



11/04/2018

Er sylw / For the attention of: Matthew Phillips

Annwyl / Dear Matthew Phillips,

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

BWRIAD / PROPOSAL:

Proposed Intensive Poultry Installation and all associated works – 100,000 birds

LLEOLIAD / LOCATION:

LAND AT MULSFORD FARM SARN MALPAS WREXHAM

Thank you for consulting Natural Resources Wales (NRW) about the above with additional information, which was received on 09/04/2018.

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.

Summary of Conditions

Condition 1 - The implementation of detailed great crested newt avoidance and mitigation measures;

Condition 2 - The implementation of long term compensatory proposals including, appropriate sized compensation area (based on 'like for like') and appropriate tenure;

Condition 3 - The implementation of the long-term management, surveillance and wardening proposals;

Condition 4 - No commencement of development works until the Local Planning Authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to ahead, or Natural Resources Wales has informed the applicant that such a licence is not required.

Condition 5 - The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Condition 6 - The implementation of an approved ecological compliance audit scheme to the satisfaction of the local planning authority.

Protected Species

Regulations 9(3) of the Conservation of Habitats and Species Regulations 2010 (as amended) requires public bodies in exercise of their functions, to have regard to the provisions of the 1992 'Habitats' Directive (92/43/EEC) and the 2009 'Birds' Directive Birds' Directive (2009/147/EC) so far that they might be affected by those functions.

The applicant has submitted revised ecological information for the purposes of informing the proposed planning decision making process, Reference: Thorne, RG and Thorne, K. (2017). Ecological impact Assessment of Land at Mulsford. Threapwood, Wrexham. Churton Ecology. (Unpublished) and;

Thorne, RG and Thorne, K. (2017). Addendum Ecological impact Assessment of Land at Mulsford. Threapwood, Wrexham. Churton Ecology. (Unpublished).

The great crested newt (GCN) is considered likely to be present within the boundary of the application site. We therefore consider 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 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 satisfy 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 the Local Planning 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.

It is NRW's view that the updated ecological submission satisfactorily address our requirements in respect of Great Crested Newts.

We request that any subsequent consent is subject to the imposition of the following planning conditions:

Condition 1 - The implementation of detailed great crested newt avoidance and mitigation measures;

Condition 2 - The implementation of long-term compensatory proposals including, appropriate sized compensation area (based on 'like for like') and appropriate tenure;

Condition 3 - The implementation of the long-term management, surveillance and wardening proposals;

Condition 4 - No commencement of development works until the Local Planning Authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to ahead, or Natural Resources Wales has informed the applicant that such a licence is not required.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect the GCN on this site, you would need a revised GCN report that takes account of such changes. Please consult us again if any updated or revised GCN 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.

Biosecurity

The submission regarding biosecurity is not adequate.

Condition 5 - The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

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 future 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

Condition 6 – The Implementation of an approved ecological compliance audit scheme to the satisfaction of the local planning authority.

We advise that any future consent includes the imposition of a condition that requires the implementation of an approved ecological compliance audit scheme to the satisfaction of the local planning authority. The purpose of this condition is to facilitate the provision of evidence that demonstrates implementation of the proposal accords with the provisions of planning (and other) statutory consents.

Manure Management Plan

We note the additional information with regards to the updated Manure Management Plan

It is noted that it states, “We can confirm that 1,000 tonnes of manure will be exported to the Anaerobic Digester at Lower Park Farm, Parkside, Rossett, and therefore no manure will be applied to the land at Mulsford, Bank Farm or Horse Manse Green Farm, all manure will be exported.”

It also states within the Manure Spreading Plan section of the Manure Management Plan that “All manure will be exported to the local AD plant and therefore no manure spreading plans have been included within this document.”

We note the letter from R J Tomlinson that states that they are able to receive the manure as soon as the shed is cleared out. Therefore, our requirement with regards to the manure heaps can be removed.

Air Quality

We have applied the new (post-April 2017 guidance) screening distance of 5km (that would exclude the SSSIs, SACs and Ramsar which are further than 5km). That means the only sites that need to be considered by NRW are River Dee SSSI, River Dee & Lake Bala SAC and Cloy Brook Pastures SSSI. We cannot comment on Well Rough & Long Plantation SSSI (1.8km) which is for Natural England to comment upon. You may wish to consult with Natural England separately in this regard.

Ammonia Report

We have applied the new thresholds of 1% for initial screening for both ammonia emissions and nitrogen deposition. For all of these sites, the ammonia and nitrogen contributions are 1% or below, so for planning terms they are acceptable. NRW Permitting Service will assess the proposals when put forward by the developer under The Environmental Permitting (England and Wales) (Amendment) Regulations 2013. As such, the impacts relating to the permit process should be assessed within that legal framework and will not be addressed

within this response. Our Permitting Service may require further detailed modelling carried out; you are advised to contact them for further advice. As such, NRW cannot confirm whether or not the proposals will be acceptable from a permit perspective at this stage.

Flood Risk & Management of Surface Water Runoff

A Flood Consequences Assessment (FCA) has been produced to support and inform development on the site. The contents of the FCA (Waterco Limited, w10377-170908-FCA) are generally commensurate to the scale and nature of the development proposals. The FCA shows that the proposed buildings are to be sited on land which is significantly elevated above the levels of Wych Brook, and therefore fluvial flood risks are considered low. We therefore have no flood risk objections to the development proposals.

The FCA acknowledges that the development, without appropriate mitigation, has the potential to increase flood risks both onsite and offsite if surface water runoff is not effectively managed. The FCA proposes that surface water runoff be directed to Wych Brook, at a restricted rate of 7.2 litres per second. Onsite surface water attenuation is to be provided in an attenuation pond, which is illustrated on drawing numbered RJC-MZ63-Huxley-05 (Drainage Plan). The proposed point of discharge and the proposed discharge rate appear acceptable. However, we would recommend that you refer the details of the application to your Flood Risk/ Drainage Team, who act as the Lead Local Flood Authority. Whilst we note that your Flood Risk Officer has already provided some comment on the application (email dated 11 October) they should be made aware that an FCA has now been submitted in support of the application. Once they have reviewed the surface water management strategy outlined in the FCA, they may wish to make further representations. The LLFA may recommend the imposition of appropriately worded planning conditions to ensure that the management of surface water runoff is effectively managed as part of this development. Further guidance on the LLFA's typical surface water drainage requirements are set out in their guidance available at:

http://www.wrexham.gov.uk/english/planning_portal/publications/surface_water.htm

Flood Risk Activity Permit – Informative

Wych Brook is designated a “main river”, and as such any works or structures located in, under, over or within 8 metres of the bank top of the watercourse may require a bespoke Flood Risk Activity Permit from Natural Resources Wales under the Environmental Permitting (England and Wales) Regulations, 2016.

Further advice and information about Flood Risk Activity Permits is available on our website:

<http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/?lang=en>

Environmental Management

Mulsford farm is on the boundary between Emral and Worthenbury Middle Water Framework Directive water bodies.

- Emral Brook (GB111067052211) Moderate ecological status (2015) – elements not currently meeting good classification status are Fish, Phosphate, Macrophytes (aquatic plants) and phytobenthos (algae).
- Worthenbury Middle (GB111067052220) poor ecological status (2015) – elements not currently meeting good classification status are Phosphate and Inverts.

Operation of the poultry unit, must not cause any deterioration of these water bodies or prevent them from getting to good status.

Wash down - It is noted in the application that all wash down water will be directed to a dirty water tank; we recommend this tank is inspected before washing down the sheds. The capacity of the tank should be able to cope with the volumes of water used during the wash down phase of the operation.

- Pollution Prevention Plan

The plan addresses the main issues of concern in terms of pollution prevention. With regards to the proposed dirty water drainage, an alarm system should be installed to ensure that the dirty water tank doesn't overflow, causing accidental release of contaminated water into surface water drains.

With regards to waste related issues you must ensure that:

- Any movement of waste must be undertaken in compliance with the Waste Duty of Care legislation.
- If inert waste material is to be imported to site for use of construction, the relevant exemption (U1) must be registered with Natural Resources Wales, provided that the exemption criteria are met.
- Any contaminated soil excavated from site must be removed and disposed offsite as hazardous waste, and its movement must be accompanied by hazardous waste consignment notes.

Further advice can be found at:

- PGG6 Working at construction and demolition sites (Please note this is an EA only guidance, however the principles are applicable in Wales) <https://www.sepa.org.uk/media/60125/ppg-6-working-at-construction-and-demolition-sites.pdf>
- PPG 26 Safe Storage: drums and intermediate bulk containers (Please note this is an EA only guidance, however the principles are applicable in Wales) <https://www.sepa.org.uk/media/60190/ppg-26-safe-storage-drums-and-intermediate-bulk-containers.pdf>
- GPP22 Dealing with spills <https://www.sepa.org.uk/media/60177/ppg-22-incident-response-dealing-with-spills.pdf>
- For advice on Waste duty of care applicable to construction and demolition please visit:

http://www.flytippingactionwales.org/files/2614/0120/3448/FtAW_Construction_Demolition_Bilingual.pdf

- For advice on U1 exemptions please visit: <https://www.gov.uk/guidance/waste-exemptions-using-waste>

Foul Drainage

It is noted on the drainage plan (RJC-MZ63-Huxley-05) that that foul drainage discharge will be to a septic tank.

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non-mains sewerage.

The written consent of NRW or registration for exemption by the developer will be required for any discharge e.g. foul drainage to a watercourse/ditch etc., from the site and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website www.naturalresourceswales.gov.uk / www.cyfoethnaturiolcymru.gov.uk

Environmental Permitting

As the proposal accommodates in excess of 40,000 birds, an Environmental Permit under the Environmental Permitting Regulations 2010 will be required from Natural Resources Wales. No Environmental Permit application has been received to date.

If more than 20m³/day of water will be abstracted from the proposed borehole, then this will also need an Environmental Permit (groundwater abstraction licence).

If any toilet/sanitary facilities, will be proposed, the private foul drainage system associated with this development will also require an Environmental Permit under the Environmental Permitting Regulations 2010, from Natural Resources Wales, unless an exemption applies. The applicant is advised to contact Natural Resources Wales on 0300 065 3000 for further advice and to discuss the issues likely to be raised. The applicant should be aware that a permit may not be granted. Additional guidance on 'Environmental Permitting' can be accessed:

<http://naturalresources.wales/permits-and-permissions/water-discharges/discharges-to-surface-water-and-groundwater/?lang=en>

We advise that you engage with NRW's Permitting Service as early as possible and at pre-application stage, by calling 0300 065 3000 or sending an enquiry to:

enquiries@naturalresourceswales.gov.uk

The standard determination period for such applications as above is 4 months from the date the application is "duly made".

The grant of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

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.

Yn gywir / Yours sincerely,

Siôn M. Williams

Siôn M. Williams

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales