

03/10/2018

Er sylw / For the attention of: Sharon Holman

Dear Ms Holman,

BWRIAD / PROPOSAL: OUTLINE APPLICATION FOR 9 NO. DWELLING

**LLEIOLIAD / LOCATION: Land at Tupa, Penley Hall Drive, Penley, Wrexham
P/2018/0771**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which was received on 17/09/2018.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

Condition 1: Protected Species (GCN): The submission and implementation of long term, compensatory proposals, to the satisfaction of the LPA.

Condition 2: Protected Species (GCN): The submission of proposals concerning long term surveillance and wardening, to the satisfaction of the LPA.

Condition 3: Protected Species (Bats): All avoidance and mitigation measures described in the bat report to be set out in a method statement, to the satisfaction of the LPA.

Condition 4: INNS: Submission and implementation of a Biosecurity Risk Assessment, to the satisfaction of the LPA.

Condition 5: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme, to the satisfaction of the LPA.

Protected Species

Great Crested Newts:

The application site has been subject to assessment in respect of the great crested newt. The assessment confirms the likely presence of the species. In our view the assessment has been carried out to a satisfactory standard,

In our view, the overall proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places. Great crested newts (GCN) and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 and they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if it satisfies an appropriate Habitats Directive derogation purpose and two tests before a licence can be issued from Natural Resources Wales.

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:

“no satisfactory alternative”, and that

“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 GCNs on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

We consider that it is possible that the species utilizes the site for foraging, dispersal or sheltering purposes. In our view, we consider that construction of the proposal has the potential to adversely affect GCN.

We consider the submitted Ecological Management Plan satisfactory addresses a number of material issues that we had previously identified, including:

- (i) Consideration of incidental capture/killing issues
- (ii) Habitat management;
- (iii) Amphibian avoidance and mitigation measures

We also acknowledge the submission of further details concerning the amphibian compensation area, although we advise that further information is required in respect of:

- (i) Long term surveillance and records management. We advise that the methodology and reporting mechanism to be used is the online Wales GCN monitoring scheme;
- (ii) Long term tenure of the compensation area will need to be confirmed;
- (iii) Wardening arrangements for the compensation area.

We consider that the proposal does demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts. However, we advise that any subsequent consent is subject to the imposition of the planning conditions or obligations (such as a Section 106 Agreement or a unilateral undertaking) that address the following:

Condition 1: GCN: The submission and implementation of long term, compensatory proposals, to the satisfaction of the LPA.

This should consider material issues associated with tenure, and resource provision (eg index linked ground rent service charges);

Condition 2: GCN: The submission of proposals concerning long term surveillance and wardening, to the satisfaction of the LPA.

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.

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 Local Authority to the Chief Planning Officer's letter 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.

Bats:

We note that the bat report submitted in support of the above application Ref: Hodnett, T. (2018). Extended Phase One Survey and Ecological Impact Assessment: Land to the South of Tupa, Penley, Wrexham. EDC. Unpublished) has identified that the lesser horseshoe bat is present at the application site. From the information submitted, we consider that the proposed development represents a higher risk for bats, as defined in our guidance document '*Natural Resources Wales Approach to Bats and Planning (2015)*'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017.

We advise that the proposed development is likely to harm or disturb the bats or their breeding sites and resting places at this site. Therefore, we advise that the conditions outlined below should be attached to any planning permission for this scheme to ensure appropriate avoidance and mitigation measures. Provided those measures are implemented, we consider that the proposed development is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of bats.

Condition 3: Protected Species (Bats): All avoidance and mitigation measures described in the bat report to be set out in a method statement, to the satisfaction of the LPA.

The avoidance and mitigation measures should include the following:

- Submission and implementation of detailed mitigation and compensation measures including timing of works and proposals clearly marked on final plans
- Submission and implementation of an external lighting scheme
- Submission and implementation of a post construction monitoring scheme

NRW would refer the Local Authority to the Chief Planning Officer's letter 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.

Invasive Non-Native Species (INNS)

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.

Condition 4: INNS: 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 of the scheme.

In this case, we advise against planting the proposed new pond with aquatic material.

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.

Condition 5: 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.

Environmental Management

The operator should ensure that mud and debris generated by the works does not affect the nearby watercourse within Penley Wood. They should ensure that measures are put in place in order to minimise this.

Due to the proximity of the site to a watercourse, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works in, near or over watercourses' and '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/>

Foul Drainage

No information has been provided regarding the disposal of foul waters from the proposed development. We refer you to WG Circular 008/2018 on private drainage, and specifically paragraphs 2.3-2.5, which stress the first presumption must be to provide a system of foul drainage discharging into a public sewer. We advise you the proposed development is in a publicly sewered area.

Please consult us again if foul sewage from the proposed development is to be disposed of by a non-mains drainage system.

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 included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website:

(<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). 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 for the Developer

Waste:

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt activity under 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. No material is to be deposited within 10m of any watercourse without discussion with Natural Resources Wales. Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on 03000 65 3000.

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>

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,

Joy Evans

Ms J Evans
Cynghorydd Cynllunio Datblygu / Development Planning Advisor
Gwasanaeth Cyngor Cynllunio Datblygu/
Development Planning Advisory Service