



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-209175-Q9M0
Eich cyf/Your ref: P/2023/0050

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16/03/2023

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: RESIDENTIAL DEVELOPMENT OF 96 NO. DWELLINGS AND ASSOCIATED INFRASTRUCTURE

LLEOLIAD / LOCATION: LAND AT STANSTY FIELDS, MOLD ROAD, STANSTY, WREXHAM, LL11 4AX

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 10/02/2023.

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 protected species and protected sites. If this information is not provided, we would object to this planning application. Further details are provided below.

Protected Species

Great Crested Newts (GCN)

We note the Preliminary Ecological Appraisal (PEA) submitted in support of the above application (Ascerta, March 2022. Report No P.1626.22).

The habitat survey confirms that a wet ditch is present along the southern and eastern boundaries of the site (D1 and D2 respectively), which is connected to a pond (P1) near its southern boundary. It also confirms that:

- A further three ponds are present just beyond the site's eastern boundary (P2-4),
- Pond P5 is approximately 195, south of the site; and
- Pond P6 is approximately 180m north of the site;

The application site is located in an area that has numerous records of great crested newts, including in relation to the ponds just beyond the site's eastern boundary.

Whilst we note that the ditches have been subject to HSI assessment, the PEA (Ascerta, March 2022) does not indicate that either the pond within the site or those just beyond its eastern boundary have been assessed further for GCN.

The PEA concludes by recommending that further bottle trapping surveys (between March and June) of P1-P4 and Ditches D1 and D1 are carried out. These proposals do not accord with published best practice.

We advise that further surveys for GCN are carried out, which we recommend consider all waterbodies within 500m of the application site that have potential to support the species. Surveys to assess the suitability of habitat within the waterbodies for GCN should be followed up by surveys for GCN regardless of the results of the habitat suitability surveys. Presence/absence and population surveys should accord with published best practice set out in '*Great Crested Newt Mitigation Guidelines* by English Nature (2004)'. These advocate that three different methods are used.

Whilst we can see that the ponds beyond the site's eastern boundary will be retained in situ, the application site boundary comes up to the edge of one of these ponds and the development proposals will cause loss of terrestrial habitat surrounding these ponds.

With regards to the site layout drawing (Drawing No. MRGWR-SP-01), the implications of the proposals for pond P1 on the southern boundary are less clear. The pond is shown part encompassed by property boundaries; it is therefore not clear whether it will be destroyed by the proposed development. Regardless, the proposals will also result in the loss of terrestrial habitat around this pond and adjacent to the southern boundary ditch (D1).

The results of the further surveys should inform a detailed assessment of the direct and indirect impacts of the proposals on:

- Aquatic habitats supporting GCN within 500m of the development, including consideration of direct and indirect habitats; and
- Terrestrial GCN habitat within 50m of GCN ponds, within 50-250m of GCN ponds, and within 250-500m of GCN ponds.

Where impacts on GCN are anticipated the application must be supported by a detailed GCN Conservation Plan.

The application site and its environs has been subject to great crested newt modelling which has highlighted the importance of the application site for the species. As informed by extant records and modelling, the development will in our view result in the loss of GCN habitat. As previously stated in our pre-application response (CAS-205042-Q5R2), the proposals should demonstrate that they fully mitigate for any impacts upon this species. We therefore advise that any future scheme (depending on the further survey results) is likely to require the incorporation of a dedicated GCN mitigation (compensation) area. Based upon known populations of GCN in the immediate environs of the site, the size of this area is likely to be equivalent to the size of the development in line with Wrexhams Supplementary Planning Guidance 35 '*Great Crested Newt Mitigation Requirements*. We would therefore advise that a site, equivalent to the development site area, is set aside for GCN compensation. However,

we would welcome discussions regarding the location of the compensation area as it may be acceptable to present a nearby site for some of the compensation required. This would need to be discussed further once the results of the further surveys are submitted.

We advise that the construction of the proposal has the potential to adversely affect the great crested newt at this site. Consequently, implementation of any subsequent approval will require a further derogation licence issued by NRW under Regulation 55 (2)(e) of the Conservation of Habitats and Species Regulations (2017 as amended).

We therefore consider the submitted information does not demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts.

To demonstrate the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN, we advise the applicant submits a conservation plan. Provisions of this plan must include, but not necessarily be limited to;

- Build upon the principles outlined in the ecological report (Fletcher, D H and Wilkinson, J.W. (2013). Options for GCNs in Wrexham: Comparative Impact Modelling to Inform Planning. Amphibian and Reptile Conservation. (Unpublished report to Wrexham County Borough Council) ; Anon. (2013) Great Crested Newt Master Plan dated 11 November 2013; and Wrexham County Borough Council Supplementary Planning Guidance (SPG No. 32 (Biodiversity) and 35 (Great Crested Newt Mitigation Requirements).
- An overall impact assessment of construction and operational phases of the scheme. This to include an evaluation of the nature and extent of the likely direct and indirect impacts of the development. Material provisions of this assessment should include:
 - Tabulated review of the extent, distribution and quality of GCN habitat to be removed, retained, enhanced and created;
 - Risks of incidental injury or killing;
 - Ensuring habitat functionality and connectivity during and post construction; and
 - Consideration of current conservation status (CCS) and favourable conservation Status (FCS).
- Submission of details and associated plans concerning GCN avoidance and mitigation measures including: fence design, specifications and proposed locations; consideration of access issues across fence lines; fence monitoring and maintenance requirements; and supervised removal of barrier fences. Submission to include proposed timescales and reporting requirements.
- Submission of details concerning on-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. Submission to include timescales and reporting requirements.

- Submission of a long term site management plan (for a duration of 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; proposals that are capable of being implemented in the event of failure to undertake or to appropriately implement 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 area to be approved by the LPA in consultation with NRW ; 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 newts (amphibians) during operational (and decommissioning) phases of the scheme (ie 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 defined 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
- Submission of a biosecurity risk assessment

The relative detail of this submission will inform the detail of any subsequent planning conditions and obligations

We advise that the proposed conservation plan includes a “Heads of Terms “ document that is required for the purposes of informing any future planning obligations. Items to be included within the Heads of Terms and subsequent planning obligation (section 106 agreement/unilateral undertaking) include;

- a) Defined commuted sum and/or requirement for *index linked* ground rent service charges to include ecological surveillance, management and wardening in perpetuity [NB a *costed management plan is likely to be required to inform costings*];
- b) Management plan review;
- c) Tenure and any proposed changes to tenure shall be carried to the satisfaction of the LPA in consultation with NRW);
- d) Restrictions on the occupation of the remaining “30”% of the development until all identified long-term actions have been implemented to the satisfaction of the LPA in consultation with NRW.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, you would need 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 GCN population and/or alters the detail or implementation of mitigation or compensation measures.

The application should follow guidance set out in the Council’s planning guidance notes 32 (Biodiversity) and 35 (Great Crested Newt Mitigation Requirements).

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officer’s dated 01 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 also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

In the meantime, we are unable to give you any assurance that the proposal 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.

Bats

We note that the PEA submitted in support of the above application (Ascerta, March 2022) has identified that there is a possibility of bats being present at the application site. 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)’. However, we advise that the bat report has insufficient information to assess the need for avoidance / mitigation measures.

Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017. Where bats 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 tests set out in the Regulations (Please also refer to Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning). Please note, for the purposes of providing advice at the planning application stage, our comments are limited to the test relating to “*demonstration*

of no detriment to the maintenance of the favourable conservation status of European protected species”.

However, we advise that further information is required to assess the extent of adverse effects on the bats 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.

Is it not clear from the plans the actual location of the trees categorised as having low suitability for bats. We would also expect details on whether or not they would be felled or pruned to accommodate the development. If this is to be the case, then we would expect details showing appropriate soft felling proposals to be submitted.

In the meantime, we are unable to give you any assurance that the proposal 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.

Protected Sites – Foul Drainage

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. In line with our [Planning Advice](#) (July 2022), under the Habitats Regulations, Planning Authorities must consider the phosphorus impact of proposed developments on water quality within SAC river catchments. We therefore advise you to consider whether the proposals, as submitted, would increase the volume of foul discharge from the site in planning terms.

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 advise you to seek further information from the applicant. We advise you to seek further information as identified in the section titled ‘What does this mean for development proposals involving connection to public wastewater treatment works’ of that advice.

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).

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

Garmon Lewis

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