

Ein cyf/Our ref: CAS-286263-P6X2
Eich cyf/Your ref: P/25/0037

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

Dyddiad/Date: 07 October 2025

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: Variation of conditions 4 (Duration of Restoration), 6 (Approved Plans) and 50 (Restoration Strategy) of planning permission APP/U6925/A/10/2129921 involving a revision to the restoration scheme.

LLEOLIAD/LOCATION: Ffos Y Fran, Merthyr Tydfil.

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 07 August 2025.

We continue to 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 land contamination and pollution prevention. 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 European protected species should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

We have reviewed the submitted response letters by Richard Moorehead & Laing Ltd dated 7th July 2025 and James Associates (undated). The following advice is also informed by discussions had during the most recent meeting between the applicant, Merthyr County Borough Council and NRW on 23rd September 2025.

Land Contamination

Further to the meeting undertaken on 23rd September 2025, we note that further information is to be submitted to address our concerns which were raised in our previous response (ref: CAS-275294-H0Z5, dated April 2025). We welcome this and will await consultation on this further information.

From the recent rebuttal letters submitted to us (Richard Moorehead & Laing Ltd, dated 7th July 2025 and James Associates, undated), we note that a dewatering management plan has been suggested by the applicant to be submitted and to include the details we have requested with regards to proposed resumption of dewatering from the pit lake. We welcome this approach and advise this is included as part of the application. We also wish to point out that any resumption of dewatering will need to adhere to the conditions of the existing abstraction licence.

Regarding the Dowlais Free Drainage System (DFDS), we acknowledge the proposal to undertake site monitoring. While we support this approach, the submission should clearly specify which features are being monitored, along with the rationale for their selection. Ideally, known discharge points from DFDS would be a good starting point for any monitoring. Other details should include frequency and type of monitoring, triggers for actions and mitigation if problems occur. Details and timeframes for ongoing monitoring following completion of the restoration scheme should also be provided.

We note that the applicant has suggested the production of an Environmental Management Plan to either be agreed during the application process or to be conditioned to any grant of planning permission. We would be open to either option, however please note that any Environmental Monitoring Plan should include the following:

- Location of monitoring site and type of feature being monitored.
- Frequency and method of measurements – e.g. logger collection, manual measurement, observation. Monthly/quarterly etc.
- Triggers to action mitigation and contingency measures if there is risk of impact on the local environment.
- Mitigation and contingency measures.
- Duration of the monitoring.

All other comments remain as previously submitted under the 'Land Contamination' heading within our previous response (ref: CAS-275294-H0Z5, dated April 2025).

Pollution Prevention

We refer to our previous advice (ref: CAS-275294-H0Z5, dated April 2025) with regards to pollution prevention.

European Protected Species (EPS)

The information submitted to date has identified that Great Crested Newts (GCN) are material to the application site. Surveys have confirmed the presence of the species within ponds located within and around the application site.

The proposal has the potential to kill, injure, disturb GCN, or damage or destroy their breeding sites and resting places. GCN and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981. Where GCN 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.

Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the 3rd test “demonstration of no detriment to the maintenance of the favourable conservation status of European protected species”. We advise that before any consent is given, as informed by the provisions of Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) the LPA satisfy itself as to whether the scheme satisfies the other two tests, namely a relevant Habitats Regulations purpose and whether there is no satisfactory alternative to the proposal.

Whilst we consider that submitted ecological reports provides an adequate basis upon which to consider the potential impacts of the scheme on this species, aspects of the proposed scheme will require further development. However, we are satisfied that this further information can be provided via a suitably worded conditions and obligations, included on the decision notice.

Consequently, for the purposes of demonstrating no detriment to the maintenance of the favourable conservation status of the local population of the species planning conditions and obligations will be required.

We therefore advise the following conditions in respect of GCN is included on any permission granted:

Condition:

No development, including site clearance, shall commence until a Great Crested Newt (GCN) Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should build upon the principles outlined in the ecology reports include, but not necessarily be limited to:

1. The submission (to include proposed timescales and reporting requirements) of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to:
 - fence specifications, locations, construction and maintenance (one-way amphibian fence, prior to and throughout the duration of construction operations)
 - considerations of access issues (including PROW if applicable)
 - monitoring and maintenance requirements and supervised removal.
2. The submission of further detail of on site habitat retention, enhancement and creation proposals associated with terrestrial and aquatic habitats.
3. Details of timing, phasing and duration of construction activities and conservation measures.
4. Post-construction monitoring and record dissemination for a period of not less than 25 years. Methodology shall include annual GCN abundance counts and Habitat Suitability Index (HSI) assessments. All ponds to be added to the Wales GCN

Monitoring Scheme, with individuals/bodies being identified as being responsible for monitoring and reporting works

The Conservation Plan shall be carried out in accordance with the approved details.

Justification: To ensure that GCN are protected by the development.

We also reiterate that we would welcome land located outside the red line boundary being subject to appropriate long-term management. We suggest this is subject to a planning obligation (Section 106 Agreement). See further details below.

Planning Obligation:

A Planning Obligation Section 106 Agreement will be required. We advise that in respect of any such agreement, provisions relating to ecology must include:

- Location of land subject to the agreement (red and blue land including.
- Ring-fenced index-linked annual funding for habitat management, monitoring and wardening.
- Delivery of management.
- Regular liaison meetings.
- Management plan review, every years unless agreed in writing by the LPA.
- Transfer of legal tenure (lease) of defined ecology area(s) to an organization that accords with the definition of “responsible body” under Part 7 of the Environment Act 2021 and which has internal skills, competencies and European protected species licences for undertaking management and surveillance to the written satisfaction of the Local Planning Authority within 6 months of completion of site restoration proposals.

Works should be carried out under licence. We refer you to the Chief Planning Officer’s letter dated 1 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

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

Condition

Within 12 months of the date of the consent, a Landscape and Ecological Management Plan (LEMP) for the provision, management and maintenance of the landscape and ecological features at the site has been submitted to and approved by the Local Planning Authority. The Plan shall include, but not be limited to:

The submission of a long-term site management plan (not less than 25 years) that includes:

- Details of habitats and ecological features present or to be created, both in written form and shown on appropriate drawings, including planting plans.
- Defined aims and objectives (including defined key performance indicators for long term monitoring indicators).
- Location, including geographical information system shapefiles.
- Details of the desired condition for each habitat and criteria to determine when habitats have achieved this.

- Details of short and long-term habitat management prescriptions to both achieve and maintain the desired condition.
- Details of monitoring methodologies for species.
- Details of scheduling and timings of activities.
- Current and any proposed changes to the tenure of ecology area(s) (tenure of the ecology and heritage area to be approved by the Local Planning Authority).
- Demonstrate how any issues with the site being designated as common land will be addressed post site restoration.
- Persons or bodies responsible for undertaking management and surveillance together with required skills and competencies.
- Site liaison and wardening.
- Licensing requirements for management surveillance and other defined activities.
- Biosecurity measures which consider invasive non-native species and specific diseases (e.g., Chytrid) to prevent the introduction of and where present control, removal or for the long-term management of invasive species both during construction and operation.
- Details of reporting, review and update of the plan (informed by monitoring) at specific intervals as agreed

Justification: A LEMP is required for the purposes of demonstrating the population great crested newts is being restored/maintained to its favourable conservation status in the long term.

In addition to the above, we advise that any future consent also includes a condition that requires the submission and implementation of an approved Ecological Compliance Audit (ECA) scheme to the satisfaction of the LPA.

The purpose of the ECA is to evidence compliant implementation of all ecological avoidance, mitigation and compensation works. The Audit shall identify Key Performance Indicators (KPI's) that are to be used for the purposes of assessing and evidencing compliant implementation of proposals.

Other Matters

The advice in this letter relates to matters which are included on our [consultation topics list](#). We do not rule out the potential for the proposed development to affect other environmental interests that are not included on this list.

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.

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

Yn gywir / Yours faithfully,

Eleanor Sullivan

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

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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.