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northplanning@cyfoethnaturiolcymru.gov.uk

27/08/2021

Dear Sir/Madam,

**PROPOSAL: ERECTION OF POLYTUNNELS AND ASSOCIATED WORKS**

**LOCATION: MAELOR FOREST NURSERIES LTD, WHITCHURCH, WREXHAM**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with additional information about the above, which we received on 10/08/2021.

**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 protected sites. If this information is not provided, we would object to this planning application. Further details are provided below.**

**We also advise that based on the information submitted to date, conditions regarding protected species (Great Crested Newt) and biosecurity should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.**

**Protected Sites**

As stated in our previous responses dated 08/04/2021 (our ref: CAS-143153-M8N9) and 26/07/2021 (our ref: CAS-158933-V8M1), we have concerns that a significant effect from the proposed development on the Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses (Wales) Special Area of Conservation (SAC) / Site of Special Scientific Interest (SSSI) cannot be ruled out. The application is located within 400m of the Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses (Wales) SAC / SSSI. The Local Planning Authority should be assured that there will be no run-off or groundwater incursion of nutrients in this wetland site.

We advised that further information is submitted to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application.

We advised that further information is required on:

- measures to prevent any run-off or groundwater incursion of nutrients to the nearby Protected Site.

We were consulted in respect of the following additional information from the agent on 10/08/2021 (quoting from their email in italics):

*"The run-off risks from the proposed development will provide betterment compared to the current usage. Currently the seed beds are sprayed and irrigated in the open fields close to the SSSI. The proposal will transfer the seedling production away from the open fields to a protected environment. There will be a much-reduced need for spraying and irrigation to the a [sic] significant reduction in the growth period. Furthermore, the proposal will be capturing water and storing it in storage tanks."*

We request further details in relation to measures to prevent run-off. The plans state the intention is to collect water to irrigate. Please request further information in relation to the source of this water (e.g. is the intention to collect rainwater or is there a well/abstraction point they intend to use?).

A drainage plan for the site should also be submitted in order to address the run-off issues referred to above. It is also stated that there will be no trade effluent involved with site operations. Please confirm if this is correct.

Should you also conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being consulted on your appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

## **Protected Species**

Our previous responses dated 08/04/2021 (our ref: CAS-143153-M8N9) and 26/07/2021 (our ref: CAS-158933-V8M1) noted that the Preliminary Ecological Assessment (Maelor Forest Nurseries – Revision 'C' January 2021; Arbor Vitae) submitted in support of the above application has identified the potential for Great Crested Newts (GCN) to be present at the application site. The report recommended 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 have reviewed the following report which was shared with us on 09/07/2021:

- Prestwood, W. (2021). Amphibian Conservation Plan: Maelor Forest Nurseries. Arbor Vitae Environment Ltd. Unpublished.

In our view, the overall proposal has the potential to cause disturbance to Great Crested Newts (GCN) and/or loss or damage to their resting places.

We consider the amphibian conservation plan lacks the required information associated with the implementation of amphibian mitigation measures during construction and the detail of the compensation area, particularly in respect of the long-term considerations.

We therefore advise that in order to demonstrate no likely detriment to the maintenance of the favourable conservation status of the local population of GCN, any subsequent consent is subject to the imposition of planning conditions and obligations.

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.

Consideration could be given to either an over-arching conservation plan or separate advice regarding planning conditions and obligations.

Condition 1: No development shall commence until a GCN Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan shall include, but not necessarily be limited to the following.

- Build upon the principles outlined in the ecological report (Prestwood, W. (2021). Amphibian Conservation Plan: Maelor Forest Nurseries. Arbor Vitae Environment Ltd. Unpublished.)
- The submission (to include proposed timescales and reporting requirements) of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to:
  - o fence design;
  - o specifications and locations;
  - o considerations of access issues;
  - o monitoring and maintenance requirements; and
  - o supervised removal.
- The submission of a long-term site management plan that includes:
  - o defined aims and objectives;
  - o habitat management prescriptions;
  - o contingency measures if fish or invasive non-native species (INNS) are detected;

- proposals that are capable of being implemented in the event of failure to undertake or to appropriately undertake identified or contingency actions;
  - site liaison and wardening; licensing requirements for undertaking habitat management and surveillance;
  - current and any proposed changes to tenure of the compensation area to be approved by the Local Planning Authority;
  - persons or bodies responsible for undertaking management and surveillance together with required skills and competencies;
  - reporting requirements; and
  - proposed dates for updating or revising the management plan.
- Details of timing, phasing and duration of construction activities and conservation measures.
  - Timetable for implementation demonstrating that works are aligned with the proposed development.
  - Ecological Compliance Audit, including key performance indicators 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.
  - Persons responsible for implementing the works.
  - Post-construction monitoring and record dissemination for a period of *not less than 25 years*. All ponds to be added to the Wales Great Crested Newt Monitoring Scheme, (see <https://www.cofnod.org.uk/LinkInfo?ID=7>) with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual abundance counts and Habitat Suitability Index (HSI) assessments. Each water body shall be individually numbered on site.

The GCN Conservation Plan shall be carried out in accordance with the approved details.

Justification: To ensure that an approved GCN Conservation Plan is implemented, which protects GCN affected by the development.

### Planning obligations

It is suggested that any planning obligation (Section 106 Agreement/Unilateral Undertaking) includes consideration of the following suggested provisions in respect of ecology. It is advised that suggested provisions be incorporated within any preliminary “Heads of Terms” document:

- defined commuted sum;

- annual / biennial liaison meetings;
- management plan review;
- tenure and any proposed changes to tenure of the ecology area shall be carried to the satisfaction of the Local Planning Authority in consultation with Natural Resources Wales; and
- restrictions on the commencement of the operational phase of the scheme until all identified long-term actions, including any identified transfer of tenure, have been implemented to the satisfaction of the Local Planning Authority.

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 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 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 and diseases.

Condition 2: No development with the potential to impact on invasive species, shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive species both during construction and operation. 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 control the spread and effective management of any invasive non-native species at the site.

## **Foul Drainage**

We stated in our previous response dated 04/03/2021 (our ref: CAS-138225-N5Y1) that we understand the development is not served by the public foul sewer, but no information had been submitted regarding the disposal of foul waters. The application form indicates there will be 96 full-time members of staff and the Foul Sewage section of the application form states 'Unknown', therefore clarification was sought on this matter.

The further correspondence shared with us on 01/04/2021 stated: "with regards to foul drainage, there will be no intensification of land, the same number of trees will be grown as

there is currently." We therefore assume there will be no foul drainage associated with the proposal and remove the request for further information.

## **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>

### Agriculture

The facilities must comply with the Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or groundwater.

Please refer to the link below for further information:

<http://naturalresources.wales/guidance-and-advice/business-sectors/farming/good-farming-practice/?lang=en>

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