

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

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

11/11/2022

Dear Sir/Madam,

PROPOSAL: ERECTION OF SOLAR FARM AND BATTERY STORAGE FACILITY

LOCATION: LITTLE LLWYN ONN, CEFN ROAD, LLWYN ONN, WREXHAM, LL13 0NY

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 24th October 2022.

We continue 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. 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, a condition regarding biosecurity should be attached to any planning permission granted and the document identified below should be included in the approved plans and documents condition on the decision notice. Without the inclusion of this condition and document we would object to this planning application.

- **Cefn Solar Farm: Flood Consequence Assessment. Corylus Planning & Environmental Ltd. REF: 321/SP10 (v1) October 2021**

Protected Species

We note the following reports have been submitted in support of the above application:

- Cefn Farm, Wrexham – Proposed Solar Park: Ecological impact assessment. Etive Ecology. April 2022).
- Proposed Solar Farm, Cefn Park, Wrexham, Great Crested Newt Mitigation Strategy. Etive Ecology. May 2022

- Great Crested New Mitigation Ective Ecology Ltd October 2022.
- Ecological Impact Assessment Ective Ecology Ltd October 2022
- Biodiversity Metric 3.1 Calculation Tool

Great Crested Newts (GCN)

We note that the submitted ecological reports have identified that GCN are present at the application site. GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

Although additional reports have been submitted regarding GCN, we advise that there is still insufficient information to assess potential effects on GCN, and how any effects will be avoided or mitigated. The additional reports submitted have not addressed the matters raised in your previous response (REF, DATE).

We therefore advise that further information is submitted to assess the extent of adverse effects on GCN, 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. Please find our detailed comments below.

We note that GCN eDNA surveys were undertaken at the end of June in respect of ponds 4, 5, 6, 7 and 8 only, following a Habitat Suitability Survey of Ponds 1 to 8; this would suggest that Ponds 1, 2 and 3 were not sampled using eDNA techniques.

We note that Pond 3 has been infilled. We also note that GCN were not recorded in ponds where they were previously found to be present.

No traditional techniques appear to have been used to support the eDNA surveys, and we consider that these surveys were completed too late in the season to reliably confirm absence of GCN.

In these circumstances, we consider the current GCN surveys alone to be unsatisfactory for the purposes of demonstrating the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN.

We therefore advise that the overall assessment in respect of GCN considers:

- Survey information as provided by the applicant;
- Extant survey information for the application site and its environs;
- The current conservation status of the local population being unfavourable;
- The cumulative outcome of avoidance, mitigation and compensation measures that include the long term;

- A conservation framework document that outlines how outstanding issues (as articulated below) would be addressed during construction and operational phases of the scheme.

We advise that an appropriate scheme should include, but not necessarily be limited to:

- submission of further details and associated plans concerning GCN 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. The submission to include proposed timescales and reporting requirements.
- submission of further details concerning on-site and/or off-site compensatory proposals including plans, extent, access, current and proposed tenure. Details should identify areas of terrestrial and aquatic habitat to be retained, enhanced and created. We advise that at least four new ponds are created. We would advise utilization of land below the fence line in Fig. 3 of the ecological report specifically for long-term GCN conservation purposes.

Based on the current provisions of the planning submission we would be unable to give 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.

However, we consider that a revised proposal that appropriately considers the above advice would be acceptable for the purposes of demonstrating no detriment to the maintenance of the favourable conservation status of the local population of GCN. This could be progressed by either a detailed submission or the submission of a supplementary framework strategy and imposition of planning conditions/obligations.

Cumulative Impacts

We advise that careful consideration is given to the cumulative impacts on GCN of this proposal with other developments, particularly the Glasshouse Development, P/2020/0363 (Appeal Ref. 3271810) with which there appears to be some overlap in the 'red line' planning application boundaries.

Bat species, Otter, Water Vole

We advise that the submitted ecological impact assessment report is satisfactory with regard to Bat species, Otter and Water Vole for the purposes of informing the planning decision making process. However please see our following comments in relation to Legislation and Policies, and Evaluation.

Legislation and policies

1. We advise that table 1.3.1 should include a more detailed consideration of Favourable Conservation Status (FCS), given its material relevance to the proposals together with

European Commission Guidance (reference document [C\(2021\)7301](#): Commission notice Guidance document on the strict protection of animal species of Community interest under the Habitats Directive).

2. The references to the Habitats Regulations are out of date; these should refer to The Conservation of Habitats and Species Regulations 2017 (as amended).
3. In respect of Invasive Non-Native Species (INNS), legislation includes the Invasive Alien Species (Enforcement and Permitting) Order 2019.

Evaluation

1. We advise that the evaluation methodology used in the Ecological Impact Assessment as part of the assessment is not directly applicable when assessing implications on conservation status for European protected species such as Great Crested Newt, Otter and Bats.
2. In respect of conservation status, we advise consideration is given to Current Conservation Status (CCS), and demonstration of no likely detriment to the maintenance of Favourable Conservation Status (FCS) during the construction, operation and decommissioning phases of the scheme. We advise reference to CCS and FCS in accordance with [EC Guidance](#).

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officers 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.

Biosecurity

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

We are aware of invasive species such as Himalayan Balsam and Japanese Knotweed being recorded in the environs of the application site (on the banks of the River Clywedog). We would therefore advise that any future consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the Local Planning Authority (LPA).

We advise that this assessment should include:

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.

Flood Risk

The planning application proposes less vulnerable development (a solar farm). Our Flood Risk Map confirms the site to be partly within Zone C2 of the Development Advice Map (DAM) contained in TAN15 and the Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls partly into Flood Zone 3: Rivers.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of a Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

The FCA submitted in support of this application (Cefn Solar Farm: Flood Consequence Assessment. Corylus Planning & Environmental Ltd. REF: 321/SP10 (v1) October 2021) shows that the flood risks and consequences could be managed to an acceptable level. The FCA should be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Protected Sites

Our following advice is given on the understanding that there would be no new foul drainage requirements arising from the proposal. We would wish to be reconsulted if this is not the case.

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.

However, the proposal as submitted is unlikely to increase the amount of phosphorus entering the catchment. Therefore, we are satisfied that the proposal is not likely to have a significant effect on the River Dee and Bala Lake SAC.

Permitting

The site is within the Dee Water Protection Zone (DPZ). Given that battery storage facilities are proposed, the applicant may need to obtain consent for the storage of potentially hazardous/corrosive materials on site (depending on the thresholds of controlled substances being used/stored on site). Please see [Dee Water Protection Zone](#) for further information and advice.

The applicant has noted their intention to connect the cable between the North and South sites “...with a directional drill from the northern site to pass under Cefn Road and the River Clywedog, emerging on agricultural land adjacent to the FFWTW access road...” and “The necessary permits for this work, if required, will be sought from the relevant authorities.”

Please note that The Environmental Permitting Regulations (2016) require a bespoke Flood Risk Activity Permit to be obtained for any works or structures located in, under, over or within 8 metres of the bank top of the River Clywedog, a designated “main river”. Further advice and guidance is available on our website at:

<http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/flood-risk-activity-permits-information/?lang=en>

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,

Ruth Prichard

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