

Ein cyf/Our ref: CAS-235962-G7C2
Eich cyf/Your ref: 2020/01170/OUT

The Vale of Glamorgan Council
Docks Office
Barry Docks
Barry
CF63 4RT

Dyddiad/Date: 12 October 2023

Annwyl Syr/Madam/Dear Sir/Madam,

**BWRIAD / PROPOSAL: OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT,
A PRIMARY SCHOOL, COMMUNITY SPACE AND PUBLIC OPEN SPACE WITH ALL
MATTERS RESERVED OTHER THAN ACCESS.**

**LLEOLIAD / LOCATION: LAND AT UPPER COSMESTON FARM, LAVERNOCK ROAD,
PENARTH.**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) on the Habitats Regulations Assessment Record in relation to the above planning application, which we received on 25 August 2023.

We have reviewed the '*Stage 1 Habitats Regulations Assessment (HRA) Screening Report*', prepared by Soltys Brewster Ecology, dated June 2023 in respect of the above application. This is an amended report following our advice provided on 7 September 2021 (our reference: CAS-161504-L8L8).

We note that this a screening report for Stage 1 of the HRA process (i.e. the Test of Likely Significant Effect), with additional text in response to our previous advice. We continue to advise that there is no requirement to consult NRW as the Statutory/Appropriate Nature Conservation Body during the screening stage. However, we have considered the amendments to the report and offer the advice below. We have presented this in the same format as our previous letter and some advice is repeated to provide a complete response.

We previously advised that under the Assessment Criteria – Decommissioning heading further consideration should be given to the statement 'cliff edge is eroding and properties may need to be removed at some stage before they collapse into the estuary'. We questioned whether this is an accurate assessment of the proposal based on the evidence/information available and whether you are considering this as a Likely Significant Effect. We note the additional consideration given and have no further comments in this respect.

Under Assessment Criteria - Building Construction you have identified possible impact pathways which should be considered in greater detail as likely significant effects. We continue to advise that this is a sensible approach. However, under Post Construction, we

previously advised that it is not clear what is meant by 'When the site is complete and operational there is increased potential for disturbance'. We note the additional consideration as to whether this is a likely significant effect and we have no further comments in this respect.

The next section of the report describes any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the European site by virtue of several different criteria. We previously recommended that some points are more clearly explained and that you are explicit in the report on whether you are identifying them as a likely significant effect, as follows:

The fourth point, with the additional text, rules out significant impacts/effects from emissions from dust, noise, vibration etc. However, as advised previously, later in the same point, it states '...for the construction phase of the proposed development of the submitted Air Quality Chapter (Chapter 11) a low-high risk was identified with respect to dust soiling, human health and ecology.' It then goes on to state that the Council's Air Quality advisor considers 'it essential that a suitable Construction Environmental Management Plan outlining a detailed Dust Management Plan with appropriate measures' is controlled through condition.

The additional text states 'the requirement to discharge this planning condition prior to development (i.e. pre commencement) ensures that the risk of dust particles making their way from the development site to the EMS so as to have an impact would be negligible'. It is unclear whether you are identifying that this as a Likely Significant Effect and whether the submission and implementation of a CEMP would avoid and/or mitigate impacts on the EMS. If mitigation measures are required to avoid or minimise risk then this should be carried through to Appropriate Assessment.

The next point identifies the potential hydrological pathway formed by a low-lying area in the north of the development site which slopes eastwards towards the cliff and EMS. It follows on stating:

'The quantities of potential pollutants on site will be in keeping with the size and scale of the development and relatively small comparison to the size of the EMS. There are some unknown potential pollutants on site in relation to the landfill and therefore the severity of the pollutants are presently unknown. However, the areas previously used for landfill will not be disturbed as part of the proposal (Austin, Smith, Lord; 2020). All works will be subject to a CEMP which will detail current best practice guidance on managing potential flood and pollution events. Construction works will be temporary and will proceed on the basis of any planning approval which will include compliance with all details within the CEMP.'

The additional text states '...which mitigates against the already small risk posed by the project to the SAC and SPA'. Again, we maintain that it is unclear whether you are identifying this as a Likely Significant Effect and whether the submission and implementation of a CEMP would avoid and/or mitigate impacts on the EMS. If mitigation measures are required to avoid or minimise risk then this should be carried through to Appropriate Assessment.

We previously advised that the final point, which discusses potential coastal erosion, includes a proposed condition regarding the need for a long-term monitoring programme for the cliff and that structures falling within 10m of the cliff edge throughout the life of the development shall be removed. We reiterate that it is unclear whether you are identifying

this as a Likely Significant Effect and if so, whether the condition is a form of mitigation. There have been no amendments to this part of the report.

In summary, NRW are not required to be consulted on this stage of the HRA. Having considered this letter, our formal consultation response and the information presented in the application, should you conclude that the proposed development is likely to have a significant effect on the European site, you must consult us on your Appropriate Assessment. However, if you conclude the proposed development is unlikely to have a significant effect, without taking account of avoidance or mitigation measures, then no further assessment is required prior to determining the application.

Further advice

Notwithstanding our advice above in relation to the Stage 1 HRA Screening Report, we support the inclusion of the conditions to secure a CEMP and long-term monitoring programme for the cliff. Furthermore, we refer you to our previous advice set out in our letters dated 25 November 2020 and 15 December 2022, in which we advised that we have concerns with the proposed development, but we are satisfied that these concerns can be overcome by imposing conditions should planning permission be granted. We maintain this advice.

Further comments

The following comments are not in relation to the HRA process, but the developer should consider these while progressing the proposal through to reserved matters stage, if granted.

Table 19 on page 121 of the HRA Report, water quality is as an important factor for migratory fish assemblages. Additionally, page 52 of the Severn Estuary SAC, SPA, Ramsar Site: Regulation 33 Advice from CCW and Natural England, June 2009 states: 'viii. Toxic contaminants in water column and sediment are below levels which would pose a risk to the ecological objectives described above' as a conservation objective for the Severn Estuary SAC/SPA/Ramsar.

While potentially polluted run-off from the site is unlikely to be at levels high enough to have a significant impact/effect on the integrity of EMS, we advise that polluted surface water run-off from the site entering the SAC is not acceptable. Concerns have been raised regarding the attenuation basin in the north of the development site shown on the Proposed Masterplan (although it is recognised this is an outline application with layout reserved) with regard to the eastward slope towards the cliff. This should be considered further in the Reserved Matters application and/or the SAB consent process, for example ensuring a mitigation strategy is in place to reduce the risk of pollutants entering the EMS over the lifetime of development or relocating the basin.

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

Yn gywir / Yours faithfully

Claire McCorkindale

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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi./Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.