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Wrexham County Borough Council
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02/12/2019

For the attention of Sharon Holman

Dear Sharon,

BWRIAD / PROPOSAL: Outline Application For 9 No. Dwellings

LLEOLIAD / LOCATION: Land At Tupa, Penley Hall Drive, Penley, Wrexham

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 12/11/2019.

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

Condition 1: EPS Bats: Planning permission to include condition and/or obligations requiring the submission of a conservation scheme that includes

- (i) Implementation of recommendations in respect of bats that are listed in the Addendum Report - Extended Phase One Survey and Ecological Impact Assessment Land South of Tupa, Penley, Wrexham, EDC;
- (ii) Post construction monitoring of the bat roost;
- (iii) Confirmation of long-term ownership of the dedicated bat roost, including any transfer of ownership to a body approved by the LPA.

Condition 2: EPS GCN: No development shall commence until a site species/habitat Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should include:

- (i) Implementation of the proposed mitigation and compensation measures as set out in the Addendum Report - Extended Phase One Survey and Ecological Impact Assessment Land South of Tupa, Penley, Wrexham, EDC;
- (ii) Submission and implementation of a long term post construction surveillance and monitoring scheme. Monitoring methodology and reporting shall accord with the online Wales GCN Monitoring Scheme;
- (iii) Submissions and implementation of an amphibian friendly surface water management scheme;
- (iv) The submission and implementation of long term, proposals concerning the tenure, funding arrangements, management and wardening of the compensation area;
- (v) Ecological Compliance Audit, including key performance indicators.

Condition 3: No development with the potential to impact on invasive species, shall commence until a biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive species both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Protected Species

Bats

We note that the ecology report submitted in support of the above application (Addendum Report – Extended Phase One Survey and Ecological Impact Assessment: Land South of Tupa, Penley, Wrexham. EDC (no date)) has identified that bats are present at the application site. From the information submitted, we consider that the proposed development represents a higher risk for bats, as defined in our guidance document '*Natural Resources Wales Approach to Bats and Planning* (2015)'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017.

We advise that the proposed development is likely to harm or disturb the bats or their breeding sites and resting places at this site. Consequently, we advise that implementation is subject to the provisions of a derogation licence.

We advise that the below condition should be attached to any planning permission for this scheme to ensure the implementation of an overall conservation scheme that includes appropriate mitigation and compensation measures. Provided those measures are implemented, we do not consider that the proposed development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Condition 1: EPS Bats: Planning permission to include condition and/or obligations requiring the submission of a conservation scheme that includes

- (iv) Implementation of recommendations in respect of bats that are listed in the Addendum Report - Extended Phase One Survey and Ecological Impact Assessment Land South of Tupa, Penley, Wrexham, EDC;
- (v) Post construction monitoring of the bat roost;
- (vi) Confirmation of long-term ownership of the dedicated bat roost, including any transfer of ownership to a body approved by the LPA.

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

Great Crested Newt

We note that the ecology report submitted in support of the above application (Addendum Report – Extended Phase One Survey and Ecological Impact Assessment: Land South of Tupa, Penley, Wrexham. EDC (no date)) has identified that great crested newts (GCN's) are present within the environs of the application site.

Great crested newts and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017. Any development that would contravene the protection afforded to GCN's 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 GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In our view the proposal is likely to harm or disturb the GCN or their breeding sites and resting places at this site and consequently implementation will therefore require a licence.

We consider the proposal satisfactorily demonstrates that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local

populations of GCN's. However, we advise that any subsequent consent is subject to the imposition of planning conditions and/or obligations

Condition 2: EPS GCN: No development shall commence until a site species/habitat Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should include:

- (vi) Implementation of the proposed mitigation and compensation measures as set out in the Addendum Report - Extended Phase One Survey and Ecological Impact Assessment Land South of Tupa, Penley, Wrexham, EDC;
- (vii) Submission and implementation of a long term post construction surveillance and monitoring scheme. Monitoring methodology and reporting shall accord with the online Wales GCN Monitoring Scheme;
- (viii) Submissions and implementation of an amphibian friendly surface water management scheme;
- (ix) The submission and implementation of long term, proposals concerning the tenure, funding arrangements, management and wardening of the compensation area;
- (x) Ecological Compliance Audit, including key performance indicators.

The Conservation Plan shall be carried out in accordance with the approved details.

In respect of proposed changes to tenure and proposed long term funding arrangements, we advise that these are included as a planning obligation/agreement.

This advice applies to the proposal in its present form. If the plans are changed in ways that may harm or disturb GCN's or their breeding sites and resting places at this site, you would need a revised ecology report that took account of such changes.

Please also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

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.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases.

Condition 3: No development with the potential to impact on invasive species, shall commence until a biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of invasive species

both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

This is required to ensure that an approved Biosecurity Risk Assessment is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site.

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, including environmental interests of local importance.

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

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which is 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>

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 faithfully,

Daniel Davies

Daniel Davies

Cynghorydd, Cynllunio Datblygu / Advisor, Development Planning

Cyfoeth Naturiol Cymru / Natural Resources Wales