. We note that predicted flood depths in this area are shown to be up to 2 metres in the pre-development scenario (Section 4.6.1); there is no change predicted in the flood extent.

In consideration of the above, we have no objection to the proposals provided the development is carried out in strict accordance with submitted plans i.e. the site is re-profiled, and the swale constructed as shown within the FCA, on Drawing Number BMQ-JBAU-XX-XX-DR-C-0001.

Land potentially affected by contamination

We have reviewed the following report: Ardagh Metal Packaging, Abercanaid, Merthyr Tydfil, Desk Study Report, prepared by Integral Geotechnique, document ref: 11708/LW/16DS, dated February 2016.

We have significant concerns with the proposed development due to historic land uses identified in the draft desktop study report and the proximity to controlled waters (groundwater and the River Taff). The site is currently identified as being brownfield but was previously the location of the Ardagh Aerosol Factory. The majority of the site now comprises hard standing and scattered scrub, as well as a dilapidated office building.

We therefore recommend that the following conditions are included on any planning permission granted:

Condition 1

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified: a. all previous uses b. potential contaminants associated with those uses c. a conceptual model of the site indicating sources, pathways and receptors d. Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

Reasons

Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity due to proximity of surface watercourses (the River Taff forms the eastern boundary of site) and underlying Secondary A Aquifer and contamination is known/strongly suspected at the site due to known historic land uses.

Condition 2

Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

Reasons

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

Condition 3

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

Reasons

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

Condition 4

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reasons

Given the size and 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 5

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.

Reasons

Given the suspected sources of contamination within the ground inappropriately sited soakaways, porous pavement systems or infiltration basins could provide a pollutant linkage to controlled waters.

Informative/advice

These conditions have been recommended as we are satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing.

We recommend that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to Environment Agency document 'Guiding Principles for Land Contamination' for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health. Refer to Groundwater protection: Principles and practice (GP3).

European Protected Species

We have reviewed the following documents:

- Ecological Appraisal Report Dragon Parc, Merthyr Tydfil on behalf of Huntley Wood Investments Ltd, by RPS, dated May 2016.

- Dragon Parc, Abercanaid, Merthyr Tydfil Bat Activity Survey by RPS dated September 2016.

- Preliminary Ecological Appraisal by Ecological Services Ltd, Project: Land at Dragon Parc, Merthyr Tydfil, dated 15th October 2019.

As you are aware, all species of British bats and otter are European Protected Species, protected by The Conservation of Habitats and Species Regulations 2017.

Where a European Protected Species is present and a development proposal is likely to contravene the protection afforded to those species, development may only proceed under a licence issued by Natural Resources Wales (NRW), having satisfied three requirements set out in the legislation. One of these requires that the development authorised will 'not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.'

These requirements are translated into planning policy through Planning Policy Wales (PPW) July 2014, and Technical Advice Note (TAN) 5, Nature Conservation and Planning September 2009. The planning authority should take them into account when considering development proposals where a European protected species is present.

Bats

The submitted ecological appraisal (Preliminary Ecological Appraisal, dated 15th October 2019) concludes similar results to the survey findings of the 2016 surveys undertaken by RPS (Dragon Parc, Abercanaid, Merthyr Tydfil Bat Activity Survey by RPS dated September 2016).

The report confirms that bats are utilising the site for foraging and commuting and that none of the trees within the site have features with the potential to support roosting bats. We note that additional activity surveys were undertaken of the three buildings on site, and no evidence of bats using these buildings was found. The 2019 Preliminary Ecological Appraisal recommends adherence to the recommendations listed within the previous Bat Activity Survey Report, 2016. We agree with these conclusions.

Otter

The Ecological Appraisal Report, 2019, identifies there is negligible habitat on site to support otters but identifies records of otter along the River Taff adjacent to the site. We welcome the recommendations made in Section 5 of the report. We recommend best practice measures are followed during construction, to provide for the possibility of otters moving through the site.

In consideration of both species (bats and otter), it is unclear from the submitted documents whether any lighting is proposed as part of this development. However, we note the Preliminary Ecological Appraisal suggests the submission of a detailed lighting plan, to ensure that dark corridors are retained around the site boundary for commuting bats. We

advise that if lighting is proposed as part of this development, the following Condition be included on any permission granted, to consider both bats and otters:

Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan should include:

- Details of the siting and type of external lighting to be used
- Drawings setting out light spillage in key sensitive areas
- Details of lighting to be used both during construction and/or operation

The lighting shall be installed and retained as approved during construction and/or operation.

Reasons

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 and their commuting corridors.

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

We note the applicant wishes to undertake a flood map challenge on completion of the proposed works. Please note that we are not currently undertaking flood map challenges pending an update to TAN15 by Welsh Government (WG). Depending on the WG decision, in the future, flood map extents may include the 0.1% (1 in 1000 year) plus climate change scenario. Therefore, any future flood map challenge may need to revisit the submitted modelling, to ensure a 0.1% (1 in 1000 year) flood event is considered. Please see the below link for further information.

<https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-developers/development-and-flood-risk/?lang=en>

A Flood Risk Activity Permit will be required for works within 8m of the River Taff banks, please see the guidance on our website:

<https://naturalresources.wales/permits-and-permissions/flood-risk-activities/apply-for-a-new-bespoke-permit/?lang=en>

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

Yn gywir / Yours faithfully

Alice Jewer

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