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12/02/2020

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 AT FORMER ARDAGH SITE, DRAGON PARC, ABERCANAID

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 28.01.2020.

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

Requirement: Further information to be submitted for review, to demonstrate the risks and consequences of flooding can be managed to an acceptable level.

Conditions 1-5: Land contamination

Condition 6: European Protected Species

Flood Risk

Our Flood Risk Map, which is updated on a quarterly basis, confirms the site to be partially within Zone C2 of the Development Advice Map (DAM) contained in TAN15 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines.

We note the proposal is for site engineering works as part of a flood mitigation strategy, in order to remove the proposed site from the C2 Flood Zone.

We have previously provided advice on the hydraulic model and the associated Flood Consequences Assessment (FCA) that have been produced for the proposed development (JBA Consulting, Land at Dragon Parc engineering works FCA, Version 2, November 2019). A copy of the advice we provided is attached to this letter for reference (Dragon Parc, Abercanaid NRW Model Review, Emily Harris, Rev No: v3, dated 30.1.2019; NRW Advice provided to George Baker, dated 15.01.2020).

Our review of the hydraulic model found anomalies/discrepancies which need to be addressed, to ensure that it is representative of the risk of flooding and fit to inform an FCA. We therefore advised that an amended model was required but to date, we have not yet received anything further. If an amended model is submitted to us, please note that a review is likely to take up to 4 - 6 weeks to complete. We reserve the right to request further information to establish the risks and consequences of flooding if necessary.

With regards to the FCA, we note the same version of the FCA that was submitted as part of the statutory pre-application consultation has been submitted in support of this planning application, therefore we have not considered this document further. If an amended model is submitted and found to be acceptable, the FCA will need to be updated accordingly, to ensure that it is representative of the flood risk at the site and resubmitted for consideration. At that stage, we will be able to advise you further on whether the risks and consequences of flooding are considered to be acceptable in accordance with TAN15.

In summary, we have significant concerns with the proposal as submitted and do not recommend planning permission is granted until these concerns are addressed. Please inform us, in accordance with paragraph 11.7 of TAN15, if you are minded to grant permission for the above application contrary to our advice.

If the above matters are satisfactorily addressed, we would draw your attention to the following, which will also need to be considered:

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.

Reason

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.

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 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.

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