

FAO Philip Forster

23/07/2019

Dear Philip,

TOWN AND COUNTRY PLANNING ACT 1990
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BWRIAD / PROPOSAL: ERECTION OF TWO GENERATOR UNITS AND ANCILLARY DEVELOPMENT

LLEOLIAD / LOCATION: Land at Llay Hall Farm, West of Miners Park, Llay, Wrexham

Thank you for re-consulting Natural Resources Wales (NRW) about the above, which was received on 11/07/2019.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. Otherwise, we would object to this planning application.

Summary of Requirement

Requirement 1: The applicant must prepare an Air Quality Impact Assessment to adequately demonstrate that potential impacts on protected sites are not likely to be significant.

Condition 1: Submission and implementation of GCN avoidance and mitigation measures.

Condition 2: Submission and implementation of proposals to off-set or compensate the loss of GCN terrestrial habitats.

Condition 3: Any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Protected Sites and Air Quality

Combustion units have the potential to impact protected sites through aerial emissions. Consideration for the impact a unit may have on any Site of Special Scientific Interest (SSSI)

and any Special Area of Conservation (SAC) / Special Protection Area (SPA) is required. Changes in air quality may affect the Llay Bog SSSI which lies within 1km of the proposals.

The applicant has confirmed the aggregated rated thermal input in megawatts as 8.02 (MWth). As there is also a need to provide this information as part of the Environmental Permitting process we advise that the applicant contact the Permitting Team, who can advise what information is needed as part of the permitting process.

Requirement 1: The applicant must prepare an Air Quality Impact Assessment to adequately demonstrate that potential impacts on protected sites are not likely to be significant.

We note that a section on air quality is included in the Ecological Impact assessment (Land at Llay Hall Farm, Ecological Impact assessment, EDP, July 2019). We do not agree with the interpretation presented in paras 4.24 – 4.29 of the report. Therefore, an appropriate Air Quality Impact Assessment should be undertaken to consider the potential impacts upon the relevant protected sites. The applicant may wish to refer to other gas generator applications nearby which have produced air quality impact assessments for guidance on the structure and approach to an assessment (for example P/2017/0937).

Protected Species

We note the Ecological Impact Assessment (Land at Llay Hall Farm, Wrexham: Ecological Impact Assessment. Environmental Dimension Partnership, 2019).

Great Crested Newts (GCN)

The application site has been subject to assessment in respect of the Great Crested Newt (GCN). The ecological submission confirms the presence of the species within the environs of the application site.

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. GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 and they are classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5). We therefore advise that implementation of the proposed scheme is undertaken under the provisions of a derogation licence issued by NRW.

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 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.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested provided any consent is subject to the imposition of planning conditions or obligations in respect of:

Condition 1: Submission and implementation of amphibian avoidance and mitigation measures.

Condition 2: Submission and implementation of proposals to off-set or compensate the loss of GCN habitats.

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.

Bats

We consider survey and assessment in respect of bats to be satisfactory. We concur with the conclusions

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: Any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) appropriate measures to control any 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.

Please do not hesitate to contact us if you require further information or clarification on any of the above.

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: (<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). 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

Advice to Applicant

Environmental Permitting

The operator needs to satisfy (based on aggregated net rated thermal input) the requirements of The Environmental Permitting (England and Wales) Regulations 2016, as amended including SI 2018 No. 110 The Environmental Permitting (England and Wales) (Amendment) Regulations 2018 on implementing the requirements of the Medium Combustion Plant Directive and new controls on Specified Generators effective from 20 December 2018.

Further information can be found on our website here: <https://naturalresources.wales/permits-and-permissions/medium-combustion-plant-and-specified-generator-activities/?lang=en>

Pollution Prevention

During the construction and operational 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-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>

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Yn gywir / Yours sincerely,

Daniel Davies

Daniel Davies

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales