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LL572DW

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

29/09/2021

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 17/09/2021.

We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:

Condition 1: Great Crested Newts

Condition 2: Biosecurity

Please note, without the inclusion of these conditions we would object to this planning application. Further details are provided below.

Protected Sites

Special Area of Conservation (SAC)

Our previous responses dated 08/04/2021 (our ref: CAS-143153-M8N9) and 26/07/2021 (our ref: CAS-158933-V8M1) raised 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) cannot be ruled out. The application is located within 400m of the Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses (Wales) SAC.

We advised that further information on measures to prevent any run-off or groundwater incursion of nutrients to the nearby Protected Site should be submitted to enable a Habitats Regulations Assessment (HRA) to be carried out under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) prior to the determination of the planning application.

We have reviewed the Drainage Report from Hydro-Logic Services dated 15/09/2021. From the information provided, we consider that the proposal is not likely to have a significant effect on the SAC.

We have no objection to the proposed drainage plan. Although the proposed site drainage ditch flows close and eventually into the drain on the western edge of the protected site, we do not consider it to be a major risk to the protected site.

Please note that the attenuation basin plan falls within the definition of a SuDS development and we would therefore advise you to consult the relevant SuDS Approval Body regarding this aspect.

Our advice may change should modifications be made to the proposed development prior to the determination of the application. If there are any changes to the proposed development which may affect the consideration of potential environmental impacts, please consult us again before you determine the application.

Fenn's, Whixall, Bettisfield, Wem and Cadney Mosses (Wales) Site of Special Scientific Interest (SSSI)

We have considered the Drainage Report from Hydro-Logic Services dated 15/09/2021 submitted in support of the above application. Based on the information submitted, we consider that the proposed development is not likely to damage the features for which the above SSSI is of special interest.

Protected Species

We note 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.

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.

We received additional comments in respect of GCN directly from Arbor Vitae on 10/09/2021. Having reviewed these comments we advise that in order to be able 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.

We also advise the submission of avoidance or mitigation measures to be carried out for the purposes of ensuring GCN are not present in working areas. We suggest consideration be given to fencing, although other avoidance-based measures such as daily checks by licensed surveyors could alternatively be considered. Note that any individual GCNs found could not be relocated unless authorized by the appropriate licence.

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.

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:
 - fence design (consideration should be given to the use of one-way fencing during construction but other avoidance measures such as daily checks by licensed surveyors could alternatively be considered;
 - specifications and locations of any proposed fencing;
 - considerations of access issues associated with any proposed fencing;
 - monitoring and maintenance requirements of any proposed fencing; and
 - supervised removal of any proposed fencing.
- The submission of a long-term site management plan that includes:
 - defined aims and objectives;
 - habitat management prescriptions;
 - 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.

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.

If it is considered that works are likely to cause a breach of species protection legislation, we advise that works are carried out under the relevant derogation licence issued by NRW under Regulation 55 of the Conservation of Habitats and Species Regulations 2017 (as amended).

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

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