

Thomas, Stacey

From: South East Planning <southeastplanning@cyfoethnaturiolcymru.gov.uk>
Sent: 12 July 2024 18:06
To: Foote, Adam; Planning DC
Cc: Davies, James
Subject: P/23/0065 - Land To The South West Of The A470/A4102 Roundabout At Rhydycar (Major) (V3) - NRW Response NRW:01140482
Attachments: Land To The South West Of The A470.A4102 Roundabout At Rhydycar V3 (P.23.0065) (CAS-256907-Q9R4).pdf; Land To The South West Of The A470.A4102 Roundabout At Rhydycar V3 (P.23.0065) (CAS-256907-Q9R4).docx

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Dear Adam

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

Kind Regards
Jim

Tim Cynllunio Datblygu / Development Planning Team
Cyfoeth Naturiol Cymru / Natural Resources Wales
Ffôn / Tel: 03000 655027

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.

Ein cyf/Our ref: CAS-256907-Q9R4
Eich cyf/Your ref: P/23/0065

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

Dyddiad/Date: 12 July 2024

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 WEST, MERTHYR TYDFIL

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) on the additional information from the applicant, which we received on 23 May 2024.

Summary

We last gave you advice on this planning application on 25 May 2023 (our reference CAS-213279-H7C5). We sought additional information from the applicant to enable us to provide you with advice on the likely impacts from the proposal. Specifically, we requested further information and assessment regarding potential impacts on the Cwm Glo a Glyndyrys Site of Special Scientific Interest (SSSI); further information and assessment on European protected species; and further information on potential impacts on the Bannau Brycheiniog National Park (BBNP) landscape.

Having considered the additional information provided by the applicant, we continue to have concerns with the application as submitted. We understand the application is due to be determined shortly and as such offer you the following advice.

A key issue for your consideration is whether the location of development within a SSSI can be justified in accordance with national planning policy. To support this consideration, we will advise on the ecological issues that may arise for the SSSI in the event that development proceeds.

In addition, we have concerns with the likely impacts from the proposal on bats and great crested newts. Planning policy states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any European protected species or that, in your opinion, all three conditions for the eventual grant of a European Protected Species Licence are likely to be satisfied. Overall, we consider there is insufficient information with the application to confirm the likely impacts of the proposals on great crested newts and bats. Without this information it is difficult for us to advise you that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the populations of these species.

We are satisfied with the latest information from the applicant regarding landscape and flood risk. Our previous advice, which remains valid, on land contamination and groundwaters and ornithology, along with suggested planning conditions (if permission were to be granted) is provided in the attached Annex.

Protected Sites: Cwm Glo a Glyndyrys SSSI

The proposed application site is partially located on Cwm Glo a Glyndyrys SSSI. The remaining area of the application site is located outside of the SSSI but is surrounded by it on three sides. The [SSSI citation](#) can be found on our website along with the [site management statement](#).

In short, the features for which the SSSI has been notified are marshy grassland, neutral grassland, acid grassland and its assemblage of grassland macro fungi. The SSSI also contains habitats which contribute to the site's uniqueness including dry heath, wet heath, ponds and semi natural woodland. Therefore, it is important to consider all parts of the SSSI together, as a basis from which to maintain and enhance ecosystem resilience within the landscape.

As previously advised, the proposal has the potential to impact the SSSI through the permanent loss of SSSI extent, recreational impacts, the fragmentation of the SSSI, as well as construction phase impacts.

National planning policy

A key national priority within Future Wales is to develop strong ecosystems through the provision of resilient ecological networks and green infrastructure. Policy 9 places importance on safeguarding and creating or enhancing ecological networks. Safeguarding areas involves identifying land that is important for expanding or connecting ecological networks. The policy focus is on creating large-scale, resilient, and functional ecological networks. It states protected sites (such as SSSIs) are critically important to the long-term resilience of our ecosystems.

Since our last response to you, there has been a significant change to Chapter 6 of Planning Policy Wales. These changes include a strengthened approach towards protecting SSSIs and clarity on securing net benefit for biodiversity through the application of the step-wise approach.

The policy position on the protection of SSSIs is set out in PPW 6.4.25 - 6.4.27. This states there is a presumption against all forms of development in a SSSI as a matter of principle, except for developments necessary for the management of a SSSI and minor developments necessary to secure the SSSI's role as a living landscape. Accordingly, it will be wholly exceptional for most forms of development to be justifiable within a SSSI when applying the step-wise approach and paragraph 6.4.27 of PPW.

In the first instance, as the decision maker, you should consider national planning policy and determine whether the proposed development is:

- necessary for the management of the SSSI; or
- a minor development necessary to secure its role as a living landscape (where effects on the special features for which a site has been designated can be considered to be acceptable); or
- justifiable in the context of wholly exceptional circumstances and only where it is considered to be appropriate and not likely to damage a SSSI and where there is broad and clear agreement for mitigation and enhancement as part of a development plan.

In relation to the first bullet point, it is our opinion that the proposal is not necessary for the management of the SSSI.

On the basis your Authority concludes the proposal is justifiable, we provide you with the following advice on the likely impacts to the SSSI.

Step-wise approach

PPW details the step-wise approach in paragraph 6.4.15. It states this must be followed to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity.

As confirmed above, some of the development will be located within the SSSI and so impacts will not be completely avoided. This is predominantly the snow centre and slope, which we understand cannot be located elsewhere within the site for topographical reasons. Although a reserved matter, part of the indicative northern access route also falls within the SSSI designation.

We are not able to provide you with advice on whether reasonable alternative sites have been considered by the applicant in accordance with the step-wise approach. This will be a matter for you to consider.

The applicant states that the part of the SSSI being lost to development does not contain *'any significant representations of the primary features of special habitat or mycological [fungi] interest underpinning the designation. Thus, it is considered that the direct loss of SSSI land to the development will have little or no impact on the national and international mycological importance of the SSSI and will not result in the direct loss of any substantive quantum of the cited marshy grassland, acid grassland or heathland habitats, including those supporting the site's current population of marsh fritillary butterfly. Consequently, it is*

the secondary interest features of the SSSI that will be directly affected, in particular woodland, scrub and 'fridd' habitats of a type falling outside the scope of the primary interest features.

We are satisfied with this analysis regarding the location of notified features of the SSSI (referred to as 'primary features' by the applicant). We consider the impact on the notified features has been **minimised** in terms of the siting and orientation of the development within the SSSI boundary.

While we believe it is ecologically feasible that this area could potentially support notified features, this would require significant investment of resources over significant timescales. There are no current or foreseeable plans for such an active intervention in this area.

Further, we previously requested the applicant undertakes checks for devil's bit scabious within marshy grassland area, which is a food source for the marsh fritillary butterfly. This has been completed and we are satisfied this has also been avoided.

To limit or reduce likely adverse effects to the remainder of the SSSI (and other ecological receptors), the applicant proposes **mitigation** measures. This is primarily in the form of a Construction Environmental Management Plan to ensure construction is managed sensitively as well as sensitive lighting (during both construction and operational phases). We are satisfied with these proposed measures and would expect them to be appropriately secured through planning conditions or reserved matters, as advised in our previous response to you.

Since our last response, the applicant has proposed to deliver and manage an additional area of land. This off-site **compensation** land is outside of, but adjacent to, the SSSI and totals 17ha. The SSSI land which would be lost to the snow centre and slope totals approximately 6ha.

The compensation land proposals are described as 'enhancement of habitats complementary to the SSSI interest features (in particular lowland meadow and marshy grassland) on additional land which is adjacent to and borders the Application Site' and 'The secured beneficial management and enhancement of land at Blaencanaid Farm (itself also a SINC) will improve the deliverability of optimised grazing management within the balance of the Cwm Glo a Glyndyrys SSSI and secure complementary habitats to the retained SSSI and SINC lands, improving future ecosystem resilience'

Alongside the management of this compensation land, the applicant is also committing to improved long-term management of the remainder of the SSSI, through grazing and scrub clearance. A high-level description of this management is provided in the document titled 'Heads of Terms Nature Conservation Management Plan' dated April 2024.

The long-term management principles proposed in the plan generally appear to be sound. Furthermore, we are satisfied with the principles for monitoring and review which are set out in section 5, which confirm the management, monitoring and review measures would be in place for the lifetime of the development, which we would support. The Applicant proposes a fully detailed and finalised Nature Conservation Management Plan be secured through planning condition, if planning permission is granted. Should this be done, we would expect to see the commitment of management over the lifetime of development as well as

monitoring and review of the objectives and SSSI condition clearly presented in the final Plan.

The SSSI habitat features are currently in unfavourable condition and not achieving the conservation objectives we would expect. The applicant has recognised the current condition of the SSSI. They state that the SSSI condition – including the range and location of SSSI habitats – which was recorded in 2009 could act as the baseline for the desired condition in terms of its conservation and restoration. We would be agreeable to this approach.

Therefore, the proposed long-term management measures set out in the Heads of Terms Nature Conservation Management Plan will first need to restore the SSSI to this agreed 2009 baseline condition (i.e. to reach the starting point before net benefit for biodiversity can be recognised). This should not be mistaken for mitigation or enhancement in the context of the step-wise approach. If and only when this condition is passed, **enhancements and biodiversity net benefit** would be achieved.

Overall, subject to your Authority justifying the location of the development, we believe the package of mitigation, compensation and enhancements for long-term management would be appropriate taking account of the step-wise approach.

Protected sites summary

If you are minded to grant planning permission, we would expect to see appropriately worded planning conditions and/or planning obligations which ensures the proposed mitigation, compensation and enhancements will be finalised, agreed and then effectively delivered for the lifetime of the development.

Habitat Regulations Assessment (HRA)

We advise you must consider whether there is a likely significant effect on the Blaen Cynon Special Area of Conservation (SAC). The applicant's Ecological Impact Assessment acknowledges a link between the Marsh fritillary butterfly populations at Cwm Glo a Glyndyrys SSSI and the functional landscape area of the SAC metapopulation (the sites being potentially linked through stepping stone habitat in the intervening landscape).

Therefore, the proposal should be screened through a Habitats Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2017 (as amended).

European Protected Species (EPS)

Further to our previous advice, we note the submission of further and revised information in support of the application. This information includes the ES Addendum, further survey effort, European Protected Species Conservation Strategy, the Heads of Terms Nature Conservation Management Plan, alongside other submitted plans and documents.

Great crested newts and bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where these species 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 us, having

satisfied the three requirements set out in the legislation. A licence may only be authorised if:

1. 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.
2. There is no satisfactory alternative; and
3. 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 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.

Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the third test only. This advice is set out below.

Great crested newts (GCN)

Our previous advice sought:

1. A detailed impact assessment of the proposals on GCN including:
 - a) GCN breeding ponds within the application site and the 250m buffer.
 - b) Other ponds currently and historically known to be used by GCN within the application site and the 250m buffer.
 - c) Terrestrial habitat within 50m, 50–250m and 250–500m of ponds used by GCN.
2. GCN Conservation Plan which outlines all the mitigation and/or compensatory measures that will be put in place to offset the anticipated impacts, including how these will be compatible with other features of the land concerned (e.g. the management of the features of SSSI)

Impact assessment

In regard to point 1a and 1b, we welcome the information provided in section 2.1 of the EPS Conservation Strategy. In terms of aquatic habitats, we note that the proposals will result in the permanent loss of two ponds where GCN were recorded, P17 (0.92ha) and P26 (0.4ha), along with a number of other ponds within the development footprint.

However, in respect of 1c, there is no assessment of the extent of the terrestrial habitat loss from the development, as we previously advised. We note that the records of GCN in ponds within and surrounding the site confirm suitable terrestrial habitat will be permanently lost to the development. We acknowledge that the planning application is seeking outline permission with all matters reserved, however we advise this level of assessment should support an outline application.

Conservation Plan

In terms of our advice to prepare a GCN Conservation Plan, we note that the EPS Conservation Strategy provides a high-level outline of the potential conservation measures for GCN alongside the Heads of Terms Nature Conservation Management Plan. These documents cover the application site and land within the applicant's ownership.

The applicant proposes to use approximately 192ha of land within their ownership which is outside, but adjacent to, the application site to carry out GCN conservation works. We also note their commitment to the management and monitoring of all ponds and terrestrial habitat for the life of the development. However, there is little detail about what is to be delivered.

Some of the detail could be reasonably controlled through condition and finalised prior to reserved matters application(s) being determined and where this is the case we've highlighted this below. However, our view is that together the total level of information is insufficient to allow a full assessment of likely impacts on great crested newts at this stage.

We maintain our advice that further information is required to aid the determination of the application including:

1. Detailed assessment of the potential direct and indirect impacts of the operational phases of the scheme on terrestrial and aquatic habitats for great crested newts, (including pond 15), including direct loss of habitat and assessment of the risks to GCN arising from activities such as public access, management of water and drainage features, on-going habitat management
2. Details of on-site and off-site GCN aquatic and terrestrial habitat compensatory proposals including plans, extent, and access. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created.
3. To confirm a commitment to providing at least two new ponds for every pond that shall be lost, and that these are in addition to the proposed commitments regarding enhancement of existing ponds and to provide compensatory ponds at least 12 months ahead of any GCN translocation from the development footprint.
4. Details of initial aftercare and principles of long-term maintenance.
5. Mechanism for delivery of long-term management and long-term financial considerations.
6. What details for GCN conservation measures will be required at reserve matters application(s) stage.

Other matters which we consider could reasonably be addressed by condition would include:

- Biosecurity.
- Timing, phasing and duration of construction activities and conservation measures.
- Pond design.
- Tenure.
- Measures designed to prevent the accidental capture or killing of newts during operational phases of the scheme including 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).
- Details of monitoring.
- Detail of habitat management proposals including the target condition against which to manage habitats.

- Appropriate management proposals for new and retained green and blue infrastructure, including the ponds, land surrounding them and water and drainage features.

Enhancement measures

We welcome the proposals for the enhancement of habitat for GCN over the wider landholding, including measures to reduce overshadowing of ponds, pond de-silting, pond expansion, and works to optimize the habitat for GCN around ponds where this is compatible with SSSI interests. The EPS Conservation Strategy specifies a commitment '*to restore or enhance at least four ponds within the wider landholding, with at least two of these having recent/current use by GCN*'. We observe that there is potentially scope to improve the condition (and therefore HSI results) of current/former GCN ponds P29, P48, and P15.

Bats

Bat roosts in structures

Further to our previous advice, we note the submission of further surveys of built structures within the application site carried out by Geoff Billington in August, September and October 2023. Following these surveys, several roosts have been identified:

- B6 Stone bridge abutments with metal deck – Myotis roost in abutment voids
- B12 Long stone retaining wall – Lesser Horseshoe Bat roost
- B20 Stone bridge – Myotis roost

The new survey information shows the location of the built structures on and adjacent to the site with potential to support roosting bats, including those with confirmed roosts. We note that some of the buildings surveyed had potential to support hibernating bats, and also that some of the buildings could be subject to stabilisation works.

Given this, we advise that the application should be supported by surveys of the built structures during the winter hibernation period (December-February inclusive). We previously advised that if structures are considered to have hibernation potential, then surveys over winter will be required (page 11 in our previous letter).

We would also expect the EPS Conservation Strategy to include a detailed assessment of the likely impacts of the development, including the proposed stabilisation works, on bats using these structures. Where structures are to be impacted, you should seek details of the specific mitigation and/or compensation measures that will be put in place.

In the absence of this information, we are not able to fully advise on the likely impacts of the scheme on bats.

Bats in trees

We agree that the reserved matters application(s) will need to carry out updated ground-based and climbed assessments, and that as a result of updated surveys, further mitigation and/or compensation may be required. We consider this aspect can be addressed by the application of an appropriately worded condition.

Lighting

We consider that lighting matters can be dealt with through appropriately worded conditions. We have offered you suggested wording of lighting conditions in the letter's Annex.

European protected species summary

Overall, we consider there is insufficient information with the application to confirm the likely impacts of the proposals on great crested newts and bats. Without this information it is difficult for us to advise you that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the populations of these species, i.e. the third test referenced above.

European Protected Species Licence

We advise the applicant seeks a European Protected Species Licence from us 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.

Otters, dormice and water voles

We have no further comment to make on these species. Although otter may use the watercourses on site, we are satisfied the likely impacts could be manageable. In terms of dormice and water voles, we note there is no evidence of the species on site. We are satisfied with this assessment (NB: Water voles are protected under the Wildlife and Countryside Act 1981(as amended) and are not European protected species, nevertheless the presence of this species is a material planning consideration).

Landscape

Our advice relates to the proposal's potential impacts on the landscape character and visual amenity of the Bannau Brycheiniog National Park (BBNP), and the statutory purpose of the designation to conserve and enhance its natural beauty.

We have reviewed the following additional information which responds to our previous comments on 25 May 2023:

- LVIA Responses to NRW and Simon White's comments R04 March 2024 prepared by TIR
- Rhydyccar West, Merthyr Tydfil Green Infrastructure Statement April 2024 (version 4) prepared by TIR

Additionally, an Addendum to the Environmental Statement has been submitted but there are no changes to Chapter 12: Landscape and Visual Impact.

We are satisfied with the response to our previous comments and with the broad principles for planting and management of vegetation shown on the Green Infrastructure Parameters Plan (Figure 8 within the Green Infrastructure Statement April 2024). This Plan should be included within the 'Approved list of plans and documents' condition on the decision notice if your Authority grants planning permission. Additionally, and reflecting our previous advice, we continue to request the planning conditions are secured to any permission granted to ensure the development conserves the qualities and visual amenity of the BBNP. These are set out in the letter's Annex.

Flood Risk

We note the updated Flood Consequences Assessment (FCA) by Tetra Tech dated 30 August 2023 now includes the access road to the southeast. 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.

The FCA has assessed the potential risks posed to the access road. The FCA indicates the ground levels of the access road within the floodplain will not be altered to ensure no floodwater displacement, and there will be an alternative route to the north to provide safe access/egress to the site. In addition, the FCA states that facility users will be made aware of the presence of the floodplain at that location. We are satisfied with this assessment and have no further comments to make.

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 provides information on how to classify waste and register as a waste carrier or hazardous waste producer: [Natural Resources Wales / Waste permitting](#)

Further guidance can be found on the GOV website here: [Dispose of business or commercial waste: Your responsibilities - GOV.UK \(www.gov.uk\)](#)

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

James Davies

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

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Ffôn/Phone: 03000 65 3033

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.

Annex

Annex to NRW planning response to Merthyr Tydfil County Borough Council regarding outline planning application P/23/0065 on 12 July 2024.

Further to our advice in the main body of this letter, below is additional comments and advice which completes our final advice on this application. This includes suggested planning conditions if you are minded to grant planning permission.

Cwm Glo a Glyndyrys Site of Special Scientific Interest

Nature Conservation Management Plan

As stated in the main body of the letter, a detailed and finalised plan will need to be secured through planning permission for the submission and approval prior to the commencement of development.

In addition, you will also need to be satisfied that the compensation land will also be secured and delivered if planning permission is given. We recommend you consider controlling this through a planning obligation.

Pollution Prevention

We have previously requested a condition be attached to any planning permission granted requiring a detailed Construction Environmental Management Plan, to ensure adequate protection of both the water environment and SSSI. We continue to request this condition is attached to any permission 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; species and habitats protection, avoidance and mitigation measures.
- Invasive Species Management: a biosecurity risk assessment to cover the construction phase of development. 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 construction area.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the phasing of development setting out site objectives and principles for any specific phased CEMP to follow.
- 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 and SSSI 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](#)

Invasive non-native species and biosecurity risk

The applicant has acknowledged that there is Japanese Knotweed and Himalayan Balsam present within the application site. We also note the Heads of Terms for Nature Conservation Management Plan dated April 2024 references Japanese knotweed and Himalayan Balsam in the wider SSSI. In the absence of a submitted and detailed long-term management plan for invasive non-native species, we recommend the final approved Nature Conservation Management Plan includes a long-term biosecurity risk assessment and management plan for the wider landholding.

Post construction site drainage

We have reviewed the additional information provided and consider that drainage methods post construction are satisfactory to protect the water environment. As stated in the additional information provided, the applicant will be required to apply for the relevant consent from the appropriate Authority prior to altering watercourses at the site.

Air Quality

We reiterate that 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.

Protected Species

Notwithstanding our advice in the main body of the letter, we advised that likely lighting impacts on protected species is capable of being controlled through planning condition. Our suggested wording if you were to give planning permission is:

Condition

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

Condition: Ecological 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.

Landscape

Alongside our advice recommending that the Green Infrastructure Parameters Plan (Figure 8 within the Green Infrastructure Statement April 2024) is included in the 'Approved list of plans and documents' condition on any decision notice, we would also request the following conditions (or similarly worded).

Condition - Landscape Plan

Prior to the commencement of any development a detailed site wide landscape scheme should be submitted to and approved in writing by the Local Planning Authority. The Landscape Scheme should be based on the Green Infrastructure Parameters Plan (Figure 8 within the Green Infrastructure Statement April 2024) and include:

- Details of treatment of site boundaries
- Details of the species, quantities/densities, and grades of new planting.
- Specification of ground preparation and planting operations - including specification of topsoil quality and depth, remediation of compacted soils, planting season, plant protection, watering of newly planted stock, mulching etc.
- Details and timings of when the landscape scheme will be implemented including the phasing of any landscaping.
- Details of contingency measures should any trees or plants die, be removed or become seriously damaged within 5 years of planting.
- Maintenance schedule setting out annual operations, frequency and standard of workmanship during the establishment period.
- Long term management plan, setting out management activities, frequency and standard of workmanship, responsibilities for management and monitoring.

The landscape scheme shall be carried out in accordance with the approved details and be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

Justification: A landscape scheme should be submitted to ensure the development conserves and enhances the character and visual amenity of designated landscapes.

Condition - Building Appearance

Prior to the commencement of any development, details of all materials, including samples where required, to be used in the external construction and finishes of the applicable development phase shall be submitted to and approved in writing by the Local Planning Authority. This should be accompanied by an explanation of how the colours and materials used in the building will aid visual integration following the principles of Environmental Colour Assessment. The development of the site shall thereafter be carried out in accordance with the approved details.

Justification: Details of all materials, including samples, should be submitted to ensure the development conserves and enhances the character and visual amenity of designated landscapes.

We advise the use of light (white and pale) colours on the buildings would increase their visual impact in views from the BBNP. Muted colours are therefore advised.

Condition - Lighting

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
- Measures to monitor light spillage once development is operational

The lighting shall be installed and retained as approved.

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 dark skies, visual amenity and night time tranquillity of designated landscapes.

NB: You may wish to draft one lighting plan condition which combines both landscape and ecological objectives.

Ornithology

We previously advised we are of the view that overall, the mitigation proposed will suffice for the most relevant species affected. However, we would recommend you also seek advice from your in-house ecologist to confirm they are satisfied with the level of assessment and mitigation measures proposed.

Land Contamination and Controlled Waters

Given uncertainty around risk to controlled waters associated with land contamination we continue to request six land contamination and controlled water conditions and informative be attached to any planning permission granted:

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 \(LCRM\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/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 [Groundwater protection position statements - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Ein cyf/Our ref: CAS-256907-Q9R4
Eich cyf/Your ref: P/23/0065

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

Dyddiad/Date: 17 July 2024

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 WEST, MERTHYR TYDFIL

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) on the additional information from the applicant, which we received on 23 May 2024.

Summary

We last gave you advice on this planning application on 25 May 2023 (our reference CAS-213279-H7C5). We sought additional information from the applicant to enable us to provide you with advice on the likely impacts from the proposal. Specifically, we requested further information and assessment regarding potential impacts on the Cwm Glo a Glyndyrys Site of Special Scientific Interest (SSSI); further information and assessment on European protected species; and further information on potential impacts on the Bannau Brycheiniog National Park (BBNP) landscape.

Having considered the additional information provided by the applicant, we continue to have concerns with the application as submitted. We understand the application is due to be determined shortly and as such offer you the following advice.

A key issue for your consideration is whether the location of development within a SSSI can be justified in accordance with national planning policy. To support this consideration, we will advise on the ecological issues that may arise for the SSSI in the event that development proceeds.

In addition, we have concerns with the likely impacts from the proposal on bats and great crested newts. Planning policy states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any European protected species or that, in your opinion, all three conditions for the eventual grant of a European Protected Species Licence are likely to be satisfied. Overall, we consider there is insufficient information with the application to confirm the likely impacts of the proposals on great crested newts and bats. Without this information it is difficult for us to advise you that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the populations of these species.

We are satisfied with the latest information from the applicant regarding landscape and flood risk. Our previous advice, which remains valid, on land contamination and groundwaters and ornithology, along with suggested planning conditions (if permission were to be granted) is provided in the attached Annex.

Protected Sites: Cwm Glo a Glyndyrys SSSI

The proposed application site is partially located on Cwm Glo a Glyndyrys SSSI. The remaining area of the application site is located outside of the SSSI but is surrounded by it on three sides. The SSSI citation can be found on our website along with the site management statement.

In short, the features for which the SSSI has been notified are marshy grassland, neutral grassland, acid grassland and its assemblage of grassland macro fungi. The SSSI also contains habitats which contribute to the site's uniqueness including dry heath, wet heath, ponds and semi natural woodland. Therefore, it is important to consider all parts of the SSSI together, as a basis from which to maintain and enhance ecosystem resilience within the landscape.

As previously advised, the proposal has the potential to impact the SSSI through the permanent loss of SSSI extent, recreational impacts, the fragmentation of the SSSI, as well as construction phase impacts.

National planning policy

A key national priority within Future Wales is to develop strong ecosystems through the provision of resilient ecological networks and green infrastructure. Policy 9 places importance on safeguarding and creating or enhancing ecological networks. Safeguarding areas involves identifying land that is important for expanding or connecting ecological networks. The policy focus is on creating large-scale, resilient, and functional ecological networks. It states protected sites (such as SSSIs) are critically important to the long-term resilience of our ecosystems.

Since our last response to you, there has been a significant change to Chapter 6 of Planning Policy Wales. These changes include a strengthened approach towards protecting SSSIs and clarity on securing net benefit for biodiversity through the application of the step-wise approach.

The policy position on the protection of SSSIs is set out in PPW 6.4.25 - 6.4.27. This states there is a presumption against all forms of development in a SSSI as a matter of principle, except for developments necessary for the management of a SSSI and minor developments necessary to secure the SSSI's role as a living landscape. Accordingly, it will be wholly exceptional for most forms of development to be justifiable within a SSSI when applying the step-wise approach and paragraph 6.4.27 of PPW.

In the first instance, as the decision maker, you should consider national planning policy and determine whether the proposed development is:

- necessary for the management of the SSSI; or
- a minor development necessary to secure its role as a living landscape (where effects on the special features for which a site has been designated can be considered to be acceptable); or
- justifiable in the context of wholly exceptional circumstances and only where it is considered to be appropriate and not likely to damage a SSSI and where there is broad and clear agreement for mitigation and enhancement as part of a development plan.

In relation to the first bullet point, it is our opinion that the proposal is not necessary for the management of the SSSI.

On the basis your Authority concludes the proposal is justifiable, we provide you with the following advice on the likely impacts to the SSSI.

Step-wise approach

PPW details the step-wise approach in paragraph 6.4.15. It states this must be followed to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity.

As confirmed above, some of the development will be located within the SSSI and so impacts will not be completely **avoided**. This is predominantly the snow centre and slope, which we understand cannot be located elsewhere within the site for topographical reasons. Although a reserved matter, part of the indicative northern access route also falls within the SSSI designation.

We are not able to provide you with advice on whether reasonable alternative sites have been considered by the applicant in accordance with the step-wise approach. This will be a matter for you to consider.

The applicant states that the part of the SSSI being lost to development does not contain *'any significant representations of the primary features of special habitat or mycological [fungi] interest underpinning the designation. Thus, it is considered that the direct loss of SSSI land to the development will have little or no impact on the national and international mycological importance of the SSSI and will not result in the direct loss of any substantive quantum of the cited marshy grassland, acid grassland or heathland habitats, including those supporting the site's current population of marsh fritillary butterfly. Consequently, it is*

the secondary interest features of the SSSI that will be directly affected, in particular woodland, scrub and 'ffridd' habitats of a type falling outside the scope of the primary interest features.

We are satisfied with this analysis regarding the location of notified features of the SSSI (referred to as 'primary features' by the applicant). We consider the impact on the notified features has been **minimised** in terms of the siting and orientation of the development within the SSSI boundary.

While we believe it is ecologically feasible that this area could potentially support notified features, this would require significant investment of resources over significant timescales. There are no current or foreseeable plans for such an active intervention in this area.

Further, we previously requested the applicant undertakes checks for devil's bit scabious within marshy grassland area, which is a food source for the marsh fritillary butterfly. This has been completed and we are satisfied this has also been avoided.

To limit or reduce likely adverse effects to the remainder of the SSSI (and other ecological receptors), the applicant proposes **mitigation** measures. This is primarily in the form of a Construction Environmental Management Plan to ensure construction is managed sensitively as well as sensitive lighting (during both construction and operational phases). We are satisfied with these proposed measures and would expect them to be appropriately secured through planning conditions or reserved matters, as advised in our previous response to you.

Since our last response, the applicant has proposed to deliver and manage an additional area of land. This off-site **compensation** land is outside of, but adjacent to, the SSSI and totals 17ha. The SSSI land which would be lost to the snow centre and slope totals approximately 6ha.

The compensation land proposals are described as 'enhancement of habitats complementary to the SSSI interest features (in particular lowland meadow and marshy grassland) on additional land which is adjacent to and borders the Application Site' and 'The secured beneficial management and enhancement of land at Blaencanaid Farm (itself also a SINC) will improve the deliverability of optimised grazing management within the balance of the Cwm Glo a Glyndyrys SSSI and secure complementary habitats to the retained SSSI and SINC lands, improving future ecosystem resilience'

Alongside the management of this compensation land, the applicant is also committing to improved long-term management of the remainder of the SSSI, through grazing and scrub clearance. A high-level description of this management is provided in the document titled 'Heads of Terms Nature Conservation Management Plan' dated April 2024.

The long-term management principles proposed in the plan generally appear to be sound. Furthermore, we are satisfied with the principles for monitoring and review which are set out in section 5, which confirm the management, monitoring and review measures would be in place for the lifetime of the development, which we would support. The Applicant proposes a fully detailed and finalised Nature Conservation Management Plan be secured through planning condition, if planning permission is granted. Should this be done, we would expect to see the commitment of management over the lifetime of development as well as

monitoring and review of the objectives and SSSI condition clearly presented in the final Plan.

The SSSI habitat features are currently in unfavourable condition and not achieving the conservation objectives we would expect. The applicant has recognised the current condition of the SSSI. They state that the SSSI condition – including the range and location of SSSI habitats – which was recorded in 2009 could act as the baseline for the desired condition in terms of its conservation and restoration. We would be agreeable to this approach.

Therefore, the proposed long-term management measures set out in the Heads of Terms Nature Conservation Management Plan will first need to restore the SSSI to this agreed 2009 baseline condition (i.e. to reach the starting point before net benefit for biodiversity can be recognised). This should not be mistaken for mitigation or enhancement in the context of the step-wise approach. If and only when this condition is passed, **enhancements** and **biodiversity net benefit** would be achieved.

Overall, subject to your Authority justifying the location of the development, we believe the package of mitigation, compensation and enhancements for long-term management would be appropriate taking account of the step-wise approach.

Protected sites summary

If you are minded to grant planning permission, we would expect to see appropriately worded planning conditions and/or planning obligations which ensures the proposed mitigation, compensation and enhancements will be finalised, agreed and then effectively delivered for the lifetime of the development.

Habitat Regulations Assessment (HRA)

We advise you must consider whether there is a likely significant effect on the Blaen Cynon Special Area of Conservation (SAC). The applicant's Ecological Impact Assessment acknowledges a link between the Marsh fritillary butterfly populations at Cwm Glo a Glyndyrys SSSI and the functional landscape area of the SAC metapopulation (the sites being potentially linked through stepping stone habitat in the intervening landscape).

Therefore, the proposal should be screened through a Habitats Regulations Assessment as required by the Conservation of Habitats and Species Regulations 2017 (as amended).

European Protected Species (EPS)

Further to our previous advice, we note the submission of further and revised information in support of the application. This information includes the ES Addendum, further survey effort, European Protected Species Conservation Strategy, the Heads of Terms Nature Conservation Management Plan, alongside other submitted plans and documents.

Great crested newts and bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where these species 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 us, having

satisfied the three requirements set out in the legislation. A licence may only be authorised if:

1. 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.
2. There is no satisfactory alternative; and
3. 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 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.

Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the third test only. This advice is set out below.

Great crested newts (GCN)

Our previous advice sought:

1. A detailed impact assessment of the proposals on GCN including:
 - a) GCN breeding ponds within the application site and the 250m buffer.
 - b) Other ponds currently and historically known to be used by GCN within the application site and the 250m buffer.
 - c) Terrestrial habitat within 50m, 50–250m and 250-500m of ponds used by GCN.
2. GCN Conservation Plan which outlines all the mitigation and/or compensatory measures that will be put in place to offset the anticipated impacts, including how these will be compatible with other features of the land concerned (e.g. the management of the features of SSSI)

Impact assessment

In regard to point 1a and 1b, we welcome the information provided in section 2.1 of the EPS Conservation Strategy. In terms of aquatic habitats, we note that the proposals will result in the permanent loss of two ponds where GCN were recorded, P17 (0.92ha) and P26 (0.4ha), along with a number of other ponds within the development footprint.

However, in respect of 1c, there is no assessment of the extent of the terrestrial habitat loss from the development, as we previously advised. We note that the records of GCN in ponds within and surrounding the site confirm suitable terrestrial habitat will be permanently lost to the development. We acknowledge that the planning application is seeking outline permission with all matters reserved, however we advise this level of assessment should support an outline application.

Conservation Plan

In terms of our advice to prepare a GCN Conservation Plan, we note that the EPS Conservation Strategy provides a high-level outline of the potential conservation measures for GCN alongside the Heads of Terms Nature Conservation Management Plan. These documents cover the application site and land within the applicant's ownership.

The applicant proposes to use approximately 192ha of land within their ownership which is outside, but adjacent to, the application site to carry out GCN conservation works. We also note their commitment to the management and monitoring of all ponds and terrestrial habitat for the life of the development. However, there is little detail about what is to be delivered.

Some of the detail could be reasonably controlled through condition and finalised prior to reserved matters application(s) being determined and where this is the case we've highlighted this below. However, our view is that together the total level of information is insufficient to allow a full assessment of likely impacts on great crested newts at this stage.

We maintain our advice that further information is required to aid the determination of the application including:

1. Detailed assessment of the potential direct and indirect impacts of the operational phases of the scheme on terrestrial and aquatic habitats for great crested newts, (including pond 15), including direct loss of habitat and assessment of the risks to GCN arising from activities such as public access, management of water and drainage features, on-going habitat management
2. Details of on-site and off-site GCN aquatic and terrestrial habitat compensatory proposals including plans, extent, and access. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created.
3. To confirm a commitment to providing at least two new ponds for every pond that shall be lost, and that these are in addition to the proposed commitments regarding enhancement of existing ponds and to provide compensatory ponds at least 12 months ahead of any GCN translocation from the development footprint.
4. Details of initial aftercare and principles of long-term maintenance.
5. Mechanism for delivery of long-term management and long-term financial considerations.
6. What details for GCN conservation measures will be required at reserved matters application(s) stage.

Other matters which we consider could reasonably be addressed by condition would include:

- Biosecurity.
- Timing, phasing and duration of construction activities and conservation measures.
- Pond design.
- Tenure.
- Measures designed to prevent the accidental capture or killing of newts during operational phases of the scheme including 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).
- Details of monitoring.
- Detail of habitat management proposals including the target condition against which to manage habitats.

- Appropriate management proposals for new and retained green and blue infrastructure, including the ponds, land surrounding them and water and drainage features.

Enhancement measures

We welcome the proposals for the enhancement of habitat for GCN over the wider landholding, including measures to reduce overshadowing of ponds, pond de-silting, pond expansion, and works to optimize the habitat for GCN around ponds where this is compatible with SSSI interests. The EPS Conservation Strategy specifies a commitment '*to restore or enhance at least four ponds within the wider landholding, with at least two of these having recent/current use by GCN*'. We observe that there is potentially scope to improve the condition (and therefore HSI results) of current/former GCN ponds P29, P48, and P15.

Bats

Bat roosts in structures

Further to our previous advice, we note the submission of further surveys of built structures within the application site carried out by Geoff Billington in August, September and October 2023. Following these surveys, several roosts have been identified:

- B6 Stone bridge abutments with metal deck – Myotis roost in abutment voids
- B12 Long stone retaining wall – Lesser Horseshoe Bat roost
- B20 Stone bridge – Myotis roost

The new survey information shows the location of the built structures on and adjacent to the site with potential to support roosting bats, including those with confirmed roosts. We note that some of the buildings surveyed had potential to support hibernating bats, and also that some of the buildings could be subject to stabilisation works.

Given this, we advise that the application should be supported by surveys of the built structures during the winter hibernation period (December-February inclusive). We previously advised that if structures are considered to have hibernation potential, then surveys over winter will be required (page 11 in our previous letter).

We would also expect the EPS Conservation Strategy to include a detailed assessment of the likely impacts of the development, including the proposed stabilisation works, on bats using these structures. Where structures are to be impacted, you should seek details of the specific mitigation and/or compensation measures that will be put in place.

In the absence of this information, we are not able to fully advise on the likely impacts of the scheme on bats.

Bats in trees

We agree that the reserved matters application(s) will need to carry out updated ground-based and climbed assessments, and that as a result of updated surveys, further mitigation and/or compensation may be required. We consider this aspect can be addressed by the application of an appropriately worded condition.

Lighting

We consider that lighting matters can be dealt with through appropriately worded conditions. We have offered you suggested wording of lighting conditions in the letter's Annex.

European protected species summary

Overall, we consider there is insufficient information with the application to confirm the likely impacts of the proposals on great crested newts and bats. Without this information it is difficult for us to advise you that the proposals are unlikely to result in a detrimental impact to the maintenance of the favourable conservation status of the populations of these species, i.e. the third test referenced above.

European Protected Species Licence

We advise the applicant seeks a European Protected Species Licence from us 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.

Otters, dormice and water voles

We have no further comment to make on these species. Although otter may use the watercourses on site, we are satisfied the likely impacts could be manageable. In terms of dormice and water voles, we note there is no evidence of the species on site. We are satisfied with this assessment (NB: Water voles are protected under the Wildlife and Countryside Act 1981(as amended) and are not European protected species, nevertheless the presence of this species is a material planning consideration).

Landscape

Our advice relates to the proposal's potential impacts on the landscape character and visual amenity of the Bannau Brycheiniog National Park (BBNP), and the statutory purpose of the designation to conserve and enhance its natural beauty.

We have reviewed the following additional information which responds to our previous comments on 25 May 2023:

- LVIA Responses to NRW and Simon White's comments R04 March 2024 prepared by TIR
- Rhydyar West, Merthyr Tydfil Green Infrastructure Statement April 2024 (version 4) prepared by TIR

Additionally, an Addendum to the Environmental Statement has been submitted but there are no changes to Chapter 12: Landscape and Visual Impact.

We are satisfied with the response to our previous comments and with the broad principles for planting and management of vegetation shown on the Green Infrastructure Parameters Plan (Figure 8 within the Green Infrastructure Statement April 2024). This Plan should be included within the 'Approved list of plans and documents' condition on the decision notice if your Authority grants planning permission. Additionally, and reflecting our previous advice, we continue to request the planning conditions are secured to any permission granted to ensure the development conserves the qualities and visual amenity of the BBNP. These are set out in the letter's Annex.

Flood Risk

We note the updated Flood Consequences Assessment (FCA) by Tetra Tech dated 30 August 2023 now includes the access road to the southeast. 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.

The FCA has assessed the potential risks posed to the access road. The FCA indicates the ground levels of the access road within the floodplain will not be altered to ensure no floodwater displacement, and there will be an alternative route to the north to provide safe access/egress to the site. In addition, the FCA states that facility users will be made aware of the presence of the floodplain at that location. We are satisfied with this assessment and have no further comments to make.

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 provides information on how to classify waste and register as a waste carrier or hazardous waste producer: [Natural Resources Wales / Waste permitting](#)

Further guidance can be found on the GOV website here: [Dispose of business or commercial waste: Your responsibilities - GOV.UK \(www.gov.uk\)](#)

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

James Davies

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

E-bost/E-mail: southeastplanning@cyfoethnaturiolcymru.gov.uk

Ffôn/Phone: 03000 65 3033

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.

Annex

Annex to NRW planning response to Merthyr Tydfil County Borough Council regarding outline planning application P/23/0065 on 12 July 2024.

Further to our advice in the main body of this letter, below is additional comments and advice which completes our final advice on this application. This includes suggested planning conditions if you are minded to grant planning permission.

Cwm Glo a Glyndyrys Site of Special Scientific Interest

Nature Conservation Management Plan

As stated in the main body of the letter, a detailed and finalised plan will need to be secured through planning permission for the submission and approval prior to the commencement of development.

In addition, you will also need to be satisfied that the compensation land will also be secured and delivered if planning permission is given. We recommend you consider controlling this through a planning obligation.

Pollution Prevention

We have previously requested a condition be attached to any planning permission granted requiring a detailed Construction Environmental Management Plan, to ensure adequate protection of both the water environment and SSSI. We continue to request this condition is attached to any permission 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; species and habitats protection, avoidance and mitigation measures.
- Invasive Species Management: a biosecurity risk assessment to cover the construction phase of development. 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 construction area.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the phasing of development setting out site objectives and principles for any specific phased CEMP to follow.
- 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 and SSSI 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](#)

Invasive non-native species and biosecurity risk

The applicant has acknowledged that there is Japanese Knotweed and Himalayan Balsam present within the application site. We also note the Heads of Terms for Nature Conservation Management Plan dated April 2024 references Japanese knotweed and Himalayan Balsam in the wider SSSI. In the absence of a submitted and detailed long-term management plan for invasive non-native species, we recommend the final approved Nature Conservation Management Plan includes a long-term biosecurity risk assessment and management plan for the wider landholding.

Post construction site drainage

We have reviewed the additional information provided and consider that drainage methods post construction are satisfactory to protect the water environment. As stated in the additional information provided, the applicant will be required to apply for the relevant consent from the appropriate Authority prior to altering watercourses at the site.

Air Quality

We reiterate that 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.

Protected Species

Notwithstanding our advice in the main body of the letter, we advised that likely lighting impacts on protected species is capable of being controlled through planning condition. Our suggested wording if you were to give planning permission is:

Condition

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

Condition: Ecological 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.

Landscape

Alongside our advice recommending that the Green Infrastructure Parameters Plan (Figure 8 within the Green Infrastructure Statement April 2024) is included in the 'Approved list of plans and documents' condition on any decision notice, we would also request the following conditions (or similarly worded).

Condition - Landscape Plan

Prior to the commencement of any development a detailed site wide landscape scheme should be submitted to and approved in writing by the Local Planning Authority. The Landscape Scheme should be based on the Green Infrastructure Parameters Plan (Figure 8 within the Green Infrastructure Statement April 2024) and include:

- Details of treatment of site boundaries
- Details of the species, quantities/densities, and grades of new planting.
- Specification of ground preparation and planting operations - including specification of topsoil quality and depth, remediation of compacted soils, planting season, plant protection, watering of newly planted stock, mulching etc.
- Details and timings of when the landscape scheme will be implemented including the phasing of any landscaping.
- Details of contingency measures should any trees or plants die, be removed or become seriously damaged within 5 years of planting.
- Maintenance schedule setting out annual operations, frequency and standard of workmanship during the establishment period.
- Long term management plan, setting out management activities, frequency and standard of workmanship, responsibilities for management and monitoring.

The landscape scheme shall be carried out in accordance with the approved details and be implemented prior to the first occupation or use of that phase of development and thereafter be maintained in accordance with the approved scheme.

Justification: A landscape scheme should be submitted to ensure the development conserves and enhances the character and visual amenity of designated landscapes.

Condition - Building Appearance

Prior to the commencement of any development, details of all materials, including samples where required, to be used in the external construction and finishes of the applicable development phase shall be submitted to and approved in writing by the Local Planning Authority. This should be accompanied by an explanation of how the colours and materials used in the building will aid visual integration following the principles of Environmental Colour Assessment. The development of the site shall thereafter be carried out in accordance with the approved details.

Justification: Details of all materials, including samples, should be submitted to ensure the development conserves and enhances the character and visual amenity of designated landscapes.

We advise the use of light (white and pale) colours on the buildings would increase their visual impact in views from the BBNP. Muted colours are therefore advised.

Condition - Lighting

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
- Measures to monitor light spillage once development is operational

The lighting shall be installed and retained as approved.

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 dark skies, visual amenity and night time tranquillity of designated landscapes.

NB: You may wish to draft one lighting plan condition which combines both landscape and ecological objectives.

Ornithology

We previously advised we are of the view that overall, the mitigation proposed will suffice for the most relevant species affected. However, we would recommend you also seek advice from your in-house ecologist to confirm they are satisfied with the level of assessment and mitigation measures proposed.

Land Contamination and Controlled Waters

Given uncertainty around risk to controlled waters associated with land contamination we continue to request six land contamination and controlled water conditions and informative be attached to any planning permission granted:

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 \(LCRM\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

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 Groundwater protection position statements - GOV.UK (www.gov.uk)