

For the attention of Mared Rees

08/11/2018

Dear Mared,

TOWN AND COUNTRY PLANNING ACT 1990
DEDDF CYNLLUNIO GWLAD A THREF 1990

PROPOSAL:

**CHANGE OF USE AND CONVERSION OF BARNs TO 10 NO. RESIDENTIAL UNITS
INCLUDING DEMOLITION, NEW BUILD PARKING BARNs, ACCESS AND PARKING
ARRANGEMENTS**

LOCATION:

Broad Oak Farm, Llyndir Lane, Rossett, Wrexham

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 24/10/2018.

We recommend that that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. These would address significant concerns that we have identified. Therefore, we would not object provided the requirements are met and you attach the conditions to the planning permission.

Summary of Requirement and Conditions

Condition 1: Implementation of proposed amphibian avoidance measures as specified in the ecological appraisal.

Condition 2: Compliant implementation of proposed bat avoidance and mitigation measures to the satisfaction of the LPA. This to include proposed bat conservation measures to be clearly marked on approved plans.

Condition 3: Implementation of a post construction bat monitoring scheme to the satisfaction of the LPA.

Condition 4: Submission and implementation of an external lighting scheme that is compliant with the provisions of the Institution of Lighting Professionals and Bat

Conservation Trust: Guidance Note 08/18: Bats and Artificial Lighting in the UK to the satisfaction of the LPA.

Condition 5: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

Condition 6: The finished floor level (FFL) of the development shall be set a minimum of 300mm above surrounding ground levels.

Conditions 7 - 12: Contaminated Land: Submission of information to demonstrate no risk to the local water environment.

Condition 13: No development shall commence until a drainage scheme for the disposal of foul water has been submitted to and approved in writing by the Local Planning Authority.

Protected Species

The applicant has submitted an ecological report for the purposes of informing the public decision making process. (References: Wilson, C. (2016) Broad Oak Farm, Wrexham: Ecological Appraisal. Bowland Ecology Ltd. Unpublished. Sambrook, R. (2018); and Bat Survey and Mitigation Report: Broad Oak Farm Barns, Rossett. Sambrook Associates Ltd. Unpublished)

Great Crested Newts

The application site has been subject to assessment in respect of the great crested newt. The assessment confirms the presence of the species within the environs of the application site. In our view the survey and assessment has been carried out to a satisfactory standard,

Great crested newts (GCN) and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 and they classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5). We note the conclusions of the ecological submission that breaches of species protection legislation are not likely if proposed amphibian reasonable avoidance measures are appropriately implemented.

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if satisfy 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 GCNs 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 it is possible that the species potentially utilizes the site for foraging, dispersal or sheltering purposes. We therefore concur with the proposed avoidance-based approach. If works are carried out without a licence, we advise that works immediately stop in the event of one or more newts being found. Works may only resume under licence issued by NRW.

We consider that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts.

We have no objection to the proposal; However, we advise that any consent is subject to the imposition of a condition requiring the implementation of proposed amphibian avoidance measures as specified in the ecological submission.

Condition 1: Implementation of proposed amphibian avoidance measures as specified in the ecological appraisal.

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 Local Authority to the Chief Planning Officer’s letter 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.

Bats

We note that the ecology reports submitted in support of the above application (reference Logan, A. (2018). Higher Oak – Bat Mitigation Statement. Avian Ecology Ltd. Unpublished) has identified that the brown long-eared bat is present at the application site. From the information submitted, we consider that the proposed development represents a higher risk for bats, as defined in our guidance document ‘Natural Resources Wales Approach to Bats and Planning (2015)’.

We note that the ecology reports submitted in support of the above application has identified that the brown long eared bat and the common pipistrelle bat are present at the application site. From the information submitted, we consider that the proposed development represents a higher 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.

We advise that the proposed development is likely to harm or disturb the bats or their breeding sites and resting places at this site. Consequently implementation will need to be subject a European protected species derogation licence issued by NRW under Reg 55 of the Conservation of Habitats and Species Regulations 2017. [Note comments above in respect of derogation criteria]. However, provided proposed avoidance mitigation measures are proposed, we advise that the proposed development is not likely to be detrimental to the maintenance of the favourable conservation status of the local populations of bat at the application site

We advise that any consent is subject to the imposition of conditions or planning obligations in respect of bats to ensure the appropriate implementation of proposed avoidance and mitigation measures. These conditions to include, but not necessarily limited to:

Condition 2: Compliant implementation of proposed bat avoidance and mitigation measures to the satisfaction of the LPA. This to include proposed bat conservation measures to be clearly marked on approved plans.

Condition 3: Implementation of a post construction bat monitoring scheme to the satisfaction of the LPA.

Condition 4: Submission and implementation of an external lighting scheme that is compliant with the provisions of the Institution of Lighting Professionals and Bat Conservation Trust: Guidance Note 08/18: Bats and Artificial Lighting in the UK to the satisfaction of the LPA.

NRW would refer the Local Authority to the Chief Planning Officer's letter 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.

Ecological Compliance Audit

We advise that any future consent includes the imposition of a condition that requires the submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

The purpose of the Ecological Compliance Audit is 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 (KPI's) that are to be used for the purposes of assessing and evidence compliance.

Condition 5: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA

Flood Risk

The application site lies partially within zone B, as defined by the development advice map (dam) referred to under TAN 15 Development and Flood Risk (July 2004). Although TAN 15 indicates that flooding is unlikely to constrain development in this zone, our flood maps indicate the site has been affected by flooding in the past.

We have considered the flood consequences assessment (FCA) (Weetwood Services Ltd., Broad Oak Farm, Rossett, dated November 2017), submitted in support of the application. Based on this information we can advise that the mitigation measures proposed within Section 5 of the FCA are sufficient to adequately manage the consequences of any flooding. We would further suggest that flood-resistant materials and techniques are incorporated into the design of the development such as raised floor/threshold levels, raised electrical sockets, non-return valves fitted to water inlet and outlet pipes, tiled or concrete flooring rather than wooden or carpeted etc. For further information see ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties' on the following website:

<https://www.gov.uk/government/publications/improving-the-flood-resistance-of-domestic-and-small-business-properties-interim-guidance>

Advice on preparing a flood plan is available on the following link:

Personal Flood Plan link - <https://www.gov.uk/government/publications/personal-flood-plan>

We therefore have no objection to the development subject to the inclusion of the following conditions in any planning permission.

Condition 6: The finished floor level (FFL) of the development shall be set a minimum of 300mm above surrounding ground levels.

Land Contamination

The Pre-Applications Consultation Report includes a letter from NRW requested conditions for historical land use. There is no detail on the site's previous land use in the form of a Preliminary Risk Assessment (I note we may have already read this back in 2017, but the recommendation for site investigation have not been undertaken).

We therefore request that the and conditions (for potential for land contamination) are included in our response to the LPA.

The aforementioned PRA/Desk study concludes that:

“In light of the potential pathways for some contamination to affect the site, it will be prudent to carry out a phase 1 assessment of the ground prior to the commencement of development, and any further survey work or mitigation that may be needed. These can be secured by standard conditions on a planning permission”

In view of the above we recommend that you attach the following land contamination conditions:

Condition 7: Development on land affected by contamination Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority: 1. A preliminary risk assessment which has identified: - all previous uses - potential contaminants associated with those uses - a conceptual model of the site indicating sources, pathways and receptors - potentially unacceptable risks arising from contamination at the site[largely completed]. 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. 3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved. Reason: Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity due to proximity to surface water and being located on a Principal aquifer. Contamination is known/strongly suspected at site due to historical contaminative uses.

Condition 8: Verification report Prior to commencement of development development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority. Reason: To demonstrate that the remediation criteria relating to controlled waters have been met, and

(if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Condition 9: Long-term monitoring Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.'

Condition 10: Unsuspected contamination If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written www.naturalresourceswales.gov.uk www.cyfoethnaturiolcymru.gov.uk Page 5 of 9 approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. Reason: Given the complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.'

Condition 11: SUDS No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details. Reason: There is an increased potential for pollution from inappropriately located infiltration systems such as soakaways, unsealed porous pavement systems or infiltration basins.

Condition 12: Piling Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. Reason: There is an increased potential for pollution of controlled waters from inappropriate methods of piling.

Foul Drainage

As noted in our response dated 24/11/2017 to the previous planning application at this site (P/2017/0623), there are environmental factors which will need to be considered before a private treatment plant discharging to the river can be installed. The documentation states the discharge would ultimately be made to the Pulford Brook. This watercourse is considered sensitive and is currently failing under the Water Framework Directive. The applicants must therefore demonstrate that a discharge into this watercourse would not have an adverse impact on the water quality.

Condition 13: No development shall commence until a scheme for the disposal of foul water has been submitted to and approved in writing by the Local Planning Authority.

With respect to the discharge (of effluent) to ground or surface water, the applicants will need to apply for an environmental permit or register an exemption with Natural Resources Wales. In view of the number of dwellings, an Environmental Permit will be required in this instance. The applicants must obtain an Environmental Permit prior to commencement of work on site. More information, and the relevant application forms are available on our website: <https://naturalresources.wales/permits-and-permissions/water-discharges/?lang=en>

Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standards 6297 and Approved Document H of the Building Regulations.

We would also advise the applicants to refer to sewage disposal options within the PPG4 <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgsandreplacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Management of Surface Water Runoff

The Applicant has submitted a Drainage Assessment (Weetwood Services Limited, 3955/DA/Final/v1.1/2017-11-07) in support of the planning application. We would recommend that you consult your Flood Risk / Drainage Department, who act as the Lead Local Flood Authority. They will be able to comment on the acceptability of the Applicant's proposed method of surface water disposal. Further advice and guidance is available in their Management of Surface Water Generated from New Development publication available at:

http://www.wrexham.gov.uk/english/planning_portal/publications/surface_water.htm

Advice to Applicant

Pollution Prevention

Due to the proximity of the site to watercourses, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works in, near or over watercourses' and '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/>

Any work which is to take place should be done so with pollution prevention in mind. Pollution prevention advice and guidance can be found via this link:

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

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be 110% of the capacity of the tank, all filling points, gauges, vents and sight glasses must be located within the bund. Associated pipe-work should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund, refuelling should be supervised at all times - and preferably done on an impermeable surface.

No material is to be deposited within 10m of any watercourse without discussion with Natural Resources Wales. Should any pollution occur during the construction or operational phase, Natural Resources Wales should be notified via the incident hotline – 03000 65 3000.

Waste

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

provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/waste/how-to-classify-and-assess-waste/?lang=en>

<http://naturalresources.wales/apply-for-a-permit/waste/?lang=en>

Further guidance can be found on the GOV website here:

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

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Yn gywir / Yours sincerely,

Daniel Davies

Daniel Davies

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales