

Wrexham County Borough Council

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Ffôn/Phone: (0300) 065 3787

Date: 6<sup>th</sup> March 2018

Dear Sir/Madam,

**REMOVAL OF SCRAP YARD USE AND DEMOLITION OF ASSOCIATED BUILDING  
ERECTION OF 7 NO DETACHED DWELLINGS, ACCESS, GARAGES AND GARDENS,  
CREATION OF WILDLIFE MEADOW AND NEWT MITIGATION HABITAT AREAS  
FORMER LEGACY CAR DISMANTLERS AND SCRAP YARD**

Thank you for referring the above planning application received at our office 21<sup>st</sup> February 2018.

We recommend that that you should only grant planning permission if the scheme can meet the following requirement and you attach the conditions listed below. These would address significant concerns that we have identified. Therefore, we would not object provided the requirement is met and you attach the conditions to the planning permission.

Requirement: European Protected Species (EPS): submission of sufficient evidence to demonstrate that the proposed development satisfies derogation provisions under the Habitats Directive and Conservation of Habitats and Species Regulations.

Condition 1: Geoscience: Universal condition for development on land affected by contamination

Condition 2: Geoscience: Verification Report

Condition 3: Geoscience: Long-term monitoring

Condition 4: Geoscience: Unsuspected contamination

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

Condition 6: The submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA

**Contaminated Land**

The additional information relates to ground gas and does not address the questions raised in our previous letter regarding the risks to controlled waters from a potentially significantly contaminated site. As such our previous comments in relation to potential contaminated land remain valid.

We have looked in particular at the 'Stage 1 and 2 Contamination Investigation and Assessment' dated September 2015, Report reference R2122-R01-v2, by Smith Grant Partnership.

The site is in an area particularly affected by previous contaminative uses. A limited investigation has been carried out with respect to controlled waters. Three boreholes were drilled; only one of

which yielded sufficient water to allow samples to be taken. No leachability samples were carried out. It is also noted that the concentrations of certain contaminants increases with depth. The report concludes that it is likely that water moves vertically downwards, as opposed to laterally or horizontally. The site is underlain, albeit at depth, by a principal aquifer and the Talwrn Boreholes are in close proximity to the site.

It is proposed to carry out further targeted soil sampling in the areas of most elevated contamination. We advise that this further investigation is extended to include an investigation to assess potential risks to controlled waters. We would expect the investigation to include leachability testing and, if possible groundwater sampling. Based on the results the risks to controlled waters should be reassessed.

Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity as the site sits on a Secondary A aquifer underlain by a Principal aquifer and boreholes that were used for public water supply are in close proximity; and contamination has been identified on the site and on the immediately adjacent sites.

#### Condition 1: Geoscience: Universal condition for development on land affected by contamination

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

#### Condition 2: Geoscience: Verification Report

Prior to commencement of development a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan

(a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

The verification report is required to demonstrate that the remediation criteria relating to controlled waters have been met,

and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

#### Condition 3: Geoscience: Long-term monitoring

Long-term monitoring of the site will ensure that longer term remediation criteria relating to controlled waters have been met and this will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

#### Condition 4: Geoscience: Unsuspected contamination

It is difficult for any site investigation to fully characterise a site. It is possible that there may be unidentified areas of contamination at the site resulting from the past industrial uses of the site that could pose a risk to controlled waters if they are not remediated.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

### **Foul Drainage**

As stated within the submitted documentation as part of the application form the applicant will be required to apply for an Environmental Permit under the Environmental Permitting Regulations 2010 for the package treatment plant. Additionally, NRW will require the applicant to carry out a supplementary assessment due to its location within a source protection zone. The applicant should provide sufficient factual information, assessment and interpretation in accordance with EPR guidance to allow NRW to make a determination.

The applicant is advised to go to <https://naturalresources.wales/apply-for-a-permit/water-discharges/register-your-septic-tank-package-sewage-treatment-plant/?lang=en> for further advice. It must be noted that a permit may not be granted.

Our comments are provided without prejudice to any decision NRW may make on any application made to it for an Environmental Permit under the Environmental Permit Regulations 2010 (EPR).

## Protected Species

The applicant has submitted an ecological report for the purposes of informing the public decision making process. (Reference: Molesworth, J. (2017). Ecological Management Plan (EMP) at Former Scrap Yard, Esclusham Mill, Llwyneinion, Rhosllanerchrugog, Wrexham, LI14 4ET. Pearce Environment Ltd. Unpublished

### Great Crested Newt

The application site has been subject to survey and assessment in respect of the great crested newt. The survey confirmed the presence of the species. In our view the survey and 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 classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

Requirement: European Protected Species (EPS): submission of sufficient evidence to demonstrate that the proposed development satisfies derogation provisions under the Habitats Directive and Conservation of Habitats and Species Regulations.

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 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.

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. However, we advise that further information is required respect of:

- (A) Long term surveillance and records management. We advise that the methodology and reporting mechanism to be used is the online Wales GCN monitoring scheme;
- (B) Long term tenure of the compensation area will need to be confirmed;
- (C) 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:

The submission and implementation of compensatory proposals to the satisfaction of the LPA

The submission of proposals concerning long term, surveillance and wardening to the satisfaction of the LPA

No commencement of development works until your authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations (2017) 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 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.

**Bats**

We consider the assessment in respect of bats, water voles, otter, badger to be satisfactory. We therefore concur with the conclusions.

**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.

Condition 5: 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 of the scheme. In this case, we therefore 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 to the satisfaction of the LPA

Condition 6: The submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA

### **Waste Management**

Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily in accordance with duty of care requirements under section 34 of the Environmental Protection Act 1990. The waste shall be transported using registered waste carriers to suitably permitted or exempt sites. Transfer notes shall be kept for each load for a minimum of 2 years.

### **Environmental Permit**

The site currently benefits from an Environmental Permit. The Environmental Permit is still under the name of the lands previous user (David Kelly of Legacy scrapyards). The holder of the permit may submit an application to surrender this environmental permit if there is no intention to use it or if the permit is not surrendered then the permit holder will have to continue paying an annual [www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk) subsistence fee and the environmental permit will show up in any public register searches as being active.

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**

**Ymgynghorydd Cynllunio Datblygu / Development Planning Advisor**

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



cc: