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northplanning@cyfoethnaturiolcymru.gov.uk

03/09/2021

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 24/08/2021.

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

Flood Risk

As stated in our previous response letter dated 10/03/2021 (our ref: CAS-139579-T4N), the site lies partially within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk.

The proposal involves the construction of a new lake with associated wetland and meadow. Given the site's partial location within Zone C2, a planning application for these proposals should be supported by a Flood Consequences Assessment (FCA). In the absence of an FCA we still raise concerns with the application.

We have reviewed the following information shared with us on 24/08/2021:

- 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)

It appears that the primary issue relating to a proposed bund adjacent to the watercourse has been resolved in the latest plan submissions by removing that bund and as a result addressing the majority of the concerns raised in our previous response.

The contour and section plans indicate that there will be no ground raising between the watercourse and lake therefore any potential throttling of out of bank flows is not an issue.

However, A FCA is required to demonstrate the risks and consequences of flooding can be managed to an acceptable level. The FCA should clarify the matters raised above, including confirmation that the proposed access track would also not inadvertently raise land within the floodplain.

The criteria for the FCA, which should normally be undertaken by a suitably qualified person carrying an appropriate professional indemnity, are given under Section 7 and Appendix 1 of TAN15. The FCA should be proportionate to the development proposed. To help prepare an FCA, we have developed [guidance](#), which contains technical advice and recommendations.

Please inform us, in accordance with paragraph 11.7 of TAN15, if you are minded to grant permission for the application contrary to our advice.

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. The report recommends further survey.

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 consider that there currently is not enough information to assess potential effects of the proposal on any GCN that may be present at this site. We concur with the recommendations of the ecological report (as quoted below) that further information is required for the purposes of informing the planning decision making process:

An eDNA survey is recommended for the small open waterbody adjacent to the north west boundary and the two ponds located approximately 400m to the north east to determine presence/absence of GCN.

Further information is required to assess the extent of adverse effects on Great Crested Newts 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.

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.

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.

Advice for the Developer

Environmental Management

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under the Environmental Permitting Regulations 2016. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provide information on how to classify waste and register as a waste carrier or hazardous waste producer:

<https://naturalresources.wales/permits-and-permissions/waste/?lang=en>

<https://naturalresources.wales/permits-and-permissions/waste/waste-permits/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

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