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northplanning@cyfoethnaturiolcymru.gov.uk

13/12/2021

Dear Sir/Madam,

PROPOSAL: PENLEY MILL, LION LANE, PENLEY, WREXHAM

LOCATION: CONSTRUCTION OF NEW LAKE, WETLAND AND WILDFLOWER MEADOW

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with additional information about the above, which we received on 29/11/2021.

We continue to 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 and if the documents identified below are included in the approved plans and documents condition on the decision notice:

Condition: Flood Risk

Approved documents:

- **Flood Consequences Assessment (FCA) dated November 2021 by Water Resource Associates.**
- **Sambrook, R. (2021). Great Crested Newts - Reasonable Avoidance Measures Method Statement: Penley Mill, Lion Lane, Penley, Wrexham, LL13 0LY. Wildbanks Conservation. (Unpublished Report No R001).**

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

Flood Risk

The planning application proposes less vulnerable development (the construction of a new lake with associated wetland and meadow). Our Flood Risk Map confirms the site to be partially within Zone C2 of the Development Advice Map (DAM) contained in TAN15.

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 an FCA that the potential consequences of flooding can be managed to an acceptable level.

We have reviewed the Flood Consequences Assessment (FCA) dated November 2021 by Water Resource Associates.

The FCA shows that the risks and consequences could be managed to an acceptable level, provided a planning condition is attached to any permission granted as follows:

Condition: No development shall commence until updated versions of the following plans are submitted to reflect the advice in the FCA:

- PMLW20.05-05 OS Proposed 1m Contours & Lake 1,000@A1P (08-06-21)
- PMLW20.08-03 Lake Sections 750@A1L (08-06-21)
- PMLW20.07-03 Landscaping Proposals 1,000@A1P (08-06-21)

The development shall be carried out and subsequently maintained in accordance with the approved details and plans.

Justification: Updated plans should be submitted to ensure necessary measures are agreed prior to commencement of development or phase of development and implemented to reduce the risk of flooding to the development and elsewhere.

Detailed site groundworks should be informed by the FCA with reference to 'Section 6 – Conclusions' and particular reference to 'Section 4 – Consideration of Proposed Mound and arrangement of the spoil volume'.

Section 4 has considered potential impacts on the local drainage regime. However, as this is not within NRW's remit for planning advice, we would advise you to consult the Lead Local Flood Authority to ensure that there will be no adverse impact on local drainage and notably, third parties.

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 Species

As stated in our previous response letter dated 10/03/2021 (our ref: CAS-139579-T4N), we note that the Preliminary Ecological Assessment (Howes, B.; 2020; Penley Mill, Preliminary Ecological Appraisal Report; Penny Anderson Associates) submitted in support of the

application has identified the potential for Great Crested Newts (GCN) to be present at the application site.

GCN are protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any GCN on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

We have reviewed the following submission:

- Sambrook, R. (2021). Great Crested Newts - Reasonable Avoidance Measures Method Statement: Penley Mill, Lion Lane, Penley, Wrexham, LL13 0LY. Wildbanks Conservation. (Unpublished Report No R001).

We consider that the development is not likely to be detrimental to 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 GCN, or their breeding sites and resting places at this site, provided the avoidance measures described in the Reasonable Avoidance Measures Method Statement are implemented. We would also advise that consideration be given to the erection of one-way fencing.

The ecological report must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

NRW 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.

Groundwater and Land Contamination

As stated in our previous response letter dated 10/03/2021 (our ref: CAS-139579-T4N), it is noted that there is no information relating to any previous ground investigations at the site. However, with the land use at the site comprising 'farmland used for grazing', it is considered unlikely that there is significant contamination present. We note the application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC) (the river Dee is located ca. 3.8km to the west of the site) and that the bedrock beneath the site (Wilmslow Sandstone Formation) is a Principal Aquifer; the overlying superficial deposits of Alluvium are classified as a Secondary A Aquifer. This site is not located within a groundwater Source Protection Zone.

It is understood that the lake is to be constructed by excavating to a maximum depth of 3m below the current ground level and sealed using natural clay of the alluvium. There is no

reference to whether groundwater is likely to be encountered during this development. However, based on the current use of the site, significant groundwater contamination is unlikely to be encountered.

Protected Sites

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 application 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.

Pollution Prevention

During the construction phase the Applicant 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/>

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