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Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

27/05/2021

Dear Sir/Madam,

PROPOSAL: OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 600 DWELLINGS, WITH ASSOCIATED LANDSCAPING, PUBLIC OPEN SPACE AND ON-SITE INFRASTRUCTURE, WITH ALL MATTERS RESERVED EXCEPT FOR THE NORTHERN SITE ACCESS

LOCATION: LAND SOUTH OF HOLT ROAD, WREXHAM

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 12/05/2021.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met and you attach the following conditions to the permission. Otherwise, we would object to this planning application.

Requirement (Protected Species): Further information is required to assess the extent of adverse effects on Great Crested Newt and any avoidance or mitigation measures required.

Condition 1 (Protected Species): No development shall commence until a Great Crested Newt Conservation Plan has been submitted to and approved in writing by the Local Planning Authority.

Condition 2 (Biosecurity): No development with the potential to impact on invasive species, shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority.

Condition 3 (Land Contamination): 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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an

amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Protected Species

We have reviewed the Updated Ecological Assessment (Care, H. (2021). Updated Ecological Assessment – Holt Road, Wrexham. Tyler Grange) which is to be read in conjunction with the Ecological Assessment Report dated 19/12/2018 by Dr Georgina Palmer MCIEEM; Tyler Grange.

This submission is satisfactory in respect of Natural Resources Wales priority response species, excluding Great Crested Newt.

Great Crested Newt

We note that the Updated Ecological Assessment submitted in support of the above application recommends further survey in respect of Great Crested Newt.

Great Crested Newt are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). We consider that it is possible that the species utilises the site for foraging, dispersal or sheltering purposes. In our view, the overall proposal has the potential to cause disturbance to Great Crested Newt and/or loss or damage to their resting places.

Requirement (Protected Species): Further information is required to assess the extent of adverse effects on Great Crested Newt and any avoidance or mitigation measures required. This must demonstrate that the proposed development would not be likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

We consider that there currently is not enough information to assess potential effects of the proposal on any Great Crested Newt that may be present at this site. We concur with the recommendations of the ecological report (as quoted below) that further information is required for the purposes of informing the planning decision making process:

3.12. Update eDNA surveys of the on-site ponds are recommended to confirm that GCN have not colonised the site since previous surveys, which may then have implications on the mitigation strategy previously put forward. Should these surveys confirm the presence of GCN on-site, the mitigation strategy would need to be revisited to account for this.

We would therefore advise further survey that includes traditional techniques and eDNA to inform the detail as opposed the principles of the proposal.

As stated in our response letter dated 28/01/2019 (our ref: CAS-76013-D0P9), we considered the submitted Ecological Management Plan satisfactorily addressed a number of material issues that we had previously identified including:

- consideration of incidental capture/killing issues;
- habitat management; and
- amphibian avoidance and mitigation measures.

We also acknowledged the submission of further details concerning the amphibian compensation area. However, we advise that further information is required regarding:

- long-term surveillance and records management. We advise that the online Wales GCN monitoring scheme should be used as the reporting mechanism (see <https://www.cofnod.org.uk/LinkInfo?ID=7>);
- confirmation of the long-term tenure of the compensation area; and
- wardening arrangements for the compensation area.

Therefore, we advise that any subsequent consent is subject to the imposition of a planning condition or obligation (such as a Section 106 Agreement or a unilateral undertaking) that addresses the following.

Condition 1 (Protected Species): No development shall commence until a Great Crested Newt 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 the Updated Ecological Assessment and include, but not necessarily be limited to, the following:

- The submission of further details and associated plans concerning Great Crested Newt avoidance and mitigation measures including, but not limited to:
 - fence design, specifications and locations;
 - considerations of access issues (including PROW if applicable);
 - monitoring and maintenance requirements; and
 - supervised removal (to include proposed timescales and reporting requirements).
- The submission of further details concerning on-site and/or off-site compensatory proposals including plans, extent, access, current and proposed tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. The submission should include timescales and reporting requirements.
- The submission of a long-term site Management Plan (not less than 25 years) that includes:
 - defined aims and objectives;
 - habitat management prescriptions;
 - contingency measures if fish or invasive non-native species (INNS) are detected (and proposals that are capable of being implemented in the event of failure to undertake or to appropriately undertake identified or contingency actions);

- site liaison and wardening;
 - licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to tenure of the compensation area; freehold tenure of the compensation to be approved by the Local Planning Authority in consultation with Natural Resources Wales;
 - persons or bodies responsible for undertaking management and surveillance together with required skills and competencies;
 - reporting requirements; and
 - proposed dates for updating or revising the Management Plan.
- Submission of measures designed to prevent the accidental capture/killing of Great Crested Newt and amphibians during operational (and decommissioning) phases of the scheme (*i.e.* post construction). This is essentially the installation and maintenance of an amphibian friendly surface water management system that does not include gully pots (or other similar features).
 - Details of timing, phasing and duration of construction activities and conservation measures.
 - Timetable for implementation demonstrating that works are aligned with the proposed development.
 - Ecological Compliance Audit, including key performance indicators.
 - Persons responsible for implementing the works.
 - Post-construction monitoring and record dissemination for a period of not less than 25 years. All ponds to be added to the Wales Great Crested Newt Monitoring Scheme, (see <https://www.cofnod.org.uk/LinkInfo?ID=7> with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual or biennial abundance counts and Habitat Suitability Index (HSI) assessments. Each water body shall be individually numbered on site. In respect of biennial surveillance, frequency of monitoring visits shall be increased in the event of fish and or aquatic invasive non-native species are detected.

The 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 Great Crested Newt affected by the development.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect Great Crested Newt on this site, we would require a revised ecology report that takes account of such changes. Please consult us again if any updated or revised ecology report concludes that the proposal is more likely to have an adverse impact on the Great Crested Newt population and/or alters the detail or implementation of mitigation or compensation measures.

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

Natural Resources Wales would refer the Planning Authority to the letter from the Welsh Government 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.

Bats

We note that the Updated Ecological Assessment submitted in support of the above application has concluded:

T35 assessed as providing 'moderate' bat roost potential – noted as a Category 'U' tree and recommended for removal in the former Tyler Grange Arboricultural Impact Assessment Report (10581_R03b_BS5837 Preliminary Arboricultural Impact Assessment_JJ_JW_19.12.18).

All trees to be lost assessed as providing 'low' bat roost potential would not require any further surveys in relation to bats, but it would be best-practice for their removal to be done in a sensitive manner in an appropriate season (early spring or late autumn), including but not limited to;

- Section felling and careful lowering of limbs to the ground;
- Endoscope inspection of grounded limbs by a licensed ecologist;
- Limbs left on the ground for a period of 24 hours prior to removal/chipping;
- In the unlikely event a roosting bat is encountered, works should stop, and further advice sought from the licensed ecologist.

From the information submitted, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document 'Natural Resources Wales Approach to Bats and Planning (2015)'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

As this is a lower risk case for bats, we consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. Furthermore, we advise that the proposed development is not likely to harm or disturb the bats or their breeding sites and resting places at this site, provided the avoidance measures described in the ecological assessment report are implemented.

Please consult us again if any further information shows that this is no longer a lower risk case for bats.

Biosecurity

We note ash trees are to be retained. We would advise you to consider whether ash die back has been considered as a material long-term component. We consider biosecurity to

be a material consideration owing to the nature of the proposal. In this case, biosecurity issues concern invasive non-native species and diseases.

Condition 2: No development with the potential to impact on invasive species, shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority.

The risk assessment shall include measures to control, remove or for the long-term management of invasive species both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site.

Land Contamination

We have reviewed the Ground Investigation Report (Betts Geo; November 2018) and Contaminated Land Report (Geophysical Survey Report of Holt Road, Wrexham; Magnitude Surveys Ref: MSSJ464; May 2019).

Whilst the Ground Investigation Report is limited in terms of coverage there appears to be no strong indication of contamination on site (it is primarily greenfield). There is however an adjacent historic landfill site (Land of West Lane) and therefore the potential for adjacent tipping to have occurred in the past. We therefore request that the following condition be placed on any planning permission.

Condition 3: 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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Justification: Given the site (and neighbouring) history 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.

Foul Drainage and Protected Sites

We have concerns with the proposed development as submitted. We note the application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). As you are aware, on the 21st January 2021, we published an evidence package outlining phosphorus levels for all river SACs across Wales. As part of this package, we issued a [Planning Position Statement](#), in which we advised that any proposed development that might increase the amount of phosphate (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC. Therefore, such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to

have a significant effect on the SAC. We have also issued [Planning Advice](#) (May 2021) which gives specific advice in respect of foul drainage arrangements for new developments.

We note from the information submitted that the development has the potential to increase the amount of phosphorus being discharged from the site. As such, we refer you to our [Planning Advice](#) and confirm that provided this advice is followed and you are able to conclude that the development is not likely to have a significant effect on the SAC, we would have no objection to the proposal. However, should you conclude that the proposed development is likely to have a significant effect on the SAC, please consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

The application form specifies the Foul Drainage method as Mains Sewer. However, as per our [Planning Advice](#), we advise you to seek further information and we refer you specifically to the bullet point list given on page 3 of that advice for mains proposals.

Flood Risk

The site lies entirely within Zone A as defined by the Development Advice Map (DAM) referred to within TAN15: Development and Flood Risk. Our Flood Risk map confirms that the site lies outside the extreme flood outline (0.1% annual probability event). We do not hold any records of flooding at the site.

We therefore recommend that your Authority consults the Lead Local Flood Authority (LLFA) (in this case Wrexham County Borough Council) in order for them to provide advice from a local flood risk perspective, both in relation to the potential flood risk posed by the drainage ditch (including the potential impact of culvert blockage) and surface water flood risk.

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.

Advice for the Developer

Pollution Prevention

During the construction phase you should take any precaution to prevent contamination of surface water drains and local watercourses. Oils and chemicals should be stored in bunded areas and spill kits should be readily available in case of accidental spillages. For further guidance please refer to GPP 5 and PPG 6 at the following link:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Environmental Management

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under the Environmental Permitting Regulations 2016. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

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 provide information on how to classify waste and register as a waste carrier or hazardous waste producer:

<https://naturalresources.wales/permits-and-permissions/waste/?lang=en>

<https://naturalresources.wales/permits-and-permissions/waste/waste-permits/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

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