

Matthew Phillips
Planning Control Department
Wrexham County Borough Council
16 Lord Street
Wrexham
LL11 1LG

Date: 26th July 2016

Dear Mr Phillips,

**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
LEGACY CAR DISMANTLERS AND SCRAP YARD, LLWYNEINION ROAD, LEGACY, LL14
4ET**

Thank you for consulting us on the above application, which we received on the 1st July 2016.

We have significant concerns with the proposed development as submitted, and therefore recommend that planning permission should only be given if the following requirements can be met. We consider it likely that the concerns can be addressed and would not object provided the proposal meets the requirements we have identified.

Requirements:

Requirement 1 - that any permission should include the 4 Land Contamination conditions

Requirement 2 - that any permission should include the 5 Great Crested Newt conditions

Requirement 3 - that any permission should require the submission and implementation of a Biosecurity Risk Assessment and Ecological Compliance Audit.

Land Contamination

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.

We advise that the above is secured by appropriate conditions, as follows:

Condition: 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.

Reason: 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: 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.

Reason: 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: 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.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Condition: 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.

Reason: 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.

Protected Species

The applicant has submitted an ecological report for the purposes of informing the public decision making process (reference: Macken, W. (2016). Ecological Appraisal. Land at Scrap Yard, Esclusham Mill, Llwyneinion, Rhosllanerchrugog, Wrexham, LL14 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. It is therefore satisfactory for the purposes of informing the planning decision making process.

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 2010 (as amended) 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 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 and post construction phases of the proposal have the potential to adversely affect GCN. We therefore consider that further information is required for the purposes of ensuring the appropriate implementation of the proposal. Information requirements include details concerning the clearance of individuals from working areas during construction; consideration of incidental capture/killing issues; and long term compensatory proposals. We consider that a dedicated long term compensation area will be required together with resources for long term management, wardening and surveillance.

We consider that the proposal does satisfactorily 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 permission includes the following planning conditions or obligations (such as a Section 106 Agreement or a unilateral undertaking):

- o The submission and implementation of detailed great crested newt avoidance and mitigation measures. This to include detail of exclusion and barrier fencing;
- o The submission and implementation of compensatory proposals. This to consider material issues associated with tenure;
- o A management plan that includes provisions concerning long-term management, surveillance and tenure. This submission to include the long term provision of resources;
- o Measures to be carried out in order to prevent incidental capture/killing of amphibians following completion of the construction phase of the proposal;

o The inclusion of a planning condition to any planning permission that prevents the 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 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 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 permission and the licence application may affect the outcome of a licence application.

Other species

We consider survey and assessment in respect of bats, dormice, water vole, otter and badger to be satisfactory. We therefore agree 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.

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 permission 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.

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

subsistence fee and the environmental permit will show up in any public register searches as being active.

Waste Management and Pollution Prevention

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.

The proposed sewage treatment plant associated with this development will 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:

<https://www.gov.uk/environmental-permit-check-if-you-need-one>

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).

Where a condition has been imposed which has been suggested by NRW or which meets NRW's objective, the Local Planning Authority should consult with NRW to secure compliance with the condition prior to its discharge. A copy of the subsequent decision notice would be appreciated.

Yn gywir / Yours' faithfully,



Mr. GARETH THOMAS

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Deialu uniongyrchol/Direct dial: (0300) 065 3786 **Siaradwr Cymraeg / Welsh Speaker** 

cc: Nigel Thorns Planning Consultancy