

R I C H A R D S

M O O R E H E A D & L A I N G L T D

ENGINEERING, ENVIRONMENTAL and LANDSCAPE SPECIALISTS

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2909/5 - protected species

1st July 2011

If telephoning please ask for: Stephen Blunt

North Wales Minerals and Waste Planning Service
c/o Flintshire County Council
County Hall
Mold
CH7 6NF

FAO Hannah Parish, Senior Minerals and Waste Officer

Dear Sirs,

RESTORATION OF FORMER SAND AND GRAVEL QUARRY AT CEFN Y BEDD P/2011/0272

Further to the comments of consultees, and our site meeting on 27th June, we write with further information and explanation about the proposals which we trust will address the points raised.

PROTECTION OF OTTERS DURING THE WORKING PHASE

Otter survey (extract from Supporting Statement)

- 6.3.9 An otter spraint was found 30 metres from the boundary of the site, alongside a small drainage discharge leading to the River Alyn at grid reference SJ3132 5581. The river is known to be used by otters. A specific search for evidence of otters was undertaken on 23rd August to identify whether the site is being used as a resting place. No such evidence (holts or 'couches') was found although 3 further spraints were observed.

Working method statement

1 The working site lies some 60m from the River Alyn at its nearest point, and is separated from the river by a steeply sloping bank topped by Wat's Dyke. The river is at an elevation of approximately 64m AOD, some 20m below the ridge formed by Wat's Dyke. The boundary of the former mineral working lies at approximately 76m AOD in the south of the site, rising to 80m AOD alongside the ABC Nursery in the north-western corner. The ridge between the former mineral working and the river is densely wooded, and a fringe of more recent self-sown trees has now established on the edge of the mineral working.



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2 The proposed filling will extend to the edge of the former mineral working where this is accessible. This will require the removal of the self-sown trees, and a selection of these will be transplanted to designated areas on site. The mature trees will not be affected.

3 The proposed works are not expected to have any impact on otters known to use the river corridor, because:

- Otters are active primarily at night whereas site working will be limited by condition to daytime hours set out in the planning application, viz:

Table 1 Proposed hours of working

Activity	Time periods, hours	Days of week*
Filling, soil placement and restoration.	07.00 - 18.00	Mon – Fri
	07.00 - 13.00	Sat
Vehicle movements	07.00 - 18.00	Mon – Fri
	07.00 - 13.00	Sat

*Excepting Bank Holidays and the Saturday preceding a Bank Holiday Monday.

- Otters ‘lie up’ during the day in areas of dense cover such as the woodland. The woodland lies outside the application boundary. As noted in the Supporting Statement para 6.3.9, no laying up places were found within the site.
- The existing buffer of approximately 60m between the river and the area of works will be maintained throughout the works programme. The topography of the ground (steep banks) within this buffer means that it would not be possible for construction plant inadvertently to encroach on this zone. For these reasons no special cordons are required specifically for Otters. However, this edge is likely to be fenced as part of the newt protection measures, and no mature trees will be removed from the site.
- Otters avoid noise and the disturbance of people or dogs, machines and artificial lighting. The site has recently been used intensively by motorcyclists, without authorisation, and so will be of low attractiveness to otters for the purpose of daytime refuge. Only the pond at the southern edge is likely to offer foraging for frogs, eels and other food during damp conditions. This area will be protected as part of the great Crested Newt licence for the works. There will be no site lighting.
- In the event that site work should commence on a day when there is an otter within the site boundary, the natural ‘escape route’ back to the woodland corridor on the western boundary would remain open as the access for personnel and machinery is from Park Road to the east. Otters would not therefore be cornered or driven onto the road.
- Site staff would be given a ‘tool-box’ talk to brief them on what to do should an otter be seen within the working site.
- There is no direct drainage from the site to the river, and the site would have no sources of pollution apart from accidental spillage from machinery. As stated in the Supporting Statement para 2.8.2, there will be no storage of fuel on site or re-fuelling

on site. Spill kits will be kept in the cabs of plant and machinery should a fuel leak occur. Any spilled fuel would then be attenuated by a minimum of 60m lateral extent of existing ground before it could reach the River Alyn which flows for some 10 miles to its confluence with the River Dee SAC.

- The site will be licensed only to accept inert materials, regulated by Environment Agency Permit, and so there is no potential for leachate to affect the River Alyn.

OUTLINE GREAT CRESTED NEWT LICENCE AND MITIGATION PROPOSALS

Although the law provides strict protection to the GCN, it also allows this protection to be set aside (derogation) under section 41 of the regulations through the issuing of licences. For development works in Wales these licences are currently determined by the Welsh Assembly Government advised by the Countryside Council for Wales (CCW). They are known as European Protected Species (EPS) licences.

Where a lawful operation is required to be carried out, and this operation is likely to result in an offence under the Regulations, an EPS licence may be obtained from the Welsh Assembly Government to allow the operation to proceed. In accordance with the requirements of Section 53 of the Regulations, an EPS licence can only be issued where the derogation requirements are satisfied: the proposal meets all of the derogation requirements. The derogation requirements consist of a series of 'tests' as follows:

1. *The proposal is necessary 'to preserve 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';*

The site is currently being used as a focal point for anti-social behaviour including underage drinking, vandalism, lighting of fires and the unauthorised use of "scrambler" type motorcycles. The proposed restoration of the site will curtail these activities, resulting in a benefit to the local public. Once completed the land will be used as hay meadow and for agricultural grazing, contributing to the local economy which is primarily agricultural. The habitats created by the restoration will be of conservation importance for the environment as the habitat will be restored to lowland meadow, hedgerows, open mosaic habitat and freshwater ponds (Ref. para. 6.4.25 and 26 of the Supporting Statement): these are all key Local Biodiversity Action Plan (LBAP) habitats which are of primary importance for the environment. If left unmanaged, the environmental integrity of the site will be compromised as described in point 2.

2. *'There is no satisfactory alternative';*

The only other alternative is to allow the site to degrade environmentally through the continued misuse of the area by motorcyclists. The damage caused by this activity is

increasing significantly each year as the area becomes better known. Encroachment on the Great Crested Newt freshwater habitat has already begun this year (2011). No other restoration proposals are financially viable.

3. *The proposal 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.'*

Mitigation proposals would be implemented as part of the European Protected Species (EPS) licence (detailed in the Supporting Statement). This would include fencing and clearing any newts from the working area of the site (it is anticipated that very few will be present due to the poor quality habitat and disturbance). This would prevent any harm to the population during the works. The best newt habitat including the ponds would be retained, and the habitat here improved by the addition of log and rock piles increasing the hibernating and foraging potential of the site. The proposals would immediately reduce the disturbance to this part of the site, whilst access for the animals to better adjacent habitat including hedgerows, ditches, woodland and grassland would be retained. In the long term the creation of the lowland meadow would improve the habitat in the natural range of these animals, maintaining their ability to breed and population at a favourable conservation status.

We trust that these comments provide sufficient explanation of the proposals as they relate to the queries and concerns raised, but please contact us if you have any further queries.

Yours faithfully,

Stephen Blunt

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