Cyfoeth Naturiol Cymru
Natural Resources Wales

Ein cyf/Our ref: CAS-264039-F1S4
Eich cyf/Your ref: P/2024/1287

Wrexham County Borough Council
The Guildhall
Wrexham
LL11 1AY

Date: 19 September 2024

Dear Sir/Madam,

PROPOSAL: ERECTION OF DWELLING

LOCATION: GWERN Y TO, THREAPWOOD, MALPAS, SY14 7AZ

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 09 September 2024.

We have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following condition to any planning permission granted:

Condition 1: Protected Species

Please note, without the inclusion of this condition, we would object to this planning application. Further details are provided below.

Protected Species

We have reviewed the following information which has been submitted in support of the application: Guarnaccio, J. (2024). Gwern-y-to Farm, Threapwood: Preliminary Ecological Appraisal. Dunelm Ecology.

The information has identified that Great Crested Newts (GCN) are material to the application site (conclusion quoted below):

> *"Pond P1 tested positive for GCN eDNA with a score of 10/12 replicates. Additionally, a peak count of six GCN was recorded during trapping/torching surveys carried out in April 2022. Tall grassland, hedgerow bases and crushed rubble habitats within the new access road provide valuable terrestrial habitat for GCN as they offer foraging, resting and commuting opportunities."*

The proposal has the potential to kill, injure, disturb GCN, or damage or destroy their breeding sites and resting places. GCN and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and Schedule 5 of the Wildlife and Countryside Act 1981. Where GCN 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 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.

To avoid developments with planning permission subsequently not being granted a licence, the Local Planning Authority should take Planning Policy Wales and Technical Advice Note 5 into account when considering development proposals where a European Protected Species is present.

Please note, for the purposes of providing advice at the planning application stage, our comments are limited to compliance with the third test “demonstration of no detriment to the maintenance of the favourable conservation status of European protected species”. We advise that before any consent is given, as informed by the provisions of Regulation 9 of the Conservation of Habitats and Species Regulations 2017 (as amended) the LPA satisfy itself as to whether the scheme satisfies the other two tests, namely a relevant Habitats Regulations purpose and whether there is no satisfactory alternative to the proposal.

Whilst we consider that the above report provides an adequate basis upon which to consider the potential impacts of the scheme on this species, aspects of the proposed scheme will require further development. However, this further information can be provided via a suitably worded condition, included on the decision notice.

We therefore advise the following condition in respect of GCN is included on any permission granted.

Condition 1: No development shall take place until a Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should build upon the principles outlined in Guarnaccio, J. (2024). Gwern-y-to Farm, Threapwood: Preliminary Ecological Appraisal. Dunelm Ecology and include, but not necessarily be limited to:

- Submission of GCN avoidance and mitigation measures. The details to include identified Reasonable Avoidance Measures (RAMS) such as barrier fencing; and measures to be carried out that ensure working areas are clear of GCN prior to the commencement of construction and related works.
- Submission of details concerning GCN retained and compensation areas including a management plan that considers initial aftercare and long-term maintenance.

- Details of timing, phasing and duration of construction activities and conservation measures.
- A timetable for implementation demonstrating that works are aligned with the proposed phasing of the development.
- Persons responsible for implementing the works.
- Biosecurity Risk Assessment that considers invasive non-native species and specific diseases (e.g. Chytrid)
- Post-construction monitoring and record dissemination for a period of no less than five years. Surveillance and monitoring data to be uploaded into the Wales GCN Monitoring scheme.

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

Justification: To ensure that GCN are protected by the development.

We also advise that the works are carried out under licence. We refer you to the Chief Planning Officer's letter dated 1 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

Please note that any changes to proposals between planning consent and the licence application may affect the outcome of a licence application.

Flood Risk

The application proposes the demolition and re-build of a replacement dwelling. Our Flood Risk Map confirms that the original redline application boundary was partially 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 original redline boundary for the application site to be at risk of flooding and falls partially into Flood Zones 2 and 3 (Rivers).

However, we note that the replacement dwelling and new main access are now proposed to be located outside of these flood zones (Block Plan dated June 2024; ref: F1693 08). Based on the proposed Block Plan we therefore have no objection on flood risk grounds to the application as submitted.

Protected Sites

We note the application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). In line with our *Advice to Planning Authorities for Planning Applications Affecting Nutrient Sensitive River Special Areas of Conservation* (28 June 2024), under the Habitats Regulations, Planning Authorities must consider the impact of proposed developments on water quality within SAC river catchments.

However, recognising the specific nature of the application submitted (re-build of a replacement dwelling), we are satisfied that there is unlikely to be a source of additional nutrients and/or a pathway for impacts. As such, in our opinion, it would be reasonable for your Authority to screen out this proposal as not likely to have a significant effect on the River Dee and Bala Lake SAC in relation to nutrient inputs.

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.

Yours faithfully,

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

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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.