



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-68185-W6V4

Eich cyf/Your ref: P/2018/0728

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18/09/2018

For the attention of Sharon Holman:

Dear Sharon,

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

**PROPOSAL:
EXTENSION TO APPROVED INDUSTRIAL WAREHOUSE
LOCATION:
LAND OFF ABBEY ROAD WREXHAM INDUSTRIAL ESTATE WREXHAM**

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 03/09/2018.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirement and you attach the conditions listed below. Otherwise, we would object to this planning application.

Requirement 1: Further information is required 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 (GCN).

Condition 1: Biosecurity: Submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

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

Protected Species

The applicant has submitted an ecological report for the purposes of informing the planning decision making process. (Reference: Walker-Evans, A. (2018) . Wrexham Industrial Estate: Abbey Road, Wrexham – Ecological Assessment. TEP . Unpublished).

The application site has been subject to assessment in respect of the great crested newt.

The report however fails to identify

- (1) The presence of a nationally important population of the species within and in the environs of the Wrexham Industrial Estate; and
- (2) The implications of the proposal on European Protected Species derogation licence No 76782:OTH:EPS:2017

In our view, construction of the proposal has the potential to cause a breach of species protection legislation in respect of great crested newt. 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).

The Regulations allow the local planning authority to approve 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. 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:

1. no satisfactory alternative, and that
2. 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.

Given the confirmed presence of the species within the environs of the application site, we advise that any subsequently approved schemes are carried out under an amended derogation licence issued by NRW under Regulation 55 of the Conservation of Habitats and Species Regulations 2017.

We are concerned about the loss in extent of habitat that was originally to be retained as part of previous public consents (planning and derogation licence). No information has been provided that summarizes cumulative habitat loss and gains. We are pleased to note and welcome the principles of habitat creation and enhancement proposals in respect of GCN. However, no satisfactory detail has been provided in respect of the specification of the scrapes or any extant ecological interests of areas subject to aquatic habitat creation proposal. We advise that the location of scrapes avoids areas of ecological interest and design specifications of new water features includes functional use as future breeding sites for GCN.

In summary we consider that further information is required 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 this species. This to include:

1. Cumulative summary of habitat loss and gains together with other offsetting proposals;
2. Long term habitat management proposals
3. Site security proposals associated with remaining ecological habitats.

We therefore advise the ecological submission is amended to incorporate, but not necessarily limited, to the submission of the following further information:

1. Inclusion of a cumulative habitat loss and gains table
2. The submission and implementation of a dedicated long compensatory scheme. Material attributes of this scheme will in this case include future tenure of the compensatory area. This will help to prevent any further encroachment into the ecology area;
3. A management plan that includes provisions concerning long term management. This submission to include consideration of resources required to implement surveillance, management and wardening;
4. Details of long term surveillance of the amphibian population. We advise the long term surveillance methodology to be used accords with the online Wales GCN monitoring scheme

To conclude, we consider that the proposal currently fails to satisfactorily demonstrate that it will not be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts.

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.

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officer's 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.

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 (INNS) and diseases.

We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment 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.

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.

Geoscience

Natural Resources Wales considers that the controlled waters at this site are not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

However, we do have reason to strongly suspect that contamination is present, and a preliminary risk assessment has not been submitted. In line with the advice given in Planning Policy Wales we understand that the Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission.

Natural Resources Wales recommends that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the Environment Agency's Guiding Principles for Land Contamination' for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, such as human health.

Refer to our groundwater protection advice on www.gov.uk

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

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on

our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). 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. 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.

Advice to Applicant

Pollution Prevention

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-andreplacement-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 Environmental Permitting Regulations 2010. 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.

Yn gywir / Yours sincerely,

Daniel Davies

Daniel Davies

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales