



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-159444-M1J7
Eich cyf/Your ref: P/2021/0683

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13/09/2021

Annwyl Syr/Madam / Dear Sir/Madam,

PROPOSAL: EXTENSION TO SERVICE YARD

LOCATION: 2 ELM POINT, ABBEY ROAD NORTH, WREXHAM INDUSTRIAL ESTATE (MINOR)

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 14/07/2021.

We 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.

Protected Species

Great Crested Newt

We understand that the application site has previously been subject to extant derogation licences (References 76782: OTH:EPS:2017 and S085533/4).

This scheme represents a second encroachment into the area specifically dedicated for long term nature conservation measures without providing cumulative offsetting measures (either on site or off site).

The application site has been subject to assessment in respect of Great Crested Newt (GCN) (Land off Abbey Road, Wrexham Industrial Estate. Ecological Assessment, TEP, Ref 7218.014. December 2020). However, the submission fails to identify the overall national importance of the population of GCN present within the environs of the Wrexham Industrial Estate.

The ecological submission confirms the presence of GCN in the environs of the application site. In our view, the overall proposal has the potential to cause disturbance to GCN and/or loss or damage to their resting places. 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).

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if satisfying an appropriate Habitats Directive derogation purpose and two tests before a licence can be issued from Natural Resources Wales.

In the case of development, the applicable derogation purpose is:

“Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.”

Furthermore, the licence can only be issued by NRW on condition that there is:

“no satisfactory alternative”, and that

“the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

Paragraph 6.3.7 of TAN5 states that your Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

The application site is subject to extant derogation licences. Previous planning consents and licence amendments have resulted in the loss of GCN habitat subject to the provisions of those licences.

We consider that construction of the proposal has the potential to adversely affect GCN at this site. Consequently, implementation of any subsequent approval will require a further derogation licence issued by NRW under Regulation 55 (2) (e) of the Habitats Regulations.

In our view, the current planning application has provided:

- (a) Insufficient information to demonstrate the proposal satisfies a valid derogation or European protected species licensing purpose.
- (b) Insufficient information to demonstrate why there is no satisfactory alternative to the proposal; and
- (c) Insufficient information to demonstrate the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts.

In respect of (c), we advise an appropriate submission includes but is not limited to

- (i) Plans illustrating the original extent of the ecology area together with previous and proposed encroachments into this dedicated area.
- (ii) Cumulative impact assessment of encroachments into the dedicated ecology area.
- (iii) Ecological mitigation and compensation to ameliorate the cumulative loss of extent of habitats within the dedicated ecology area. In our view, recommendations articulated in Paragraphs 5.7- 5.12 of the Ecology Assessment are not satisfactory for the purposes of justifying a reduction in the extent of a dedicated GCN compensation area.
- (iv) Proposals, including any proposed changes of tenure, that demonstrate the remaining dedicated ecology area will not be subject to further encroachment.
- (v) An updated management plan that includes provisions concerning long-term management, to include:
 - Defined aims and objectives (for each identified ecological feature)
 - Management prescriptions for each identified ecology feature
 - Contingency prescriptions if adverse factors such as invasive non-native species colonize the site
 - Skills, competencies and licensing requirements for habitat management and surveillance.
 - Long-term annual surveillance with results uploaded to the Wales Monitoring database
 - Tenure and any proposed changes to tenure
 - Proposals that regulators can utilize in the event of lack of inappropriate actions being carried out on site
 - Resource provision
 - If ownership is retained, what happens in the event of the applicant ceasing trading, including commercial takeover or insolvency

We therefore consider that based on the content of the current submission the proposal is unsatisfactory.

Furthermore, we consider that the imposition of conditions to address uncertainty issues are not suitable in this instance 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 great crested newts.

If an updated submission is to be provided by the applicant, we advise that the submission also includes:

- (1) Timescales; and
- (2) Details of measures designed to prevent the accidental capture/killing of GCN post-construction; this is essentially the design and construction of an amphibian friendly surface water management system.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, you would need a revised ecology report that takes account of such changes. Please consult us again if any updated or revised ecology report concludes that the proposal is more likely to have an adverse impact on the GCN population and/or alters the detail or implementation of mitigation or compensation measures.

Please also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

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.

Summary

We have no objection to the principle of development at this site. However, the current submission is not satisfactory and we therefore advise the current proposal is refused.

Any subsequent, appropriate submission must effectively consider cumulative impacts on land subject to long-term derogation in respect of GCN.

Consequently, we object to the proposal until outstanding ecological and extant derogation licence issues concerning GCN are materially addressed by the applicant.

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,

Rhys Jones

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