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14/10/2019

For the attention of Philip Forster

Dear Philip,

**BWRIAD / PROPOSAL: COMMERCIAL / INDUSTRIAL DEVELOPMENT FOR B1
B2 AND B8 USES WITH ASSOCIATED EXTERNAL WORKS**

**LLEOLIAD / LOCATION: LAND ON OAK ROAD, WREXHAM INDUSTRIAL
ESTATE**

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 24/09/2019.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified, and we would not object provided you attach them to the planning permission.

Condition 1: No development shall commence until a site wide species Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should include:

- The submission and implementation of an appropriate avoidance and mitigation scheme.
- The submission and implementation of an on or off site-compensatory or off setting scheme.
- A management plan that includes provisions concerning long term management, wardening and surveillance. This submission to include consideration of resources required to implement surveillance, management and wardening prescriptions. Long term surveillance of the amphibian

population to be based on the online Wales GCN monitoring scheme
<https://www.cofnod.org.uk/LinkInfo?ID=7>

- Details of measures designed to prevent the accidental capture/killing of GCN post construction. This is essentially the design and construction of an amphibian friendly surface water management system.

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

Condition 2: No development, with the potential to impact on invasive species, shall commence until a site wide 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.

Condition 3: Protected Species: Planning permission should include conditions necessary to secure all avoidance and mitigation measures described in the bat reports and ensure appropriate an Ecological Compliance Audit is undertaken.

Protected Species

The applicant has submitted an ecological report for the purposes of informing the planning decision making process (Site Adjacent to Oak Road, Wrexham Industrial Estate, Wrexham, Greenscape Environmental Ltd. 2019a, and Site Adjacent to Oak Road, Wrexham Industrial Estate, Wrexham, Greenscape Environmental Ltd, 2019b).

The application site has been subject to assessment in respect of the great crested newt (GCN). The submission, however fails to identify the overall national importance of the population of great crested newts present within in the environs of the Wrexham Industrial Estate.

The ecological submissions confirms the presence of the species in the environs of the application site. However, records from the neighbouring sites have not been incorporated into the provisions of the ecological submission.

In our view, the overall proposal has the potential to cause disturbance to great crested newts and/or loss or damage to their resting places. Great crested newts (GCN) and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 and they classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

The Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if it satisfies an appropriate Habitats Directive derogation purpose and two tests before a licence can be issued from Natural Resources Wales.

In the case of development, the applicable derogation purpose is:

- “Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.”

Furthermore, the licence can only be issued by NRW on condition that there is:

- “no satisfactory alternative”, and that
- “the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

Paragraph 6.3.7 of TAN5 states that your Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCNs 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, we consider that construction of the proposal has the potential to adversely affect the great crested newt at this site. We therefore consider that construction is subject to the provisions of a derogation licence issued by NRW

We consider the ecological report is unsatisfactory for the purposes of demonstrating the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN. Our reasoning for this statement is based on the number of extant records of the species in the environs of the application site, together with the application site to have the potential to support terrestrial resting or sheltering places. However, in this case we advise that it can be demonstrated that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN, provided any subsequent consent is subject to the imposition of planning conditions and obligations.

Condition 1: No development shall commence until a site wide species Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan should include:

- The submission and implementation of an appropriate avoidance and mitigation scheme.
- The submission and implementation of an on or off site-compensatory or off setting scheme.
- A management plan that includes provisions concerning long term management , wardening and surveillance. This submission to include consideration of resources required to implement surveillance, management and wardening prescriptions. Long term surveillance of the amphibian population to be based on the online Wales GCN monitoring scheme <https://www.cofnod.org.uk/LinkInfo?ID=7>

- Details of measures designed to prevent the accidental capture/killing of GCN post construction. This is essentially the design and construction of an amphibian friendly surface water management system.

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

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, you would need a revised ecology report that takes account of such changes. Please consult us again if any updated or revised ecology report concludes that the proposal is more likely to have an adverse impact on the GCN population and/or alters the detail or implementation of mitigation or compensation measures.

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 2: No development, with the potential to impact on invasive species, shall commence until a site wide 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.

This condition 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.

Ecological Compliance Audit

We advise that any future subsequent consent includes the submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA. In this case, ECA will need to consider assessment of all identified ecological features. Guidance on ecological compliance audit can be obtained from NRW's website.

The purpose of the Ecological Compliance Audit is to evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPI's) that are to be used for the purposes of assessing and evidence compliance.

Condition 3: Protected Species: Planning permission should include conditions necessary to secure all avoidance and mitigation measures described in the bat reports and ensure appropriate an Ecological Compliance Audit is undertaken.

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:

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