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Er sylw/ For the attention of:
Mared Rees-Jones

14/09/2020

Dear Mrs Rees-Jones,

PROPOSAL: Land at Oak Road, Wrexham Industrial Estate, Wrexham

LOCATION: Outline Application with some Matters Reserved for Proposed Development of Land for B1 Light Industrial and B2 / B8 Industrial Units including Means Of Access and Layout, Illustrative Strategic Landscaping, with Ecological, Heritage and Amenity Mitigation Zones

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with additional information about the above, which we received on 26/08/2020. Our updated advice is given below.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met and you attach the following conditions to the permission. Otherwise, we would object to this planning application.

Requirement 1: Protected Species: Further information is submitted to satisfactorily demonstrate that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN at this locality.

Condition 1: No development shall commence until a Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. We advise that this plan to includes ecological features of interest to both NRW and WCBC as the relevant LPA.

Condition 2: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in

writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Protected Species

We note the following amended information submitted in support of the application:

- Land at Oak Road - Wrexham Industrial Estate - Outline Habitat Management Plan - Document Ref: K1950.01. Kingdom Ecology Version 2, 14th May 2020.
- Land at The Oaks, Oak Road, Wrexham Ind Est - Further GCN Assessment - GCN Dispersal Corridors - Doc Ref: KE2020/0301. Kingdom Ecology, 20th May 2020.
- Proposed Site Parameters – Revision M
- UDP 2000 Comparison Plan – Revision D
- Letter dated 21st May - Land at Oak Road, Wrexham Industrial Estate - NRW Comments Response from Richard Roe (Kingdom Ecology).
- Letter dated 16th August 2020 - Land at Oak Road, Wrexham Industrial Estate - NRW Comments Response from Richard Roe (Kingdom Ecology).
- Land at Oak Road, Wrexham Industrial Estate: Further GCN Assessment – GCN Dispersal Corridors . Document ref: KE 2020/301 dated 13 August 2020
- Land at Oak Road, Wrexham Industrial Estate: Further GCN Assessment – Outline Habitat Management Plan. Document Ref: K1950.01 – Version 3 - dated 13 August 2020
- S10-6 Unilateral Undertaking: Head of Terms V2. Dated 13 August 2020

Following the submission of further information we wish to confirm the following as an update to the provisions of our letter dated 9 July 2020. The updated submissions continue to address areas of significant concerns that we have previously raised. In summary, our principle concerns relate to the provisions of the submitted planning obligation and the detail of the SUDs proposal.

However, some issues remain unresolved and we would provide the following updated comments:

Requirement 1: Protected Species: Further information is submitted to satisfactorily demonstrate that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN at this locality.

1. Modelling evidence in respect of potential impacts on great crested newt connectivity and dispersal

We acknowledge and note the conclusions of the updated report on great crested newt habitat connectivity including dispersal corridors. Our preference is for this report to have considered the outcome of habitat connectivity modelling previously carried out within the Wrexham Industrial Estate. However, when considering the extent and layout of the proposed development, we consider this submission to be satisfactory for the purposes of informing the planning decision making process.

2. Overarching Species/ Habitat Conservation Plan

We acknowledge the submission of the updated Outline Habitat Management Plan (Aug 2020).

Our observations on the updated conservation plan are:

- a. We consider there to be uncertainty issues concerning the integration of the SUDS surface water management and its implications for ecological conservation and management, and especially for great crested newt.
- b. Uncertainties remain in respect of some of the stated prescriptions cited in the report. Reference is given to some actions that “may” be carried out as opposed to “will” be carried out.

We therefore advise that the submitted outline plan is subject to the following amendments:

- i. Providing clarity on management actions that will be carried out;
- ii. Confirming the approach that will be undertaken to prevent incidental capture killing of amphibians during construction and operational phases of the proposal;
- iii. Increasing wardening requirements to at least 2-3 days per month. There may be further requirements in respect of required liaison associated with the SUDS water features and the Scheduled Monument. This should be reflected within the overall provision for wardening;
- iv. Providing greater clarity and integration with the SUDS component of the scheme (see Point 7 below)

Condition 1: No development shall commence until a Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. We advise that this plan to includes ecological features of interest to both NRW and WCBC as the relevant LPA.

If the proposal is recommended for approved by the local planning authority, we advise that any consent is subject to the imposition of a condition in respect of the submission and implementation of a detailed management plan. We would be pleased to supply advice on the provisions of this suggested condition.

3. Tenure proposals of the Ecology Area

We confirmed in our letter dated 21 May 2020 that we consider the revised changes to the tenure of the ecology /Scheduled Monument Area to be satisfactory. This was freehold transfer of ownership of the overall ecology area to an appropriate 3rd sector body.

It will be beneficial if this area can be defined, including whether it includes:

- (a) The Scheduled Ancient Monument (SAM), and
- (b) The SuDS area.

We note that the submitted Unilateral Undertaking draft Head of Terms planning obligation document, as submitted, proposes an alternative approach which we do not consider to be satisfactory since it raises long term uncertainty issues. We therefore advise that the Head of Terms document is amended to include:

- i. Freehold Transfer to an appropriate third sector body of the defined ecology area to be undertaken within 6 months of completion of 25% of the development; and
- ii. Map illustrating the extent of land to be conveyed to the identified third party.

We therefore advise that the draft Heads of Terms submission is amended to accord with previously submitted proposals concerning the tenure of the ecology area.

4. Confirmation from other public bodies that other land destinations will not impact on the targeted long-term delivery of great crested newt conservation action.

We accept that potential issues associated with the Scheduled Monument (SM) appear to have been considered within the provisions of the outline Species/ Habitat Conservation Plan . The detail of the implications of this designation to be clearly articulated in the detailed Species and Habitat Management Plan (that is proposed to be subject to condition).

5. Biosecurity .

Biosecurity issues can be addressed through a Biodiversity Risk Assessment. This could be included within the provisions of a wider Conservation Plan condition or as a part of a Construction Environmental Management Plan.

6. Details of measures designed to prevent the accidental capture/ killing of newts post

This is essentially the design and construction of an amphibian-friendly surface water management system. This detail must be provided within the detailed conservation plan.

7. Sustainable Urban Drainage Proposal

We note the submitted additional information concerning the proposed Sustainable Urban drainage Scheme (SUDS) attenuation water features.

We advise that information is provided in respect of the management and operation of the SUDS features. We advise that a specific management plan is prepared for the SUDS ponds and clearly cross-referenced within the Species and Habitat Management Plan. Provisions of this plan to include, but not necessarily limited to:

- i. Area;
- ii. Tenure;
- iii. Proposed easements and access provision through the ecology/historic conservation area;
- iv. Monitoring, including EPS surveillance and associated reporting;
- v. Management prescriptions and access requirements;
- vi. EPS derogation licensing and its implications on the management of the SUDS/surface water attenuation features;
- vii. Liaison with the prospective owner/occupier of the ecology/historic conservation area;
- viii. Invasive non-native species and biosecurity;
- ix. Contingency prescriptions/measures; and
- x. Reporting.

8. Planning Obligation

We note the provisions of the submitted draft Unilateral Undertaking. In our view, the provision concerning the proposed tenure of the ecological/ historic conservation area is not consistent with previously submitted proposals.

We advise that the planning obligation includes trigger points and timescales for transferring the freehold ownership of the ecology/historic area to a body approved by the LPA

We further advise that the planning obligation outlines the detail of the provision of long term financial resources.

We suggest that the planning obligation be considered as a Section 106 planning agreement

9. Management Plan Costings

As previously stated on 21 May 2020, depending on the proposed funding model, a detailed costed plan may be required for the purposes of informing any planning obligation agreement.

10. Habitats Directive – Article 16

Please note our response specifically concerns the Habitats Directive Article 16 test “demonstration of no detriment to the maintenance of the favourable conservation status of European protected species”.

We advise that before any consent is given, the LPA must satisfy itself as to whether the scheme constitutes a valid Article 16 derogation purpose and whether there is no satisfactory alternative to the proposal.

We wish to confirm that we have not considered these tests as part of our response. We therefore direct the LPA 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 wish to receive specific comment on these requirements.

Contaminated Land

We have reviewed the submitted reports (Phase 1 (Desk Study) Investigation Report – The Oaks, Oak Road, Wrexham Industrial Estate. Opus International Consultants (UK) limited, 2017, The Oaks, Wrexham Industrial Estate – Phase 2 Site Investigation Report. TerraConsult Limited, Report No 4292/01 Issue 2, May 2019, The Oaks, Wrexham – Flood Consequence Assessment and Drainage Strategy. TerraConsult Limited, TOW-TCL-HDG-XX-RP-D-0500, May 2019) and note that soil and groundwater samples have been taken across the site (where access allowed). The results show that low level of contamination area present at the site, but the risk assessment concluded that the risk to controlled waters is low – we agree with this conclusion and therefore request the following condition and informative be imposed on any planning permission granted for the site.

Condition 2: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

This condition is required to ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. Surface Water Drainage

We note that site drainage has not been confirmed as part of this outline application, but that it is currently intended to use the two water courses adjacent to the site and also connect to the combine sewer network for foul water – if this changes to go to ground, we may require further details.

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/>

Construction Waste:

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>

Excavated materials that are recovered via a treatment operation can be re-used on-site under the [CL:AIRE Definition of Waste: Development Industry Code of Practice](#). This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

Surface Water Drainage

We refer the developer to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by Natural Resources Wales. In particular the developer should be aware of the advice under Position Statements G11

(Discharges from areas subject to contamination) and G13 (sustainable drainage systems) applies to this development.

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

Yours faithfully,

Joy Evans

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