

Maes Y Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd
LL572DW

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

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

10/03/2022

Dear Sir/Madam,

**PROPOSAL: CONSTRUCTION OF NEW BIOMASS BOILER HOUSE AND FUEL STORE,
ERECTION OF NEW KILNS, CONSTRUCTION OF NEW DRY PALLET STORE,
ASSOCIATED GROUND WORKS**

**LOCATION: JAMES JONES AND SONS PALLETS AND PACKAGING LTD, OAK ROAD,
WREXHAM INDUSTRIAL ESTATE**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with additional information about the above, which we received on 09/03/2022.

We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching conditions regarding protected species (Great Crested Newt) and biosecurity 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 these conditions and document we would object to this planning application.

Approved document: Ellson, M. (2022). Proposed Development at James Jones & Sons Ltd, Off Oak Road, Wrexham Industrial Estate, Wrexham – Ecological Mitigation Method Statement. Marches Ecology (Unpublished Report No.: C442/ EMMS/ 1.0)

Further details (including our advice in relation to protected sites and aerial emissions) are provided below.

Protected Species

We have reviewed the following submission:

- Ellson, M. (2022). Proposed Development at James Jones & Sons Ltd, Off Oak Road, Wrexham Industrial Estate, Wrexham – Ecological Mitigation Method Statement. Marches Ecology (Unpublished Report No.: C442/ EMMS/ 1.0)

We advise that the report is both appropriate and proportionate. We concur with the assessment, conclusion and recommendations in respect of protected species and in our view the proposal is most likely to affect Great Crested Newt.

Great Crested Newt

We note that the Ecological Appraisal (reference above) submitted in support of the above application has identified that Great Crested Newt (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) and they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

We advise that the proposed development is likely to harm or disturb GCN or their breeding sites and resting places at this site. We therefore advise that it is carried out under licence.

We consider that the construction of the development and its subsequent operation is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN affected by the proposal, provided that any subsequent consent is subject to the imposition of appropriate planning conditions and obligations.

Condition: No development shall commence until a GCN Post Construction Monitoring Plan has been submitted to and approved in writing by the Local Planning Authority. The GCN Post Construction Monitoring Plan should build upon the principles outlined in the Ecological Mitigation Method Statement and include, but not necessarily be limited to the following:

- Long-term management plan (minimum duration 15 years) for the dedicated amphibian conservation area. Details to include:
 - defined aims and objectives;
 - management and maintenance prescriptions;
 - monitoring methodology, defined targets and reporting requirements;
 - licensing requirements for management and maintenance works;
 - current and any proposed changes to tenure including any associated restrictive covenants; and,
 - proposals to update the plan.
- Ecological Compliance Audit to evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPIs) that are to be used for the purposes of assessing and evidencing compliant implementation of proposals.

The Post Construction Monitoring Plan shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Post Construction Monitoring Plan is implemented, which ensures a dedicated area is to be provided for GCN.

Bats

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

The proposal would not have any impact on (roosting) bats. Although the unmanaged grassland and scrub resource within the proposed development site is likely to be of moderate to high potential value for foraging bats, it represents only a small part of a much larger area of similar habitat. The scrub is not considered likely to provide any particular value for commuting bats at this location. No significant impacts on foraging / commuting bats are anticipated.

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 Appraisal are implemented.

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

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

Natural Resources Wales would refer the Local Authority 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.

Biosecurity

We note the Ecological Mitigation Method Statement. Marches Ecology (Unpublished Report No.: C442/ EMMS/ 1.0) states:

A Biosecurity Risk Assessment and Method Statement will be provided as part of the Great Crested Newt licence application (see below). This document will consider potential risks to the local amphibian population as well as the spread of invasive non-native species and propose measures to minimise any perceived risks.

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 therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Condition: No development, including site clearance, shall commence until a Biosecurity Risk Assessment, and Method Statement that considers invasive non-native species and specific diseases (e.g. Chytrid) has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to prevent the introduction of and where present control, removal or for the long-term management of invasive species both during construction and operation. The risk assessment shall consider landscaping and other related plans. 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 prevent or control the spread and effective management of any invasive non-native species and listed diseases at the site.

Protected Sites and 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. 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, recognising the specific nature of the application submitted (it was confirmed on 09/03/2022 that there will not be any additional staff employed), we are satisfied that it 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.

Protected Sites and Aerial Emissions

Special Area of Conservation (SAC)

We have concerns that a significant effect from the proposed development on the River Dee and Bala Lake SAC cannot be ruled out. The application is located within 2.2km of the SAC. Our previous response (dated 22/07/21, our ref. CAS-159076-N5G0) therefore advised that further information should be submitted to enable the Local Planning Authority to carry out

a Habitats Regulations Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) prior to the determination of the planning application. The HRA should demonstrate that there will be no adverse effect on site integrity.

We have reviewed the following submission shared with us on 13/07/2021:

- Detailed Air Quality Assessment for a Biomass Fired Medium Combustion Plant; Environmental Visage Ltd, Matthew Wiese, July 2021

A permit for medium combustion plant (MCP) will be required under The Environmental Permitting (England and Wales) Regulations 2016. Therefore, our following advice on the Detailed Air Quality Assessment conclusions is provided without prejudice to the separate permitting application process.

Table 12: NOx results

Annual Process Contributions (PC) are below 1% and therefore can be screened out as they would not have a likely significant effect alone. For the 24 hour results the PC are considerably less than 10% and therefore can also be screened out as there would be no likely significant effect alone.

Table 13: Nutrient Nitrogen and Acid Deposition

We note the “No critical load assigned” statement for the E1 receptor [River Dee SSSI]. Terrestrial habitat (*i.e.* saltmarsh: 20 – 30 kgN/ha/yr) is present, but this is located further out in the estuary beyond the 2km and 5km screening distances. Therefore, while the above statement is technically incorrect, we do not consider it to be a material consideration in this case because the contribution of 0.009kgN/ha/yr would have a PC of 0.045% and therefore would not be significant alone. However, for receptor E2 [River Dee and Bala Lake SAC], that statement is correct. For acid deposition, we would agree that no assessment is required.

Therefore, we advise that the proposal is not likely to have **direct** significant effects on any National Site Network sites alone. However, we advise that the relevant competent authority should record an in-combination assessment for the River Dee and Bala Lake SAC. Considering the Wealden judgement, we advise that (even when the Process Contribution is less than 1%), consideration of other relevant projects may be required to ascertain whether there are possible indirect effects.

For Annual NOx and 24-hr NOx, the background values are likely to be low and additional sources are unlikely to cause the total amount of annual NOx and 24-hr NOx to exceed the appropriate critical levels.

The features of the SAC are not sensitive to nutrient nitrogen deposition, but we advise that the supporting habitats of the features within the screening distance of 5km are considered.

You confirmed on 16/02/2022 that an Environmental Permit had been issued for the site. As explained in our interim email dated 17/02/2022, the views expressed in our consultation responses to you are provided by the Development Planning Advisory Service in our role as the Statutory Nature Conservation Body and Statutory Consultee to the Planning process. Natural Resources Wales is required to retain functional separation between its role as an Advisor and as a Competent Authority for issuing permits. Our earlier advice on the planning application was provided without prejudice to the separate permitting application process, and we acknowledge that a separate HRA will be required for the permitting application. Government guidance (Habitats regulations assessments: protecting a European site - GOV.UK (www.gov.uk)) advises that competent authorities should not assess any part of a proposal that another competent authority has a role to assess, as the relevant competent authority will do their own assessment.

Where a proposal overlaps with other competent authorities' areas of responsibility, you should agree who is the lead competent authority and who will be preparing the HRA on behalf of the other competent authority. Therefore, when deciding on whether a proposal can go ahead or not the competent authority should record that it has used all or part of an HRA carried out by another authority. In this case, the LPA (as competent authority for the planning application, which includes the aspects resulting in aerial emissions) will need to assess the whole project within its own HRA or contact NRW's Permitting team to obtain their HRA so that it can be applied to the HRA for the planning application.

We would advise you to contact permitting@cyfoethnaturiolcymru.gov.uk for any matters relating to permitting.

Please consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). If there are any changes to the proposed development which may affect the consideration of potential environmental impacts, please consult us again before you determine the application.

Site of Special Scientific Interest (SSSI)

Natural Resources Wales consider the proposals have the potential to impact upon the River Dee SSSI. The application site is located within 1.8km of the SSSI.

Please see our advice in respect of the Special Area of Conservation above. Providing the in-combination effects referenced above for the SAC are adequately assessed, NRW advise that the features of the SSSI will also be adequately safeguarded.

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