



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-97366-D8L6 and CAS-97356-Z9F3
Eich cyf/Your ref: P/2019/0597 and P/2019/0598
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FAO Philip Forster

29/08/2019

Dear Philip,

BWRIAD / PROPOSAL: PROPOSED COMMERCIAL / INDUSTRIAL DEVELOPMENT FOR B1 AND B8 USE

LLEOLIAD / LOCATION: East of the Fire Station, Land at Gutter Hill, Johnstown, Wrexham (Minor) (east and west)

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 09/08/2019. Please note that this response constitutes our response to planning application P/2019/0597 and P/2019/0598.

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.

Requirement 1: Protected Sites: Further information is submitted to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application.

Requirement 2: Further information is provided to demonstrate no likely detriment to the maintenance of the population of GCN.

Condition 1: Any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Protected Sites

We have concerns that a significant effect from the proposed development on Johnstown Newt Sites Special Area of Conservation (SAC) cannot be ruled out. The application is located within 10 m of the SAC.

The following requirements need to be met before allowing the proposed development to proceed. We would object to the planning application if the requirements are not met.

Requirement 1: Protected Sites: Further information is submitted to carry out a Habitat Regulation Assessment (HRA) under regulation 63 of the Conservation of Habitats and Species Regulations 2017 prior to the determination of the planning application.

The application site is located close to the boundary of Johnstown Newt Sites Special Area of Conservation (SAC). This site supports a nationally important population of great crested newt.

We note the ecological survey and assessment. (Ecological Appraisal – Land at Gutter Hill, Rhosllanerchrugog, Wrexham, Greenscape Environmental Limited, 2019). However, the report lacks the detail required at this stage which must include:

1. Consideration of conservation objectives of the Johnstown newt sites Special Area of Conservation.
2. Dispersal distances of the great crested newt. This species is a feature of the SAC and is a European protected species
3. The presence of a water body behind the British Legion (at grid reference SJ2995 4644; and
4. The quality of the application site habitat for amphibians prior to recent vegetation clearance and reprofiling works in February 2019.

Should you also conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being consulted on your appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

SSSI/

The application site is located adjacent to the boundary of Stryt Las a'r Hafod Site of Special Scientific Interest (SSSI). This site supports a nationally important population of great crested newt and an assemblage of amphibian species.

We note the submitted ecological reports does not consider any impacts on the amphibian assemblage. This feature should be given due consideration in the report.

Protected Species

The application site has been subject to assessment in respect of great crested newt Ecological Appraisal – Land at Gutter Hill, Rhosllanerchrugog, Wrexham, Greenscape Environmental Limited, 2019). We do not concur with the submitted conclusions in respect of the great crested newt. The application site was subject to vegetation and reprofiling

works in February 2019. This in our view is likely to have caused the loss of amphibian terrestrial habitats.

In our view, construction of 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 are 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.

We consider that it is likely that the species has utilized the site for foraging, dispersal or sheltering purposes. Consequently, we advise that implementation of any subsequently approved scheme is subject to the provisions of a protected species derogation licence issued by NRW

We consider that the proposed development, as submitted, is likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts.

Requirement 2: Further information is provided to demonstrate no likely detriment to the maintenance of this population of GCN.

The scheme should be amended to consider the following:

- (a) The provision of at least 50% of the extent of the application site for long term nature conservation purposes;
- (b) Habitat restoration and creation within the ecology area. This to include restoration of terrestrial habitat that was present within the application site prior to its destruction in February 2019;
- (c) Amphibian avoidance and mitigation measures including the construction and maintenance of amphibian fences;
- (d) Long term management scheme (25 years +) for the ecology area. This to include, management, wardening and surveillance. Long term surveillance to be based on the online wales GCN monitoring scheme.
(<https://www.cofnod.org.uk/LinkInfo?ID=7>)
- (e) Amphibian friendly surface water management system for roads and car parking areas;
- (f) The provision of resources required to implement the long-term management plan.

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 1: 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.

Contaminated Land

Given the history of the adjacent area it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

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

Pollution Prevention

Due to the proximity of the site to watercourses, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works in, near or over watercourses' and '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>

Car Park

If a car park is for more than 50 vehicles, then a fuel interceptor must be installed on the drainage from the car park – unless a Sustainable Urban Drainage System (SUDS) is implemented. PPG3 provides further guidance and 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/>

Where SUDS is proposed for surface run-off from e.g. car parking, the applicant should be advised to refer to the Environment Agency's Position Statement G13 on groundwater protection available on the following link:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692989/Environment-Agency-approach-to-groundwater-protection.pdf

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