

17 August 2023

Mr Matthew Phillips
Wrexham County Borough Council

By Planning Portal & email only

Dear Matthew

Change of Use of Land from Agricultural to Ecological Area (sui generis) and Enabling Works at land East of Byrn Lane, Wrexham Industrial Estate

FI Real Estate Management Ltd ('FIREM')

We submit this application on behalf of FIREM for change of use of two existing fields from existing agricultural use into an ecological area in support of wider development proposals being brought forward on land to the west known as 'Kingmoor' under application P/2023/0280, (the "Main Application").

The two fields are also within the wider red line of the Main Application, referred to combined as the 'Eastern Field', but we are making a discrete application now for the change of use of the agricultural fields alongside minor enabling works to prepare the site as an ecological area, which are:

- Form 13no. new ponds and retain one existing pond (14no. total)
- Form 2no. ditches

The purpose of the application to change the use now is facilitate these minor enabling works before winter 2023/24. This is because the works will require a conservation licence, which can only be applied for with benefit of a planning permission, i.e. this application. The licence is required because both the presence of great crested newts as a protected species and that the works are intended to support habitat formation for great crested newts. I.e. although the fields are in agricultural use and the ponds and ditches could be formed by normal permitted rights, because the purpose relates to the future ecological area which is licensable it is not agricultural development thereby leading to the change of use application required.

This application has been guided and prepared on the advice of the client's ecologist, UES, because it is clearly unlikely that the Main Application will be determined in a time period that would allow a grant of permission, application and receipt of relevant conservation licence in sufficient time to undertake the above works before the end of October 2023.

If FIREM is unable to undertake the ecology enabling works in 2023 this will have significant knock-on effect to the Main Application delivery. This is because to deliver the main site works it first requires the prior translocation of great crested newts into this receiving site of the Eastern Field. As set out in the timetables below provided by UES, there is very little leeway during 2024 to complete the license, preparation works and translocation placing significant risk that the Main Site works may be delayed into Spring 2025. Such delay comes with significant cost to the developer.

Submission pack

The submission pack comprises of:

- Application form, certificate
- Fee
- Cover letter (this letter)
- Site Location Plan – 1204-02-005-P03
- Great Crested Newt Method Statement and Pond Specification
 - This includes in Section 5 pond and ditch specifications
- Ecological Area Landscape Strategy drawing – LP02 Feb 23
 - This drawing depicts the location of the 13 new ponds and 2 ditches in addition to other future ecology works as context in the Main Application, but only the ponds and ditches are applied for per the specification and methodology in the above UES Statement.

In addition we provided cross-referenced reports prepared by UES on the Main Application in support:

- Great Crested Newt Presence / Absence Survey & Population Size Class Assessment UES v2 30th March 2023, 03448/09

Other ecological reports support the Main Application but at time of submission we are not advised that these are necessary to support the ecological enabling works. If consultees require, they can either view through application P/2023/0280 or copies can be made available.

- Tree Constraints Report, MDL

We also enclose the Tree Constraints Report, prepared by MDL on the Main Application to satisfy the validation requirements as the field boundaries included existing trees. But as described in this letter the proposals make no material impact on existing trees with only a minor hedgerow removal for access required. Because of Portal file size restrictions this will follow-on.

Timetable for works

The timetable is all connected with the hibernation period of great crested newts which means no works can take place on site generally between November and mid-February when average night time temperatures are below 5°C. Dates are not hard and fast with seasonal variations and so some leeway has to be built into timetables.

The preparatory works for the Eastern Field, which this application is concerned with, is relatively short given the limited scope to form the ponds and two ditches. But to be able to start, first a Conservation Licence must be granted and this can only be applied for once a permission exists. Hence, because there is no realistic prospect for the Main Application to be the relevant permission to meet the winter 2023/24 target we need this discrete application to function as the consent to seek the licence. And though the existing two fields are not the location of the Main Works development as a receptor site, they are already a location where great crested newts exist, even in its current agricultural use, which is why the works are licensable.

UES advise obtaining a Conservation Licence typically takes 30 days, give or take.

Working back from end-October 2023 we find a need to have a grant of permission ideally before the end of September 2023.

We understand the submission in mid-August with consultation requirements with Wrexham ecologist and NRW, as the principal stakeholders, is tight. But in mitigation the Main Application is before them and is a known quantum so matters will be familiar. And this of course is for a very minor part of the overall works.

Development Risk

The development risk to FIREM in missing the above timetable in 2023 is that if enabling works cannot be started this year this will have to pause until at least mid-February 2024, and more likely into March 2024 due to weather conditions being met as mentioned previously. The risk is then being able to complete not only the enabling works on the Eastern Field but also the preparatory works, fencing and trapping and translocation of newts from the main works site to the Eastern Field before end October 2024.

With advice from UES we set out the broad 2024 programme with and without having undertaken the enabling works in 2023 to illustrate the impact.

	With enabling works 2023	Without enabling works 2023
Permission granted	<i>September 2023 (Change of Use)</i>	<i>December 2023 (Main Works)</i>
Obtain Conservation Licence (60 days)	October 2023	March 2024
Enabling works Eastern Field	October / November * 2023	March * / April 2024
Erect temporary amphibian fencing / drift fencing / pitfall traps on Main Site (2-3 weeks)	March 2024 *	May 2024
Pitfall trapping & translocation (minimum 60 nights / 8.5 weeks) on Main Site	April – mid June 2024	June – mid August 2024
Toolbox Talk by ecologists with Contractors	June 2024	August 2024
Removal of amphibian fencing / drift fencing and final destructive survey by ecologists (2-3 weeks)	June – July 2024	August – September 2024
	* Dependent air temp above 5°C and frost free nights	

There is leeway within 2024 without the enabling works as can be seen in the table, but it comes at risk if winter conditions are colder than usual and also even once air temperatures rise that a poor summer could delay matters too.

As a development risk, and cost, this is significant. Failure to complete the translocation of amphibians in 2024 will prevent handover of the main site for development and adding several months of delay into 2025 to restart trapping to repeat the process. And, because of the pause it will not simply be a case of recovering one or two weeks, but to restart a minimum 60 night period of pitfall trapping & translocation once more.

Prematurity

This application does not give rise to prematurity in consideration of the Main Application. This is because the change of use to an ecological site and the minor works do not amount to any built development or significant physical changes; it just provides ability to enhance habitats. Enhancing the habitat poses no negative planning risk and does not pre-determine the Main Application.

Policy

The two fields are situated outside the defined boundary of the Wrexham Industrial Estate (Policy SP2) and is classified as open countryside (LDP para.5.27). The fields are currently in agricultural use. The ecology enabling works will lead to a material change of use from agricultural into ecological (sui generis). Neither field forms part of a wider agricultural holding. Therefore in policy terms the change of use is compatible with the site location in open countryside.

The site does not form part of any designated international, national or local nature conservation area / designation and policies NE1 and NE2 do not apply. Though the site does contain trees and hedgerows, primarily on the field boundaries, the minor works proposed do not materially affect these features. Works access from the western field boundary via an existing concrete slab bridge (over drainage ditch) will be reused, which may require some hedgerow pruning. UES advice on the hedgerow pruning is that relevant regulations provide for exemptions, including to obtain access to land where another means is not available or is available only at a disproportionate cost. UES firmly advise that this exception should apply and no prior approval under hedgerow regulations is necessary. As the impact is minimal, we consider the proposals do not offend the objectives of Policy NE3. Moreover, the Main Application deals comprehensively with wider issues of tree, woodland and hedgerow retention, enhancement, removal and replacement.

Of course the main benefit of the proposal is that it begins the process of providing new habitats to support great crested newts and other amphibians. Though not within the Wrexham Industrial Estate, its adjacency means it provides compensation and connectivity to Green Infrastructure (GI) areas that are developed within the Estate, i.e. the Main Application site. This supports the objectives of Policy SP10 relating to the strategic ecological network. And through the Main Application there shall be significant further enhancement and benefits.

The nature of the works means that there are no material impacts on other adjacent land uses including residential, commercial and agricultural.

Conclusion on planning case

The change of use to ecological site is relatively simple as physical action, but they have an importance in helping secure the delivery of the Main Application, which itself is delivering employment development on designated land within the Wrexham Industrial Estate. As it is essential that such development mitigates its impacts on the natural environment, and here specifically great crested newts as a protected species, it is important to facilitate that mitigation in a timely manner. And that is the central purpose of this enabling application which we hope that officers will support.

Approach to planning conditions

It will be apparent that pre-commencement conditions would be difficult to accommodate in the timescales here and as such we seek instead only relevant compliance conditions. As an outline we would seek:

1. Time condition – which can be shortened to 1 year
2. Develop in accordance with approved details:
 - Site location plan - 1204-02-005-P03
 - Great Crested Newt Method Statement and Pond Specification

- Ecological Area Landscape Strategy – LP02 Feb 23

Obviously should consultees have further requirements that will be a matter for discussion, particularly the views of NRW and the county ecologist, but we consider this a reasonable outline of what is the minimum necessary given that separate statutory controls under the Conservation Licence will apply.

Given the pressing timescale on this application we will be in touch shortly to ensure validation is secured and consultation started, and to provide an opportunity to discuss any matters that need clarification.

Yours sincerely,

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