

For the attention of Matthew Phillips

28/01/2019

Dear Matthew,

TOWN AND COUNTRY PLANNING ACT 1990
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PROPOSAL:
**OUTLINE APPLICATION FOR THE CONSTRUCTION OF UP TO 600 DWELLINGS,
WITH ASSOCIATED LANDSCAPING, PUBLIC OPEN SPACE AND ON-SITE
INFRASTRUCTURE, WITH ALL MATTERS RESERVED EXCEPT FROM THE
NORTHERN SITE ACCESS
LOCATION:**
Land South of Holt Road

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 14/01/2019.

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.

Summary of Requirements and Conditions

Condition 1: The submission and implementation of compensatory proposals associated with Great Crested Newts (GCN). This to consider material issues associated with tenure and resource provision (e.g. imposition of index linked ground rent service charges on prospective residents);

Condition 2: The submission of proposals concerning long term, surveillance and wardening associated with GCN.

Condition 3: Submission and implementation of an amphibian friendly surface water management system

Condition 4: EPS: External lighting/internal light spillage assessment compliant with the provisions of the Institution of Lighting Professionals and Bat Conservation Trust: Guidance Note 08/18: Bats and Artificial Lighting in the UK

Condition 5: Submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Condition 6: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

Condition 7: 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 Species

The applicant has submitted an ecological report for the purposes of informing the public decision making process. (Reference: Palmer, G. (2018). Land South of Holt Road, Wrexham. Tyler Grange)

Great Crested Newts

The application site has been subject to survey and assessment in respect of the great crested newt. The survey confirmed the presence of the species. In our view the survey and assessment has been carried out to a satisfactory standard,

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.

We consider that it is possible that the species utilizes the site for foraging, dispersal or sheltering purposes. In our view, we consider that construction of the proposal has the potential to adversely affect GCN.

We consider the submitted Ecological Management Plan satisfactory addresses a number of material issues that we had previously identified including:

- (i) Consideration of incidental capture/killing issues
- (ii) Habitat management;
- (iii) Amphibian avoidance and mitigation measures

We also acknowledge the submission of further details concerning the amphibian compensation area. However, we advise that further information is required respect of:

- (A) Long term surveillance and records management. We advise that the methodology and reporting mechanism to be used is the online Wales GCN monitoring scheme (see <https://www.cofnod.org.uk/LinkInfo?ID=7>);
- (B) Long term tenure of the compensation area will need to be confirmed;
- (C) Wardening arrangements for the compensation area.

We consider that the proposal does demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of great crested newts.

However, we advise that any subsequent consent is subject to the imposition of the planning conditions or obligations (such as a Section 106 Agreement or a unilateral undertaking) that address the following:

Condition 1: The submission and implementation of compensatory proposals. This to consider material issues associated with tenure and resource provision (e.g. imposition of index linked ground rent service charges on prospective residents);

Condition 2: The submission of proposals concerning long term, surveillance and wardening

Condition 3: Submission and implementation of an amphibian friendly surface water management system

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.

Bats

We note that the bat report submitted in support of the above application (Ecological Assessment Report - Land South of Holt Road, Wrexham, 2018) 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 not likely to harm or disturb the bats or their breeding sites and resting places at this site, provided the avoidance measures described in the bat report are implemented.

The report must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted for this scheme to ensure appropriate avoidance and mitigation 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.

Please consult us again if the plans are changed in ways that may harm or disturb the bats or their breeding sites and resting places at this site.

We do request that a condition be attached associated with the lighting scheme for the proposal.

Condition 4: EPS: External lighting/internal light spillage assessment compliant with the provisions of the Institution of Lighting Professionals and Bat Conservation Trust: Guidance Note 08/18: Bats and Artificial Lighting in the UK

Water Vole and Otter

We consider the assessment in respect of water vole and otter to be satisfactory. We therefore concur with the conclusions.

In terms of otter, the proposal is not likely to be detrimental to the maintenance of the Favourable Conservation Status of the local population

NRW would refer the Local Authority to the Chief Planning Officer's letter 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.

We therefore advise that any consent includes the imposition of the following condition:

Condition 5: 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 of the scheme. In this case, we therefore advise against planting the proposed new pond with aquatic material.

Ecological Compliance Audit

Condition 6: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

We advise that any future consent includes the imposition of a condition that requires the submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

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.

Contaminated Land and Groundwater Quality

We have reviewed the submitted site investigation and whilst it is limited in terms of coverage there is no real grounds to strongly suspect contamination on site (it is primarily greenfield). There is however, the adjacent historic landfill and therefore always the potential for adjacent tipping in the past. We therefore request that the following condition be placed on any planning permission.

Condition 7: 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.
Reasons: Given the site (and neighbouring) history 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.

Flood Risk

The site lies entirely within Zone A as defined by the Development Advice Map (DAM) referred to within TAN15: Development and Flood Risk. The NRW Flood Risk map confirms that the site lies outside the extreme flood outline (0.1% annual probability event). We do not hold any records of flooding at the site.

We note that a Flood Consequences Assessment (FCA) has been prepared in support of the application by Lees Roxburgh Limited (ref: 6152/R1 Rev A). The FCA identifies a drainage ditch flowing into the north-western corner of the site which then enters a 225 mm culvert before emerging as an open ditch in the north-eastern corner of the site. The drainage ditch then enters a 450 mm culvert just north of the north-eastern boundary of the site. The Risk of Flooding from Surface Water Map indicates that there are some areas considered to be at risk of flooding from surface water within the site boundary; particularly in the north-western corner, which corresponds to the location of one of the drainage ditches.

We therefore recommend that Your Authority consults the Lead Local Flood Authority (LLFA) (in this case Wrexham County Council) in order for the LLFA to provide advice from a local flood risk perspective, both in relation to the potential flood risk posed by the drainage ditch (including the potential impact of culvert blockage) and surface water flood risk.

Please do not hesitate to contact us if you require further information or clarification of 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/>

During the construction 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

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 provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/waste/how-to-classify-and-assess-waste/?lang=en>

<http://naturalresources.wales/apply-for-a-permit/waste/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

Should a pollution incident occur during construction, this should be self-reported to Natural Resources Wales immediately on our incident hotline at 03000 65 3000.

Surface Water Drainage

The proposed development is in an area of bedrock aquifer. This designation is consistent with the Water Framework Directive and reflects the importance of aquifers in terms of groundwater as a resource (drinking water supply) and also their role in supporting surface water flows and wetland ecosystems.

In the event that surface water from the development discharges to ground, we refer the developer to the Groundwater Protection: Principles and Practice (Environment Agency, 2013) Position Statements. We refer the developer to the Environment Agency '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 G13 (sustainable drainage systems) which applies to this development: (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658135/LIT_7660.pdf)

Air quality impacts on designated sites

NRW note that an air quality assessment from predicted increase in road traffic on nearby designated sites has not been provided. We would advise the Design Manual for Roads and Bridges Volume 11 Environmental Assessment or an approved equivalent used to assist the decision.

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