

Wrexham County Borough Council

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Ffôn/Phone: (0300) 065 3787

Date: 15th March 2018

Dear Sir/Madam,

**CHANGE OF USE OF DISUSED AGRICULTURAL LAND TO RESIDENTIAL
ACCOMMODATION FOR GYPSY AND TRAVELLER SITE (7 NO. PITCHES)
LAND ADJ GRAIG WEN FARM, OFF BRYMBO ROAD, BWLCHGWYN**

Thank you for referring the above planning application received at our office 28th February 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: 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.

Requirement 2: 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.

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.

Foul Drainage

We have significant concerns with this application as submitted as it appears as though 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 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 1: 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.

Protected Species

Regulations 9 of the Conservation of Habitats and Species Regulations 2017 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 (2009/147/EC) so far that they might be affected by those functions.

The application is supported by a protected species survey. (Reference Molesworth, J Roberts, P. (2018). Preliminary Ecological Appraisal (PEA) :Land adjacent to Graig Wen Farm, off Brymbo Road, Bwlchgwyn, Wrexham, LI11 5UB. Pearce Environment Limited. Unpublished.

Bats

The applicant's ecological submission considered the presence of bats. The results indicated the absence of any roosts NRW consider the survey and assessment to be satisfactory for the purposes of informing the planning decision making process

Great Crested Newts

The applicant's ecological submission considered the preliminary potential in respect of the presence of the great crested newt (GCN). The results confirmed the presence of the species within one of the nearby ponds. NRW consider the survey and assessment to be satisfactory for the purposes of informing the planning decision making process

We note that the ecology report submitted in support of the above application has identified the potential for GCN to be present at the application site. However; the ecological report recommends further survey is required for the purposes of informing the planning decision making process. GCN 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 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 on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Although a GCN assessment has been submitted, we do not consider that there is adequate information to assess potential effects of the proposed development on GCN that may be present at this site. We therefore concur with advice provided in respect of the need for further surveys. If subsequently shown to be present, appropriate mitigation measures will be required.

Requirement 2: 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.

Therefore, we recommend that the application is not determined until such time as 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.

Dormouse

NRW concur with the assessment and conclusions in respect of dormouse

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 note that Rhododendron was recorded at this site. 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 1: 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.

Condition 2: 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.

Waste

Any waste excavation material or building waste generated during the course of the development must be disposed of satisfactorily and in accordance with Section 33 and 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.

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 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.

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.

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

Yn gywir / Yours' faithfully,

Ruth Prichard

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Deialu uniongyrchol/Direct dial: (0300) 065 3787 **Siaradwr Cymraeg / Welsh Speaker**



cc: