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Wrexham County Borough Council,
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22/07/2021

Dear Sir/Madam,

**PROPOSAL: CONSTRUCTION OF NEW BIOMASS BOILER HOUSE AND FUEL STORE,
ERECTION OF NEW KILNS, CONSTRUCTION OF NEW DRY PALLET STORE,
ASSOCIATED GROUND WORKS**

**LOCATION: JAMES JONES AND SONS PALLETS AND PACKAGING LTD, OAK ROAD,
WREXHAM INDUSTRIAL ESTATE**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with additional information about the above, which we received on 13/07/2021.

We continue to have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following condition to any planning permission granted and if the document identified below is included in the approved plans and documents condition on the decision notice:

Condition: Protected Species (Great Crested Newt)

Approved document: Ellson, M. (2021). Proposed Development at James Jones & Sons Ltd, Off Oak Road, Wrexham Ind Estate – Ecological Appraisal. Unpublished

Please note, without the inclusion of this condition and document we would object to this planning application. Further details (including our advice in relation to protected sites and aerial emissions) are provided below.

Protected Sites and Aerial Emissions

Special Area of Conservation (SAC)

Our previous response dated 02/07/2021 (our ref: CAS-156425-G1R7) explained we have concerns that a significant effect from the proposed development on the River Dee and Bala Lake SAC cannot be ruled out. The application is located within 2.2km of the SAC.

We therefore advised that further information should be submitted to enable the Local Planning Authority to carry out a Habitats Regulations Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) prior to the determination of the planning application. The HRA should demonstrate that there will be no adverse effect on site integrity.

We have reviewed the following submission shared with us on 13/07/2021:

- Detailed Air Quality Assessment for a Biomass Fired Medium Combustion Plant; Environmental Visage Ltd, Matthew Wiese, July 2021

A permit for medium combustion plant (MCP) will likely be required under The Environmental Permitting (England and Wales) Regulations 2016. Therefore, the following advice is provided without prejudice to the separate permitting application process (please see Advice for the Developer section below). We provide the following comments on the conclusions of the Detailed Air Quality Assessment.

Table 12: NOx results

Annual Process Contributions (PC) are below 1% and therefore can be screened out as they would not have a likely significant effect alone. For the 24 hour results the PC are considerably less than 10% and therefore can also be screened out as there would be no likely significant effect alone.

Table 13: Nutrient Nitrogen and Acid Deposition

We note the “No critical load assigned” statement for the E1 receptor [River Dee SSSI]. Terrestrial habitat (*i.e.* saltmarsh: 20 – 30 kgN/ha/yr) is present, but this is located further out in the estuary beyond the 2km and 5km screening distances. Therefore, while the above statement is technically incorrect, we do not consider it to be a material consideration in this case because the contribution of 0.009kgN/ha/yr would have a PC of 0.045% and therefore would not be significant alone. However, for receptor E2 [River Dee and Bala Lake SAC], that statement is correct. For acid deposition, we would agree that no assessment is required.

Therefore, we advise that the proposal is not likely to have **direct** significant effects on any National Site Network sites alone. However, we advise that the relevant competent authority should record an in-combination assessment for the River Dee and Bala Lake SAC. In light of the Wealden judgement, we advise that (even when the Process Contribution is less than 1%), consideration of other relevant projects may be required to ascertain whether there are possible indirect effects.

For Annual NOx and 24-hr NOx, the background values are likely to be low and additional sources are unlikely to cause the total amount of annual NOx and 24-hr NOx to exceed the appropriate critical levels.

The features of the SAC are not sensitive to nutrient nitrogen deposition, but we advise that the supporting habitats of the features within the screening distance of 5km are considered.

If there are any changes to the proposed development which may affect the consideration of potential environmental impacts, please consult us again before you determine the application.

Site of Special Scientific Interest (SSSI)

As stated in our previous response dated 02/07/2021 (our ref: CAS-156425-G1R7), Natural Resources Wales consider the proposals have the potential to impact upon the River Dee SSSI. The application site is located within 1.8km of the SSSI.

Please see our advice in respect of the Special Area of Conservation above. Providing the in-combination effects referenced above for the SAC are adequately assessed, NRW advise that the features of the SSSI will also be adequately safeguarded.

Protected Species

As stated in our previous response dated 02/07/2021 (our ref: CAS-156425-G1R7), we have reviewed the following submission:

- Ellson, M. (2021). Proposed Development at James Jones & Sons Ltd, Off Oak Road, Wrexham Ind Estate – Ecological Appraisal. Unpublished.

Great Crested Newt

We note that the Ecological Appraisal (reference above) submitted in support of the above application has identified that Great Crested Newt (GCN) are present at the application site.

GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) and they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

We advise that the proposed development is likely to harm or disturb GCN or their breeding sites and resting places at this site. We therefore advise that it is carried out under licence.

We consider that the construction of the development and its subsequent operation is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN affected by the proposal, provided that any subsequent consent is subject to the imposition of appropriate planning conditions and obligations.

Condition: No development shall commence until a GCN Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should build upon the principles outlined in the Ecological Appraisal and include, but not necessarily be limited to the following.

- The submission (to include proposed timescales and reporting requirements) of further details and associated plans concerning GCN avoidance and mitigation measures including, but not limited to:
 - fence design, specifications and locations;
 - considerations of access issues;
 - fence monitoring and maintenance requirements; and
 - supervised removal.
- The submission (to include timescales and reporting requirements) of further details concerning on-site or off-site compensatory proposals including plans, extent, access, current and proposed changes to tenure. Details shall identify areas of terrestrial and aquatic habitat to be retained, enhanced and created.
- The submission of a long-term site management plan (not less than 25 years) that includes:
 - defined aims and objectives;
 - habitat management prescriptions;
 - contingency measures if fish or invasive non-native species (INNS) are detected;
 - proposals that are capable of being implemented in the event of failure to undertake or to appropriately undertake identified or contingency actions;
 - site liaison and wardening;
 - licensing requirements for undertaking habitat management and surveillance;
 - current and any proposed changes to tenure of the compensation area;
 - [freehold] tenure of the compensation to be approved by the Local Planning Authority;
 - persons or bodies responsible for undertaking management and surveillance together with required skills and competencies;
 - reporting requirements; and
 - proposed dates for updating or revising the management plan.
- The submission of measures designed to prevent the accidental capture/killing of GCN (amphibians) during operational phases of the scheme (i.e. post construction). This is essentially the installation and maintenance of an amphibian-friendly surface water management system that does not include gully pots (or other similar features).
- Details of timing, phasing and duration of construction activities and conservation measures.
- Timetable for implementation demonstrating that works are aligned with the proposed development.
- Ecological Compliance Audit 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 (KPIs) that are to be used for the purposes of assessing and evidencing compliant implementation of proposals.

- Persons responsible for implementing the works.
- Post-construction monitoring and record dissemination for a period of not less than 25 years. All ponds to be added to the [Wales Great Crested Newt Monitoring Scheme](#), with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual abundance counts and Habitat Suitability Index (HSI) assessments. Each water body shall be individually numbered on site.

The GCN Conservation Plan shall be carried out in accordance with the approved details.

Justification: To ensure that an approved GCN Conservation Plan is implemented, which protects GCN affected by the development.

Planning Obligations

As stated in our previous response dated 02/07/2021 (our ref: CAS-156425-G1R7), we suggest that any planning obligation (Section 106 Agreement/Unilateral Undertaking) includes consideration of the following suggested provisions in respect of ecology. We advise that suggested provisions be incorporated within any preliminary "Heads of Terms" document:

- commuted sum [if transfer of ownership of the ecology area is proposed];
- biennial liaison meetings;
- management plan review; and
- tenure and any proposed changes to tenure shall be carried out to the satisfaction of the Local Planning Authority.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect the 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

As stated in our previous response dated 02/07/2021 (our ref: CAS-156425-G1R7), we note that the Ecological Appraisal submitted in support of the above application has concluded:

The proposal would not have any impact on (roosting) bats. Although the unmanaged grassland and scrub resource within the proposed development site is likely to be of moderate to high potential value for foraging bats, it represents only a small part of a much larger area of similar habitat. The scrub is not considered likely to provide any particular value

for commuting bats at this location. No significant impacts on foraging / commuting bats are anticipated.

From the information submitted, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document '*Natural Resources Wales Approach to Bats and Planning* (2015)'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended).

As this is a lower risk case for bats, we consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Furthermore, we advise that the proposed development is not likely to harm or disturb the bats or their breeding sites and resting places at this site, provided the avoidance measures described in the Ecological Appraisal are implemented.

The report must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

Please consult us again if any further information shows that this is no longer a lower risk case.

Natural Resources Wales would refer the Local Authority to the Chief Planning Officer's letter dated 1 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

Protected Sites and Foul Drainage

As stated in our previous response dated 02/07/2021 (our ref: CAS-156425-G1R7), we note the application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). As you are aware, on the 21st January 2021, we published an evidence package outlining phosphorus levels for all river SACs across Wales. As part of this package, we issued a [Planning Position Statement](#), in which we advised that any proposed development that might increase the amount of phosphate (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC. Therefore, such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC. We have also issued [Planning Advice](#) (May 2021) which gives specific advice in respect of foul drainage arrangements for new developments.

We note from the information submitted that the development has the potential to increase the amount of phosphorus being discharged from the site. As such, we refer you to our [Planning Advice](#) and advise you to seek further information from the applicant. We note that information has already been submitted in respect of mains sewer connection. However, we advise you to seek further information as identified in the bullet point list given in the

section titled 'What does this mean for development proposals involving connection to public wastewater treatment works' of that advice.

Provided this advice is followed and you are able to conclude that the development is not likely to have a significant effect on the SAC, we would have no objection to the proposal. However, should you conclude that the proposed development is likely to have a significant effect on the SAC, please consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Other Matters

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

Advice for the Developer

The Environmental Permitting (England and Wales) Regulations 2016

We suggest that the operator reviews the requirements of The Environmental Permitting (England and Wales) Regulations 2016 (as amended, including SI 2018 No. 110 The Environmental Permitting (England and Wales) (Amendment) Regulations 2018) on implementing the requirements of the Medium Combustion Plant Directive (MCPD) and new controls on Specified Generators.

The revised guidance can be found at the following link:

<https://www.gov.uk/government/collections/medium-combustion-plant-and-specified-generator-regulations>

If the proposed plant will not burn waste biomass and is between 1MWth and 20MWth the operator should refer to the following guidance: [Medium combustion plant: when you need a permit](#). MCPD regulations may apply to the plant but it will not need a Part B permit.

If the proposed plant will burn waste biomass and its capacity is less than 3 tonnes per hour, MCPD regulations apply and the plant would also be a Part B, section 5.1 activity.

MCP of 1MWth equates to around 200 to 250 kilograms per hour depending on the calorific value of the waste. Plants under 1MWth do not need a MCPD permit.

The operator may approach NRW's Permitting Service for permit pre-application advice if necessary.

If the site operators wish to use waste to power their biomass boiler *i.e.* pallets, then they will have to register for a U4 Waste Exemption. The information regarding this exemption as well as the relevant forms can be found at [U4 waste exemption: burning waste as fuel in a small appliance - GOV.UK \(www.gov.uk\)](http://www.gov.uk/guidance/u4-waste-exemption-burning-waste-as-fuel-in-a-small-appliance).

The location of the application site is within the Dee Water Protection Zone and as a result will require a consent application to be submitted before any work using controlled substances can proceed. Information and the relevant forms can be found at: [Natural Resources Wales / Dee Water Protection Zone](http://naturalresources.wales/dee-water-protection-zone).

Environmental Management

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 the Environmental Permitting Regulations 2016. 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.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 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.

Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- before it is collected, disposed of or recovered
- to identify the controls that apply to the movement of the waste
- to complete waste documents and records
- to identify suitably authorised waste management options
- to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provide information on how to classify waste and register as a waste carrier or hazardous waste producer:

<https://naturalresources.wales/permits-and-permissions/waste/?lang=en>

<https://naturalresources.wales/permits-and-permissions/waste/waste-permits/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

If you have any queries on the above, please do not hesitate to contact us.

Yours faithfully,

Tristan Williams

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales