

For the attention of Sharon Holman

31/10/2018

Dear Sharon,

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

PROPOSAL:

**OUTLINE APPLICATION FOR PROPOSED HOUSING DEVELOPMENT, FORMATION
OF VEHICULAR ACCESS AND ACCESS ROAD AND ASSOCIATED WORKS (ALL
MATTERS RESERVED)**

LOCATION:

Land off Ellesmere Lane, Penley, Wrexham

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 19/10/2018.

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

Requirement 1: Great Crested Newt: Submission of sufficient evidence to demonstrate that the proposed development satisfies derogation provisions under the Habitats Directive and the Conservation of Habitats and Species Regulations.

Condition 1: Biosecurity: No development shall take place until a Biosecurity Risk Assessment has been submitted and approved to the satisfaction of the LPA

Condition 2: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA

Protected Species

This consultation is supported by an ecological submission (reference Prestwood, P and Adlington, Z. (2016). Extended Phase One Habitat Survey. Ellesmere Lane, Penley. Arbor Vitae Environment. Unpublished.

Great Crested Newts

The ecological field survey was carried out on 1 November 2016. The results of the survey suggested the absence of any European protected species within and in the environs of the proposed development site.

The applicant has not consulted the local records centre for any extant biological records. Field surveillance for amphibians has been carried out at an inappropriate time of year. Results are therefore not appropriate.

We note the conclusions that suggest the great crested newt is not likely to be affected by the proposed scheme and do not concur with this conclusion.

NRW have records of great crested newt (GCN) in Ponds 2, 3 and 4. GCNs and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017. Any development that would contravene the protection afforded to newts under the Regulations would require a derogation licence issued by Natural Resources Wales. A licence may only be authorised if:

- A. There is no satisfactory alternative;
- B. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range; and
- C. The development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that the Local Planning Authority should not grant planning permission without having satisfied itself that:

- A. the proposed development either would not breach species legislation; or in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied;
- B. It has given appropriate due regard to the provisions of the Habitats Directive.

Although an ecology report has been submitted, we consider that there is not enough information to assess potential effects of the proposal on the GCN that we consider to be present at this site.

Requirement 1: Great Crested Newt: Submission of sufficient evidence to demonstrate that the proposed development satisfies derogation provisions under the Habitats Directive and the Conservation of Habitats and Species Regulations.

We consider that the following additional information is required to assess the extent of adverse effects on GCNs

- a. Further surveillance of the local population of newts;
- b. Submission of amphibian avoidance and mitigation measures;
- c. Submission of an amphibian friendly surface water management scheme and
- d. Submission of long term GCN compensatory measures.

Therefore, we can confirm that we have significant concerns with the development as currently proposed, and we would recommend that planning permission applied for is not determined until it can be demonstrated that the proposed development will either not impact the local populations of GCNs or all 3 conditions for the eventual grant of a licence under the Conservation of Habitats and Species Regulations 2017 are likely to be satisfied.

Bats

NRW concur with the conclusions of the report.

Biosecurity

NRW 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 future consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Condition 1: Biosecurity: No development shall take place until a Biosecurity Risk Assessment has been submitted and approved to the satisfaction of the LPA.

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.

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.

Condition 2: ECA: 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

Please do not hesitate to contact us if you require further information or clarification of any of the above.

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: (<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

Advice to Applicant

Pollution Prevention

The applicant is advised to follow the guidance within the Guidance for Pollution Prevention 6 'working at construction and demolition sites':

<https://www.sepa.org.uk/media/60125/ppg-6-working-at-construction-and-demolition-sites.pdf>

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/>

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>

Yn gywir / Yours sincerely,

Daniel Davies

Daniel Davies

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales