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Wrexham County Borough Council,
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ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

20/07/2021

Dear Sir/Madam,

PROPOSAL: DEMOLITION OF EXISTING BUILDING AND ERECTION OF 9 DWELLINGS

LOCATION: MORETON INN, RUABON ROAD, RUABON, WREXHAM

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 05/07/2021.

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding protected sites, protected species and foul drainage. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding protected sites and biosecurity should be attached to any planning permission granted and the document identified below should be included in the approved plans and documents condition on the decision notice. Without the inclusion of this condition and document we would object to this planning application.

Approved document: Dusk Survey Results (June 2021; Tyrer Ecological Consultants Ltd.)

Protected Sites

Special Area of Conservation (SAC)

We have concerns that a significant effect from the proposed development on the Johnstown Newt Sites Special Area of Conservation (SAC) is likely. The application is located within 100m of the SAC. This site supports a nationally important population of Great Crested Newt (*Triturus cristatus*).

We advise that further information is submitted to carry out a Habitats Regulation 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.

Without prejudice to your assessment, our view that the proposal is likely to cause a significant effect on the conservation objectives of this site has considered in-combination direct and indirect impacts including those associated with potential in-combination increases in recreational pressures within the SAC.

Furthermore, we consider that mitigation proposals are likely to be required for the purposes of addressing indirect impacts on the SAC, including those associated with potential in-combination increases in recreational pressures. We advise that planning conditions or obligations could be used to evidence consideration of and as a mechanism for addressing these impacts. We suggest that consideration be given to both site design and for a commuted sum to support off-site actions. Local supplementary planning guidance may also assist in approaches to evidence consideration of this issue.

Should you also conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being consulted on your appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Site of Special Scientific Interest (SSSI)

We have concerns that the proposed development, as submitted, will damage the features for which the Stryt Las a'r Hafod Site of Special Scientific Interest (SSSI) is of special interest. The application site is located within 170m of the SSSI boundary. This site supports a nationally important population of Great Crested Newt and an assemblage of amphibian species. We consider the ecological features of this site have not been effectively considered within the provisions of the Preliminary Ecological Appraisal (Prescod J. 2021. Tyrer Ecological Consultants). We consider the application could potentially function as a stepping-stone between component areas of the SSSI. We therefore recommend that planning permission should only be granted if appropriate planning conditions are included to avoid damage to the special interest features of the SSSI.

Paragraph 6.4.14 of Planning Policy Wales states development should be refused where there are adverse impacts on the features for which a site has been designated.

We have considered the Preliminary Ecological Appraisal (Prescod J. 2021. Tyrer Ecological Consultants) submitted in support of the above application. On the basis of the information submitted, we consider that the proposed scheme will, subject to the inclusion of conditions as advised below, avoid damaging the features for which the Stryt Las a'r Hafod SSSI is of special interest.

We therefore advise that the following conditions should be attached to any permission granted by your authority for the above application:

Condition: No development or phase of development, including site clearance, shall commence until an amphibian Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement should include the following.

- Details of protective measures to be taken to minimise the impacts in the form of the implementation of amphibian mitigation and avoidance measures to the satisfaction of the Local Planning Authority. We anticipate that appropriate mitigation measures will entail the implementation of Reasonable Avoidance Measures (RAMs), such as the erection of a one-way amphibian fence, prior to and throughout the duration of construction operations; together with the clearance of individuals from working areas.
- Details of timing, phasing and duration of construction activities and conservation measures.
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of the 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.

The amphibian Method Statement shall be carried out in accordance with the approved details.

Justification: To ensure that an approved amphibian Method Statement is implemented, which protects amphibians affected by the development.

Owing to its protected status, we advise that if construction works are carried out without a derogation licence, work must immediately stop in the event of one or more Great Crested Newts being found (see below).

Should you be minded to grant permission for the above planning application without attaching such conditions as described above to the permission, we ask that you notify us under the provisions contained in Section 28I of the Wildlife and Countryside Act 1981 (as amended).

Protected Species

Great Crested Newt

We note that the Preliminary Ecological Appraisal (Prescod J. 2021. Tyrer Ecological Consultants) submitted in support of the above application has concluded:

Based on the...rapid risk assessments, the proposed development is highly likely to cause an offence in relation to GCN due to the potential to damage or kill individual newts during the works, recommendations to remove risk with regards to this species have been provided in section 8.0.

The Preliminary Ecological Appraisal included the following recommendations in respect of amphibians:

8.14 Whilst the habitats present in the application site are of low value to Great Crested Newt, and there is poor connectivity between the site and the nearest ponds, due to the proximity of the Johnstown Newt Sites SAC it is recommended as a precautionary measure that they and other more robust amphibian species such as Common Frog (*Rana temporaria*) are included within the RAMs recommended within section 8.12. These RAMs in combination with supervision by an ECoW will prevent risk to individual GCN, and thus prevent an offence being committed.

The applicant and all contractors should be aware that in the event that if at any stage GCN are encountered during works, or at any other stage of the work programme, works would be required to immediately cease and an Ecologist made aware as to provide further guidance in this situation.

In the event that GCN or their habitat would be directly impacted upon, including disturbance, an EPSML to legally proceed with the development may be required following detailed further presence/absence surveys.

8.15 No suitable habitats exist at the site for reptile species known in the locality, and their presence on site is considered highly unlikely.

An extant Great Crested Newt mitigation site is located within 200m of the application site. We do not consider the Preliminary Ecological Appraisal satisfactorily considers Great Crested Newt, which has previously been recorded in ponds located in the vicinity of the application site.

In our view, construction of 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 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).

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any Great Crested Newt 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 there currently is not enough information to assess potential effects of the proposal on any Great Crested Newt that may be present at this site. In order to ensure that the development is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of Great Crested Newt, we advise that an updated ecological report is provided that includes, but not necessarily limited to:

- the submission of amphibian avoidance and mitigation measures;
- provision of an on-site and/or off-site compensation scheme, including consideration of the long term. The on-site component could include a redesigned surface water attenuation area together with a buffer of terrestrial habitat;
- amphibian-friendly surface water management system; and
- long-term management plan for the attenuation area including ecological aims and objectives, future tenure; management prescriptions, long-term surveillance, and licencing requirements.

NRW would refer the Planning Authority to the letter from the Welsh Government 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.

Bats

We note that the Dusk Survey Results report (June 2021; Tyrer Ecological Consultants Ltd.) submitted in support of the above application has concluded:

6.1 From the two dusk survey results, it can be concluded that whilst using best practice survey methodology, emergence of bats was absent at both buildings at the Former Moreton Inn; activity was occasional in the wider area including commuting and foraging by Soprano Pipistrelle and Common Pipistrelle bats, and commuting by a Noctule bat.

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 any 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 Dusk Survey Results report (integrated bat box, soffit access, externally fitted boxes and ridge access) 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.

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 Local Planning Authority.

Condition: No development or phase of development with the potential to impact on invasive species, shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive species both during construction and operation.

The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site.

Foul Drainage and Protected Sites

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 a proposed 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).

Land Contamination and Groundwater

We have reviewed the following submission:

- Moreton Inn, Rhosllanerchrugog Proposed Housing, Geo-environmental Report, Nunndate Limited. GeoSolve Ltd. Job No: 2478, dated: May 2021

The historical use of the application site as an Inn is unlikely to have resulted in significant contamination; in addition, no visual or olfactory evidence of contamination was identified. The Site is not located within a Source Protection Zone or located on a principal aquifer (noting superficial and bedrock geology have been classified as Secondary A and Secondary undifferentiated aquifers). Given the geology and the identified receptors, this site is not considered to be of the highest environmental sensitivity for Controlled Waters.

We note that a generic screen has been conducted for human health purposes but no initial generic screen for Controlled Waters has been undertaken, when both surface water and groundwater have been identified as receptors; this would usually be undertaken. We do acknowledge, however, that the low concentrations of potential contaminants of concern (a large number of which have reported as below the laboratory limit of detection) are unlikely to result in significant contamination of groundwater.

We also note the following sentence in Section 8.7 of the Geo-environmental report dated May 2021: *“the lack of contamination on site and the fact that the underlying aquifer will already be contaminated with acidic mine waters, means that the risk to Controlled Waters is likely to be negligible”*. We advise that you clarify which evidence this statement is based upon.

The application site is within the Dee Water Protection Zone. If the development process involves the use or storage of corrosive materials it may need consent for this depending on the thresholds of controlled substances being used/stored on site. Please see the following link for further information and application advice: [Dee Water Protection Zone](#).

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

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