

Louise Phillips

From: Mared Rees-Jones
Sent: 23 February 2021 10:45
To: planning_admin
Subject: FW: RE: P/2020/0239 - Land Adjacent to Graig Wen Farm, Off Brymbo Road, Bwlchgwyn, Wrexham NRW:01114205

Importance: High

[Please add correspondence to file](#)

From: North Planning [mailto:NorthPlanning@cyfoethnaturiolcymru.gov.uk]
Sent: 18 February 2021 10:07
To: Trevor Mennell; Mared Rees-Jones
Subject: FW: RE: P/2020/0239 - Land Adjacent to Graig Wen Farm, Off Brymbo Road, Bwlchgwyn, Wrexham NRW:01114205
Importance: High

Dear Trevor Mennell,

Thank you for your email dated 11/02/2021 and subsequently your email of 28/01/2021 in relation to the discharge of conditions 10 and 11.

To confirm our previous response dated 08/01/2021 remains valid.

We note the comments submitted including those in respect of ecology. It should be noted that our comments in the response dated 08/01/2021 CAS-132500-G7S2 concerned the assessment of the submitted scheme for the specific purposes of discharging the ecological condition.

It is our view that the submission did not accord with the requirements of the condition that was imposed by the Planning Inspectorate. This includes consideration of short and long-term proposals.

Condition 10 (Ecology):

No caravan shall be brought onto the site or further site clearance shall take place until full details of the proposed reasonable avoidance and ecological mitigation measures to safeguard with populations of great crested newt, bats, birds and reptiles on the site and the timing of their implementation have been submitted and agreed in writing by the Local Planning Authority. These details shall accord with the recommendations of the submitted ecological report. The approved details shall be implemented in full.

Reason: In order to protect wildlife interests, which are afforded special protection in accordance with Policy GDP1.

In respect of habitat creation, if we were to accept the proposals as it stands it may compromise the ability to be able to effectively discharge other component provisions of the condition 10 (Ecology).

Furthermore, we do not consider the proposal to be satisfactory in respect of biosecurity and therefore advise that an updated biosecurity risk assessment is submitted for the purpose of discharging planning Condition 11 (Biosecurity).

Condition 11 (Biosecurity):

No caravan shall be brought onto the site or occupied until a Biosecurity Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Assessment shall include:-

- i. *Appropriate measures to control any Invasive Non-Native Species (INNS) on site; and,*
- ii. *Measures or actions that aim to prevent INNS being introduced to the site for the duration of construction and operational phases of the scheme.*

Reason: To control and mitigate against any potential nuisance that may arise from invasive species after the commencement and/or completion of development in accordance with Policy GDP1.

In conclusion, we therefore reiterate the requirements for the submission of a scheme that satisfies all of the provisions listed under conditions 10 and 11 of the approved proposal.

Kind regards,

Siôn M. Williams
Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales
Swyddfa / Office: Maes y Ffynnon, Bangor, Gwynedd

----- Original Message -----

From: Trevor Mennell;
Received: Thu Jan 28 2021 12:29:05 GMT+0000 (Greenwich Mean Time)
To: Mared Rees-Jones;
Cc: North planning; North Planning Mailbox Queue; North Planning ; emma.broad@wrexham.gov.uk.;
Subject: P/2020/0239 - Land Adjacent to Graig Wen Farm, Off Brymbo Road, Bwlchgwyn, Wrexham

Dear Mared

I have recently received a rather concerning email from the Independent Ecologist who is dealing with the ecology requirements as requested by the Planning Inspector following his approval of the above planning appeal, which as you are aware has been subject to Conditions in particular conditions 10, 11 and 12. This follows the letter from Sion Williams NRW (dated 8th January).

The Independent Ecologist has stated that he is seriously concerned that this whole business has gone wrong from an early stage, and now NRW seem to be asking for mitigation measures that would be riskier to Great Crested Newts than the proposed development, without even commenting in any detail on the management plan that he has prepared and previously forwarded.

He is happy to acknowledge that he did omit one important element, the inclusion of an ongoing monitoring of the INNS situation regarding Rhododendrum and avoidance of new introductions (point re. condition 11). However, this was dealt with between ourselves and mitigating circumstances agreed i.e. fencing and hard-surfacing to the whole site. This is also not a problem as our client can solve or carry out any responsibility for any clearance to which the Ecologist has also included within his plan containing measures for controlling Rhododendrum on site.

NRW comment on the lack of definitive agreements for the management of this approximately 2,200m² of land. The management plan was essentially an Ecological Plan. The Independent Ecologist has requested that he needs a clear agreement about what needs doing between him and Emma Broad, Wrexham Council Ecologist on how it is intended the site is to be monitored, let alone how it is to be funded or to find someone who is prepared to take on this very small parcel of land (points 3, 4 & 5 of Sion's letter).

He has said with respect: *"I do wonder if NRW or Wrexham Council planners are prepared to acknowledge that they have got some things wrong? To the best of my knowledge I am the only Ecologist who has spent much time looking at the local habitat as a whole. I know Pearce Environment went to the site, but generally being refused access for pond dipping. Emma Broad attended the planning Inspector's visit, but I'm sure she did not*

check the surrounding landscape in any ecological detail. I have tried to contact Emma twice, asking for her to phone me, but that hasn't happened, while emails to her have been answered by Mared Rees-Jones, a planning officer but not an ecologist."

The Independent Ecologist offered a detailed, reasoned argument that GCN are not likely to be present on or near the development site, and were unlikely to be present before it was cleared. This is backed up by referenced scientific research. This view has not been previously questioned.

It appears this may have been ignored (point 2 re. Condition 10 in Sion's letter).

Pearce Environmental Ltd produced a Preliminary Ecological Assessment, backed up by only a limited amount of focussed survey for GCN, using eDNA as required, in support of the initial planning application. However, they did not carry out a full GCN survey, or give any detailed assessment of the likely distribution of GCN. That is not what a PEA is for in accordance with CIEEM website.

On the basis of this limited work it is considered NRW and the LPA have relied on a model of GCN distribution that is simplistic. The development site is just about within 250m from a pond with a known GCN population (size and breeding status unknown), also about 145m from a pond with a possible population (likely, but not proven to be present, or breeding if present). 250m is taken as the limiting radius, a buffer zone. During the initial survey, following the sensitivity of the planning application pond owners refused access. The simplest underlying mathematical model must be that GCN are distributed randomly with equal probability anywhere within a 250m radius around a breeding pond. Just for once, this is simple binary logic. Define an area, and then either the simplest model applies or you explain what model you are using, as the Ecologist has done. There is no valid third option; ignoring the issue is certainly not one!!

The Pearce PEA report went through three versions that both the Ecologist and I have seen, in response to their GCN survey work. Following direct discussions between NRW and Pearces they produced a fourth version at the request of NRW, stating that an EPS mitigation licence would be required., This is not considered necessary by the Independent Ecologist .

The Ecologist has come to the conclusion that the whole requirement has become a complex, expensive and possibly impractical demand for highly controlled management of about 2,200m² of land, all without proper discussion and reasoning of the facts. Neither the Inspector's report nor the Unilateral Undertaking is so definitive about the arrangements. When the Independent Ecologist spoke to NRW officers by phone, they acknowledged that making a licence application was a decision for the developer, advised by their ecologist. There appears to have been either a lack of thought about this, or an effort to circumvent it.

I am advised that what would normally happen is that the ecological consultant would have been asked by the statutory authorities to provide more information, through further survey. The PEA report is what it is. It simply confirmed the presence of GCN in one pond and contained a minimal amount of terrestrial habitat information – something like four lines of general description and a couple of lines for the ground around each pond, none of which commented on suitability for GCN. As such, it is not a sound basis for the Council's Ecologist or NRW's position. Likewise, the Independent Ecologist plan has had to be based on certain assumptions.

One matter is clear, and surely beyond question. When this site was cleared in the first place, BEFORE its purchase by Billy Evans, there was a loss of terrestrial habitat and there was also no standing water on site. Sion Williams talks about creating a pond. The Independent Ecologist has commented that if such a pond was placed close to the development site, any newts attracted by the pond would be at risk from the normal use of the site. If the pond was placed at the other end of the compensation area, much closer to an existing pond, the pond would be dug in ground that is favourable to GCN and difficult to search or clear beforehand. Also fencing and trapping out the working area would increase the risk to GCN. Construction plant would have to track across ground that is favourable to GCN.

The Independent Ecologist has suggested placing a couple of more-or-less standard hibernacula at the far end of the compensation area. These take a very small area of ground (<1m²), can be constructed using a spade and a wheelbarrow, and they really work. He has suggested careful management to retain the existing mix of

habitats in the compensation area, to avoid overall domination by soft rush, with succession to Willow Carr, but without excessive work. This too has been ignored. The Independent Ecologist is both fully qualified, of 30 years of very wide experience and is very disappointed with the lack of contact he has received especially as this is a directive by the Planning Inspector to resolve.

The Independent Ecologist is Edward Lomas, Camlad Ecology Ltd. (Tel No. 01743 361400 – Email: Edwin J Lomas edjlomas@yahoo.co.uk)

Could you please arrange for Emma Broad or Sion William to contact him as a matter of urgency, this situation needs resolving!!

Thank you for your assistance in this matter.

Kind Regards

Trevor Mennell

Trevor Mennell Planning

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