



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-121050-S2X4
Eich cyf/Your ref: P/2020/0354

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26/08/2020

Dear Sir,

PROPOSAL: OUTLINE APPLICATION (ALL MATTERS RESERVED EXCEPT FOR ACCESS) FOR UP TO 109 DWELLINGS WITH ASSOCIATED ACCESS AND HIGHWAY IMPROVEMENTS

LOCATION: Land Off Hillock Lane, Gresford, Wrexham LL12 8YN

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 31 July 2020.

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

Requirement 1: Protected Species - Great Crested Newt (GCN) and Bats: Further information is required in the form of an updated Ecology Survey and Assessment

Requirement 2: Foul Drainage – Further information is required to demonstrate that either the foul drainage will be discharged to the main sewerage system or that it is not reasonable to connect to the mains

Protected Species

We note that the ecology report submitted in support of the above application (reference: Hawley, G and Boffey, C. (2020). Land Off Hillock Lane, Gresford: Extended Phase 1 Habitat Survey. Penny Anderson Associated. Unpublished) has identified the potential for bats to be present at the application site. We also note records of Great Crested Newts (GCN) within close proximity to the site.

European protected species (EPS) such as bats and great crested newt (GCN) and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Any development that would contravene the protection afforded to EPS under the Regulations would require a derogation licence from Natural Resources Wales. A licence may only be authorised if:

- i. There is no satisfactory alternative and
- ii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. In addition,
- iii. the development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

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 EPS on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Requirement 1: Protected Species -Great Crested Newt (GCN) and Bat: Further information is required in the form of an updated Ecology Survey and Assessment

Based on the submitted information, we consider that currently there is insufficient information to assess potential effects of the proposal on any species of bat and GCN that may be present at this site.

The report notes that there is potential for bats to use the site and recommends further surveys. We agree with this approach and advise these are undertaken prior to determination. However, with respect to the current GCN assessment, we consider that the report potentially undervalues terrestrial habitats within the application boundary. Section 3.51, "...The predominant habitat on site, however, is improved grassland, grazed by cattle that keeps the sward relatively low and thereby providing habitat less suitable for amphibians and reptiles..." This habitat is considered to be the predominant habitat type for the species in north east Wales. The revised assessment should take this into consideration. In addition, based on recent third party results submitted to your local authority, we are of the view that GCN compensation measures will be required.

We therefore consider that a further survey in respect of bats and a revised assessment, including compensatory provision for GCN, is required for the purposes of informing the planning decision making process.

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officer's dated 01 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.

Foul Drainage

No information has been submitted regarding the disposal of foul waters from the proposed development. We refer you to Welsh Government Circular 008/2018 on the use of private sewerage in new development, specifically paragraphs 2.3-2.5 which stress the first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. We note the proposed development is in a publicly sewered area and as such, we would expect the site to connect to the mains sewerage system.

We therefore advise that if they haven't already done so, the Applicant should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

- Formally approach the sewerage undertaker regarding a connection under Section 106 or a requisition under Section 98 of the Water Industry Act (WIA) 1991.
- Serve notice for connection under Section 106 of the WIA 1991 if the sewerage undertaker has refused connection.
- Provide details of the reasons given by the sewerage undertaker if it has refused connection under section 98 or section 106 of the WIA 1991 and confirmation that they have appealed against this decision.
- Demonstrate that it is not reasonable to connect to the public foul sewer.
- Where it is not reasonable to connect to the public foul sewer, demonstrate that they have considered requesting that the sewerage undertaker adopt their proposed system.

The Applicant should be aware that should a connection to the mains sewer not be feasible, they will also need to demonstrate that the proposal would not pose an unacceptable risk to the water environment. Welsh Government Circular 008/2018 advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6 of the Circular, in order to justify the use of private sewerage.

The Applicant should also be aware that should a connection to the mains sewer not be feasible, they will need to apply for an environmental permit or register an exemption with us. As stated above, we expect developers discharging domestic sewage to connect to the public foul sewer where it is reasonable to do so. We will not normally grant a discharge permit for a private sewage treatment system where it is reasonable to connect to the public foul sewer. We also expect discharges of trade effluent to connect to the public foul sewer where it is reasonable to do so and subject to the sewerage undertaker granting a trade effluent consent or entering into a trade effluent agreement.

Septic tanks and small sewage treatment works may be registered as exempt from the requirement to obtain an environmental permit if certain criteria are met. Please note, should a permit be required, further information may be required as part of that application and the

Applicant is therefore advised to hold pre-application discussions with our Permitting Team on 0300 065 3000, at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the permit requirements. It is important to note that a grant of planning permission does not guarantee that a permit will be granted, should a proposal be deemed to be unacceptable (either because of environmental risk or because upon further investigation, a connection to mains sewer was feasible). The Applicant should ensure that they have all the required permissions, consents, permits and any other approvals in place prior to commencement of works on the site.

More information, including a step by step guide to registering and the relevant application forms are available on our [website](#). Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations. We also refer the Applicant to Guidance for Pollution Prevention 4 on the [NetRegs website](#), which provides further information.

Please note, lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the Water Industry Act 1991 and we may refuse to issue an environmental permit for private treatment facilities in such circumstances.

Notwithstanding the above, we have the following comment to make regarding Protected Sites.

Protected Sites

From the information provided, we consider that the proposal is not likely to have a significant effect on a SAC, SPA or Ramsar. The application is located within 95m of the Midland Meres and Mosses Phase 2 Ramsar.

We note the Report to Inform a Habitats Regulations Assessment (Land off Hillock Lane, Gresford, Penny Anderson Associates Ltd., February 2020). We note that the access to the development is to the north of the development, further than 200m from the Ramsar which is outside of the screening distance for traffic assessments.

According to the drainage plan any foul water drainage will be discharged to the main sewer. Therefore, there should be no impact from surface or subsurface drainage associated with the development.

Our advice may change should modifications be made to the proposed development prior to the determination of the application. If there are any changes to the proposed development which may affect the consideration of potential environmental impacts, please consult us again.

Site of Special Scientific Interest (SSSI)

We have considered the information submitted in support of the above application. Based on the information submitted, we consider that the proposed development is not likely to damage the features for which Vicarage Moss SSSI is of special interest.

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

Pollution Prevention

During the construction phase you should take any precaution to prevent contamination of surface water drains and local watercourses. Oils and chemicals should be stored in bunded areas and spill kits should be readily available in case of accidental spillages. For further guidance please refer to GPP 5 and PPG 6 at the following link: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgsand-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

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-ppgsand-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.

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

Yn gywir / Yours faithfully

Meryl Read

Meryl Read

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