

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

Dyddiad/Date: 04 January 2024

Annwyl Ceiri/Dear Ceiri,

**BWRIAD/PROPOSAL: PROPOSED PROVISION OF ABOVE AND BELOW GROUND UTILITIES, ASSOCIATED INFRASTRUCTURE AND REPROFILING OF LAND.**

**LLEOLIAD/LOCATION: LAND AT BRO TATHAN, ST ATHAN, VALE OF GLAMORGAN.**

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 29 November 2023.

**We 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 European Protected Species (EPS). 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 and pollution of controlled waters which should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.**

### **European Protected Species (EPS)**

We have reviewed the following ecological information submitted in support of this application:

- 'Bro Tathan Utilities, St Athan, Glamorgan. Ecological Assessment', by David Clements Ecology Ltd, dated October 2023
- 'Bro Tathan Business Park, Glamorgan. Beggars Pound. Ecological Assessment (Including Bats)', by David Clements Ecology Ltd, dated February 2020
- 'Bro Tathan Utilities. Wildlife Protection Plan' by David Clements Ecology Ltd, dated October 2023

- 'Bro Tathan, Nr Cowbridge, Glamorgan. Great Crested Newt Mitigation Pond: Rotary Zone. Great Crested Newt Monitoring Survey, 2022 (W1169 80181)' by David Clements Ecology Ltd, dated February 2023
- 'Bro Tathan Utilities – Arboricultural Impact Assessment & Method Statement' by Ecus Ltd, dated August 2023
- Drawing number 50192-BUR-GEN-XX-DR-C-0116 'Series 100 Ecological Constraints General Arrangement', Revision P1.0, dated 19 October 2023

It is indicated within the above reports that great crested newts (GCN), bats and dormice are present on the site or within close proximity to the site and may be impacted by the proposals.

European protected species 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 where a development proposal is considered 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:

- The proposed works to be authorised satisfy an appropriate derogation purpose, which in the case of development are for the purposes 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;
- There is no satisfactory alternative; and
- 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 \(PPW\) Edition 11](#) dated February 2021, sections 6.4.22 and 6.4.23 and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). To avoid developments with planning permission subsequently not being granted a licence, the planning authority should take them into account when considering development proposals where a European Protected Species is present.

### Bats

The Ecological Assessment (October 2023) identifies that a number of trees will be removed to facilitate the proposed utilities works and the Wildlife Protection Plan states they have potential to be used by bats. However, it is unclear what assessment or survey has been undertaken to determine the likely use of these trees by roosting bats.

In addition, we note that the proposed development includes re-location of the Aston Martin Lagonda electrical sub-station building. This aspect of the works does not appear to be discussed in the ecological reports. It is therefore unclear whether this building has been subject to survey for roosting bats. Whilst the comment in the PAC report against our statutory pre-application advice on this matter refers to submission of the report 'Ecological Assessment (Including Bats)' it is unclear how the surveys detailed therein relate to this particular development and we note that they are also 4 years old.

## Great Crested Newts (GCN)

The ecological reports identify that GCN are present at the south of the site. Two areas are identified, these being The Rotary Zone and West Orchard, where it is considered that the proposed works may impact upon GCN.

We welcome the measures included in the Wildlife Protection Plan to mitigate potential impacts on GCN within the Rotary Zone (Airsides Area) and West Orchard (Bro Tathan South Area), including ecological supervision and searches and to obtain a European Protected Species licence.

Outside these areas it is proposed to follow the measures set out in the Reptile Method Statement in Appendix 2 of the Wildlife Protection Plan to avoid impacting GCN. The method statement includes proposals to collect GCN if encountered, with an apparent indication that obtaining a licence will be considered if more than 5 individuals are found. As offences under the legislation apply to single individuals we have concerns that the current method statement may result in an offence if GCN are found. We therefore advise that the method statement is amended to ensure that if any GCN are found the measures to be followed will ensure no risk of an offence.

## Dormice

A small area of scrub potentially suitable for dormouse within the West Camp area of the site will be cleared to facilitate the proposed works. The Wildlife Protection Plan states that there is a very low risk of dormouse being present. A non-licensed method statement (Appendix 3 of the Wildlife Protection Plan) is therefore proposed for clearance of these areas and it is noted that they will be allowed to re-establish on completion of works.

We advise that the submitted Wildlife Protection Plan with Method Statement is included in the approved documents and plans condition attached to any decision notice issued.

## Summary

To summarise, we advise that the following additional information is sought prior to determination:

- Details of assessment and surveys for roosting bats of the trees on site that have been identified for removal and of the existing Aston Martin Lagonda electrical sub-station building to be re-located.
- If the above bat surveys have not been undertaken, we advise they are completed and results submitted prior to determination of the application. Surveys should be undertaken in accordance with published best practice. If evidence of bat use is found suitable mitigation measures should also be provided.
- Amended Wildlife Protection Plan (to be conditioned once satisfactorily amended).

## **Land Contamination**

The current and historical land use of the site as a military airfield may have caused contamination of the soil and groundwater, however, the amount and extent of potential contamination is unknown. A desk study has been completed and a Reactive Remediation

Strategy submitted as part of this statutory pre-application. This is based on generic remediation methods as no site investigation and risk assessment have been completed. Given the environmental setting on site, the level of potential contamination could be high. We therefore request the following conditions and informatives be imposed on any planning permission granted.

In addition to the planning conditions, Environmental Permits from NRW may be required (during construction and operation) and we recommend early consultation with the relevant permitting teams to ensure all permits are in place prior to commencement of development. Please note, these conditions has been recommended as we are satisfied that there are generic remedial options available to deal with the risks to controlled waters posed by contamination at this site. However, further details will be required in order to ensure that risks are appropriately addressed prior to development commencing. In line with the advice given in Planning Policy Wales we understand that the Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission. Should the LPA decide to obtain the necessary information under condition we would request that these conditions are applied.

#### Condition

No development of land known to be or suspected of contamination 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 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
- Timescales for submission of monitoring reports to the LPA
- 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 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: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

### **Pollution of Controlled Waters**

We note that the proposed works will be affecting the six zones of the Bro Tathan site, and as a result, a number of Main Rivers (Nant Y Stepsau, Boverton Brook and Castleton Brook) will run adjacent to the application site.

We therefore request the following condition be imposed on any planning permission granted.

#### Condition

No development 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:

- Specific locations of the proposed works, location of the headwall outfall and how it will be connected to the surface water network and any other areas that will drain via the outfall.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- 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 to ensure sources of pollution and run off will be prevented from entering watercourse and surface drainage.
- 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 and implemented for the protection of the environment during construction.

### **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

### **Eleanor Sullivan**

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

E-bost/E-mail: [southeastplanning@cyfoethnaturiolcymru.gov.uk](mailto:southeastplanning@cyfoethnaturiolcymru.gov.uk)

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.