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04/11/2021

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: Hybrid planning application for residential development for up to 250 dwellings (submitted in OUTLINE), associated highway and bridge improvement / realignment works (submitted in FULL). Development involves the demolition of all buildings on site and of the existing B4267 Leckwith Road Bridge

LLEOLIAD / LOCATION: LECKWITH QUAYS

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 6 October 2021.

We continue to have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding flood risk. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding Land Contamination, EPS and pollution prevention should be attached to any planning permission granted. Without the inclusion of these condition we would object to this planning application. Further details are provided below

European Protected Species (EPS)

The additional information submitted in relation to Bats has satisfactorily addressed the concerns set out under requirement 2 of our letter of 8 December 2020. Our advice on EPS is as follows:

We welcome the submission of the following updated document:

- Leckwith Quay Cardiff, Ecological Assessment, Version 5, Dated September 2021 by David Clements Ecology

We have also considered the following:

- Leckwith Quay Demolition Plan, Drawing 1844/E.103, dated 8th January 2020 by Loyn + Co Architects.
- Leckwith Quay Road Application Area Calculation, Drawing 1844/SK33, dated March 2020, by Loyn + Co Architects.

And we have also previously viewed the following documents:

- 'Leckwith Quays Environmental Statement Volume 1: Written Statement', Dated October 2020, by RPS.
- 'Leckwith Quay Landscape Strategy' Dated February 2020, by Novell Tullett.
- Leckwith Quay, 'B4267 Leckwith Road Highway Improvements Street Lighting & Traffic Signals', drawing 70053561-WSP-XX-XX-CR-DE-1300. Dated September 2019, by WSP.

Bats and otters are European Protected Species, legally protected under The Conservation of Habitats and Species Regulations 2017. Legal protection relates to the animals themselves and the places they use to rest and breed.

Where a European Protected Species is present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. The development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

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

We welcome the submission of the updated Ecological Assessment report which demonstrates that no bats were observed to be roosting in the trees surveyed when the surveys were undertaken, and which recorded pipistrelle and noctule species flying over. The survey results satisfy our requirement for further bat survey for the scheme.

Should your authority be minded to consent the proposals, we advise that suitable conditions are attached to the permission in relation to bats, otter and lighting as set out below.

Condition 1: Bat Conservation Plan

No development, including site clearance shall commence until a Bat Conservation Plan has been submitted to and agreed in writing by the Local Planning Authority and shall include:

- Details of impacts (direct and indirect) from reserved matters works upon any bat roosts identified within structures, buildings and trees on site.
- Details of measures to avoid potential harm to bats, including details of pre-commencement surveys or checks where required.
- Details of measures to mitigate the impacts upon bats, including details of the design and location of replacement roosts appropriate to the species and nature of the roosts identified.
- Details of timing, phasing and duration of construction activities and conservation measures.

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

Justification: To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development.

Otter

We welcome the statement in the DCE Environment Statement that mitigation for otter needs to include “maintenance of an undisturbed bankside corridor of vegetation which provides adequate cover [for] otter”, and the RSP Written Statement which states that “the wooded banks of the river Ely are to be retained and will act as a buffer to ensure the continued use and protection of the habitat as a corridor for wildlife”. We note the statement in the Landscape Strategy Report that “the riverbank vegetation will be maintained and enhanced” and the specification of a “8m riverside easement zone”, however, the Landscape Strategy Report also details concepts involving development of “access points” and a riverside footpath within this riparian habitat on the west bank of the river..”

Condition 2 Otter Conservation Plan

An Otter Conservation Plan should be provided which shall include:

- A plan of the vegetated buffer to be retained alongside the river showing the width of the buffer, extent and location of habitat to be retained and created.
- Measures to protect the buffer from human disturbance.
- Details of protective measures to prevent incidental killing, injuring or capture of otters during construction.
- An assessment of the impacts of the proposals upon otter. This should consider direct and indirect impacts and address the construction and operational phases. Clarification of the extent, distribution and structure of existing habitat; habitat lost, habitat to be retained, enhanced, and any habitat to be created; and an assessment of their condition and value for otter. A plan should identify these areas at an appropriate scale.
- Details of initial aftercare (if new habitat is to be created) and ongoing management proposals for the long-term maintenance of retained/created vegetation along the river bank as suitable for otter.

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

Justification: To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development.

Lighting

We welcome the RPS Written Statement commitment that “no lighting of the river corridor or woodland will occur”.

We note the proposal within Landscape Strategy to light Old Leckwith Bridge “Subtle lighting to highlight bridge and create shimmering reflections in and from the river.” However, we can find no further details within the application. A lighting scheme is required to demonstrate how the river and woodland will remain unlit during construction and operation of the residential development.

Condition 3 – Lighting Scheme

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

- Details of the siting and type of external lighting to be used.
- Drawings setting out light spillage in key sensitive areas that demonstrate that the River Ely and associated buffer and the woodland surrounding the site shall be unlit by external lighting and be maintained as dark corridors.
- 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, including bats and otters, the habitats and the commuting corridors along the Western boundary of the site and the River Ely.

European Protected Species Licensing

We request that the following informative is attached to any planning permission granted by your Authority:

Warning: A European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/when-you-need-to-apply-for-a-protected-species-licence/?lang=en>.

Development should not be commenced until the Applicant has been granted a licence by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations (2017) authorizing the specified activity/development to go ahead,

We may wish to discuss aspects of the proposed bat mitigation with the applicant in more detail at the EPS licence application stage. Please note that any changes to plans between planning consent and the EPS licence application may affect the outcome of the licence application.

Our advice on the Cwm Cydfin Site of Special Scientific Interest (SSSI) and the request for the following conditions

- **Conditions 4: Construction Environmental Management Plan**
- **Condition 5: Biosecurity Risk Assessment**
- **Conditions 6-10: Land Contamination**

remain as stated in our letter of 8 December 2020, reference CAS-129806-T4T9.

Flood Risk

Further to our letter dated 26 July 2021, reference CAS-159014-V9W8 we can advise that we have now received an updated hydraulic model from the applicant on 28 October 2021.

We will now undertake a review of the model and when it has been completed and if the model deemed acceptable to inform the FCA we will then be able to provide a response to your Authority on the acceptability of flood risks and consequences in line with the requirements of TAN15. The review may take 6-8 weeks to complete.

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

Mrs Claire McCorkindale

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