

Maes Y Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd
LL572DW

Wrexham County Borough Council,
The Guildhall,
Wrexham,
LL11 1AY

ebost/email:
northplanning@cyfoethnaturiolcymru.gov.uk

16/02/2021

Dear Sir/Madam,

PROPOSAL: OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR 1 DWELLING

LOCATION: 2 HOLT LODGE COTTAGE, HUGMORE LANE, LLAN Y PWLL

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 20/01/2021.

We understand that the applicant has queried Natural Resources Wales' advice dated 08/01/2021 (our ref: CAS-133878-K5J4) in respect of the proposed development scheme.

Our earlier response provided a review of the ecological submission submitted for the purposes of informing the planning decision making process (reference: Stirling, P. 92020. Preliminary Ecological Appraisal: 2 Holt Lodge Cottage, Hugmore Lane. Arbor Vitae Environment. Unpublished).

When considering recommendations cited in the ecological report, we advised that measures be carried out to safeguard Great Crested Newt at this locality. We consider that the overall approach (applicant's proposals combined with Natural Resources Wales' advice) is based on avoiding a breach of species protection legislation.

We are aware that the ponds within the environs of the application site are known to support Great Crested Newt. However, this species has not been found within the boundary of the application site. We therefore consider that an avoidance-based approach is appropriate and proportionate in this instance. Consequently, we would have no objection to this scale of works being carried out without a licence.

However, we advise that during construction of the proposal works must stop in the event of one or more Great Crested Newts being found. Works must only resume on receipt of the appropriate licence issued by Natural Resources Wales under Regulation 55 of the Conservation of Habitats and Species Regulations 2017 (as amended). This approach has

been consistently applied by Natural Resources Wales and its predecessor body Countryside Council for Wales in respect of very small-scale developments.

We understand that the applicant has questioned Natural Resources Wales' advice in respect of whether the conservation plan should include the non-licensed construction of newt fencing. We understand that the rationale for this concern is Section 9 (4) of the WCA 1981 - the intentional or reckless obstruction of access to any structure or place that any animal uses for shelter or protection.

The rationale for Natural Resources Wales' advice is that one-way fencing enclosing a small area (the footprint of a single dwelling) is not likely to cause an obstruction to a place of shelter used by Great Crested Newts at this site (either terrestrial and/or aquatic), provided there are no records of species for the actual parcel of land enclosed with fencing. In this instance any fencing is not likely to restrict access to breeding ponds or terrestrial habitats that function as sheltering or resting places. Furthermore, the erection of fencing is considered to constitute a measure that prevents incidental capture and killing of European protected species and therefore accords with the requirements of Regulation 53 of the Conservation of Habitats and Species Regulations 2017 (as amended).

We understand that the applicant is also concerned about the implication of removing amphibian fencing, since the species has been shown to occupy underground sections of fencing as terrestrial resting places. If one or more Great Crested Newt are found during fence removal (and the proposal if constructed without a licence) we advise that:

- works must immediately stop and must only resume under licence; or
- removal methodology is restricted to only the above ground sections of fencing.

Our advice is given in order to avoid a breach of species protection legislation and to demonstrate maintenance of the favourable conservation status of the local population of Great Crested Newts. However, if there is evidence that suggests a likelihood of breach of species protection legislation, we would advise that before planning consent can be given, the Local Planning Authority must satisfy itself as to whether the development proposals satisfy the requirements of Article 16 of the Habitats Directive (for derogation purposes) and whether there is no satisfactory alternative to the proposal. The evidence provided in support of the application has not required us to address the Article 16 derogation in our advice. However, we refer the Local Planning Authority to published EC Articles 12-16 guidance in respect of these tests. See:

http://ec.europa.eu/environment/nature/conservation/species/guidance/pdf/guidance_en.pdf. Please consult us again should you require specific comment on these derogation requirements.

We note the references to dispersal. More recent research highlights dispersal distances can be up to 1.5km. [See Haubrock, P and Altrichter, 2016. Northern Crested Newt (*Triturus cristatus*) migration in a nature reserve: multiple incidents of breeding season displacements exceeding 1km (The Herpetological Bulletin 138, 31-33)]. Other factors that inform dispersal include terrestrial habitat suitability, connectivity and spatial locality together with size of

population. In the case of Wrexham Industrial Estate and its environs, we consider the population to be of national importance. In these circumstances we advise that dispersal distances of 500m from natal ponds are used for the purposes of informing the planning decision making process in cases such as this.

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.

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