



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-66374-T9F0

Eich cyf/Your ref: P/2018/0613

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15/08/2018

Annwyl/ Dear Mared,

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

BWRIAD / PROPOSAL:
**CHANGE OF USE OF DISUSED AGRICULTURAL LAND TO RESIDENTIAL
ACCOMMODATION FOR GYPSY AND TRAVELLER SITE (4 NO. PITCHES)**
LLEOLIAD / LOCATION:
Land Adjacent to Graig Wen Farm Off Brymbo Road, Bwlchgwyn, Wrexham

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 27/07/2018.

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 requirements and you attach the conditions listed below. Otherwise, we would object to this planning application.

Requirement 1: European Protected Species (EPS): 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. This to include, but not limited to short and long term avoidance, mitigation and compensation measures.

Requirement 2: Foul Drainage: The applicant confirms that the foul drainage will be connected to the mains sewer, otherwise demonstrate it is not feasible to connect to the main sewer.

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

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

Protected Species

The application is supported by a protected species survey. (Reference Molesworth, J. (2018). Preliminary Ecological Appraisal (PEA) & eDNA Report: Land adjacent to Graig Wen Farm, off Brymbo Road, Bwlchgwyn, Wrexham, LL11 5UB. Pearce Environment Limited. Unpublished.

Bats

The applicant's ecological submission considered the presence of bats at the application site. The results indicate the absence of any roosts within the boundary of the application site.

We understand that trees and hedgerows appear to have been removed from the site. This could have affected assessments and conclusions in respect of bats.

Consequently the application does not satisfactorily demonstrate the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of local populations of bat

Great Crested Newts

We note that the updated ecology report submitted in support of the above application has identified that great crested newts (GCN's) are present within the environs of the application site. Given the location and condition of the application site, we consider the species is likely to be present at the application site.

Great crested newts 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 GCN's under the Regulations would require a derogation licence from Natural Resources Wales. A licence may only be authorised if:

- i. There is no satisfactory alternative and
- ii. 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. In addition,
- iii. 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 your Authority should not grant planning permission without having satisfied itself that the proposed development 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.

In our view the proposal is likely to harm or disturb the GCN or their breeding sites and resting places at this site and will, therefore, require a licence.

Although further information has been supplied we consider the proposal fails to satisfactorily demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local populations of GCN's. Material omissions in this case include, but are not limited to:

- (a) Details of amphibian avoidance and mitigation measures;
- (b) Details of amphibian compensation measures including dedicated compensation area;
- (c) Preparation and implementation of a long term site management plan including management, wardening, surveillance utilizing the online Wales GCN monitoring scheme and future tenure.

Requirement: European Protected Species (EPS): 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. This to include, but not limited to short and long term avoidance, mitigation and compensation measures.

Therefore, we recommend that the application is not determined until the above requirement has been met, in order that it can be demonstrated that the proposed development will either not cause a breach of species protection legislation 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

This advice applies to the proposal in its present form. If the plans are changed in ways that may harm or disturb GCN's or their breeding sites and resting places at this site, you would need a revised ecology report that took account of such changes.

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 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.

Dormice

The applicant's ecological submission considered the potential presence of the dormouse. The results of field surveys indicate the likely absence of this species. To date this species has not been recorded in the environs of this part of Wrexham .

However, we understand that trees and hedgerows appear to have been removed from the site. Although this could have affected the results and conclusions in respect of dormouse, we do not consider this species will or is likely to be impacted by the proposed scheme.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. Results of the ecological survey confirmed the presence of Rhododendron 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.

Condition: 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.

Foul Drainage

We have significant concerns with this application as submitted as it appears the development site is near a public sewer system, and that the application indicates that foul drainage will be by means of a package treatment plant.

The installation of a private sewage treatment facility within an area where it may be considered reasonable to connect to the public sewer system is not considered environmentally acceptable. The first option should be is that a connection to the mains will be made.

We would therefore be opposed to such facilities unless the developer can demonstrate that it is not reasonable to connect to the public system. In this respect, the applicant

should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

1. Formally approach the sewerage undertaker regarding a connection under Section 98 or Section 106 of the Water Industry Act (WIA) 1991, as appropriate
2. Serve notice for connection under Section 98 or Section 106 of the WIA 1991 if the sewerage undertaker has refused connection
3. Provide details of the reasons given by the sewerage undertaker if it has refused connection under Section 106 of the WIA 1991 and confirm that this decision has been appealed to Ofwat

OR:

Provide details of the undertakings, security and payment required by the sewerage undertaker under Section 98 of the WIA 1991.

Provide confirmation that the applicant considers these to be reasonable and does not intend to appeal against them.

4. Demonstrate that it is not reasonable to connect to the public foul sewer
Lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the WIA 1991 and we may refuse to issue a discharge consent for private treatment facilities in such circumstances.

Requirement: Foul Drainage: The applicant confirms that the foul drainage will be connected to the mains sewer, otherwise demonstrate it is not feasible to connect to the main sewer.

Waste

We have received a number of reports regarding the importation of waste to this site. Advice and guidance has been given for the requirement to register an exemption or a permit for the use of waste in construction. A U1 use of waste in construction exemption has been registered for the site. A visit to the site found that the waste being used falls within the conditions of the exemption

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 for the Applicant / Developer:

Pollution Prevention

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 operational phase, Natural Resources Wales should be notified via the incident hotline – 03000 65 3000.

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