

Wrexham County Borough Council
Planning Officer
16 Lord Street
Wrexham
LL11 1LG

Date: 8th September 2016

Dear Sir/Madam,

**CHANGE OF USE OF FOREMER CONSTRUCTION COMPOUND AND CONSTRUCTION OF
AN ADVANCED ANAEROBIC DIGESTION (AAD) SCREENING BUND
FIVE FORDS WASTE WATER TREATMENT WORKS CEFN ROAD CROSS LANES WREXHAM**

Thank you for referring the above planning application received at our office 26th July 2016.

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. We would object if the scheme does not meet these requirements.

Species

Background Legislation

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 (2009/147/EC) so far that they might be affected by those functions.

Survey

The applicant has submitted an ecological report for the purposes of informing the public decision making process. (References

Brown. J. (2016). Five Fords WwTW. Advanced Anaerobic Digestion: Preliminary Ecological Appraisal. Mott McDonald Bentley. Unpublished

Brown. J. (2016). Five Fords WwTW. Advanced Anaerobic Digestion: Great Crested Newt Survey. Mott McDonald Bentley. Unpublished.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 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 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 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 and operational 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 and operation 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 compensation area will be required together with resources for long term management, wardening and surveillance.

We recommend that no approval should be given until a framework document is prepared that outlines how component outstanding issues associated with the conservation of the species will be addressed by the applicant in the short and long term.

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

- The submission and implementation of detailed great crested newt avoidance and mitigation measures. This to include detail of exclusion and barrier fencing ;
- The submission and implementation of long compensatory proposals. This to consider material issues associated with tenure;
- A management plan that includes provisions concerning long term management, surveillance and tenure. This submission to include the long term provision of

resources;

- Measures to be carried out in order to prevent incidental capture/killing of amphibians during construction and operational phases of the proposal;
- 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 proceed, 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 to be satisfactory. We therefore concur with the conclusions.

Badgers

We consider survey and assessment in respect of 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 are aware of invasive species such as Himalayan Balsam and Japanese knotweed being recorded in the environs of the application site (on the banks of the River Clwyddog). 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 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.

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.

Recommendation

The proposal at this location must provided:

- (a) A Conservation framework document is submitted that outlines how component issues associated with the great crested newt will be addressed in the short and long term; and
- (b) Any future consent is subject to the imposition of planning conditions or obligations in respect of great crested newt.

The ecological submission fails provide a satisfactory framework or detail.

Air Quality

The MWth will need to be provided so that the relevant screening distance which determines the designated sites to include in the air pollution impacts assessment.

Environmental Permitting (England and Wales) Regulations 2010 (as amended)

The anaerobic digestion plant is currently operated under a T21 exemption, as specified by schedule 3 of the above Regulations.

The proposed development at Five Fords may take the Operator above the exemption thresholds, consequently they will need to apply to vary their existing environmental permit (AP3139FT) to include the advanced anaerobic digestion plant as a schedule 1 listed activity.

The Operator should contact Natural Resources Wales to discuss the implications of the proposed development on the Environmental Permit

Contamination

It is not fully clear from the submitted plans and cross sections whether any part of the proposed development would be below ground surface and therefore potentially be a sub water table structure.

The site is located adjacent to the River Clywedog and on drift deposits, which are likely to be in hydraulic connection with the river. Any below ground structure has the potential to disturb the groundwater flow to the river and if these structures are holding hazardous substances, there is the potential for a direct discharge of a hazardous substance into the groundwater if it fails and leaks.

We therefore are unable to comment further on the groundwater resources issues at this site until it can be confirmed whether there will be any below ground structure that will be sub water table. If there are any sub water table structures then a groundwater risk assessment will be required to support this application. The risk assessment should include the depth of the water table and it seasonal fluctuations and mitigation measure employed to monitor for potential leaks.

Yn gywir / Yours' faithfully,

Ruth Prichard

Swyddog Cyswllt Cynllunio / Planning Liaison Officer

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



CC: