

Wrexham County Borough Council
The Guildhall,
Wrexham
LL11 1AY

09/07/2020

For the attention of Mared Rees-Jones:

Dear Mared,

PROPOSAL: 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

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

Thank you for re-consulting Natural Resources Wales (NRW) about the above, which was received on 11/06/2020.

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 demonstrates 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 site species/habitat Conservation Plan has been submitted to and approved in writing by the Local Planning Authority.

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).

In our view the updated submissions have addressed a number of our previously expressed concerns. However, we would provide the following comments:

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

In our view the amended design and layout together with the submitted report addresses previously stated requirements for modelling.

However, we advise that the report is updated to incorporate and consider the following

- (1) Outcome of multitaxa modelling undertaken by ARC to inform the Wrexham Industrial Estate Sustainable Landscapes Project; and
- (2) Existing GCN Conservation Action (e.g. at Ash Road).

The amended report should be resubmitted for our consideration.

Overarching Species/ Habitat Conservation Plan

A detailed Species/ Habitat Conservation Plan can be subject to condition. However, a certain level of the detail may be required to inform any planning obligation agreement (Section 106 Agreement).

Provision of the plan to include:

- (i) Identification of all ecological features;
- (ii) Targets for each feature;
- (iii) Management prescriptions (as informed by a management plan) including derogation licensing requirements;
- (iv) Factors in terms of management include implications of the Scheduled Ancient Monument;
- (v) Monitoring;
- (vi) Wardening;
- (vii) Contingency measures.

Revised tenure proposals

We consider this amended proposal (freehold transfer of the overall ecology area to an appropriate 3rd sector body) to be satisfactory.

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 advise that a Head of Terms document is prepared that can be used to inform any subsequent planning obligation agreement.

Without prejudice, and based on extant schemes, we advise provisions of the legal agreement include transfer of ownership is completed within 5 years of the commencement of development or before the construction of 25% of the proposed project.

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

Issues associated with the SAM can be addressed within the provisions of the Species/Habitat Conservation Plan.

Biosecurity

Biosecurity issues can be addressed through a Biodiversity Risk Assessment. This could be included within the wider Conservation Plan.

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

This is essentially the design and construction of an amphibian friendly surface water management system. This detail should be provided within the wider Conservation Plan.

Location of attenuation ponds

We note comments from the LPA ecologist regarding the location of attenuation ponds and concur that there could be issues in respect of the attenuation water features. Further details are therefore advocated.

Monitoring Details

We note comments from the LPA ecologist regarding monitoring details and the requirement for a mechanism of adapting the management proposals if those prescribed are not proving to be successful. A detailed management plan will be required that addresses these points. Furthermore, depending on the proposed method of funding, a

detailed management plan may be required for the purposes of informing any planning obligation agreement. We suggest the LPA agrees the scope of the detailed management plan.

Management Plan Costings

We note the LPA ecologist's comments regarding costings. We agree that depending on the proposed funding model a detailed costed plan may be required for the purposes of informing any planning obligation agreement.

Habitat Regulations

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 to Developer

Pollution Prevention

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/>

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>

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.

Yn gywir / Yours sincerely,

Daniel Davies

Daniel Davies

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales