

20/12/2017

Er sylw / For the attention of: Matthew Phillips

Annwyl / Dear Matthew Phillips,

TOWN AND COUNTRY PLANNING ACT 1990
DEDDF CYNLLUNIO GWLAD A THREF 1990

BWRIAD / PROPOSAL:

Proposed Intensive Poultry Installation and all associated works – 100,000 birds

LLEOLIAD / LOCATION:

LAND AT MULSFORD FARM SARN MALPAS WREXHAM

Thank you for consulting Natural Resources Wales (NRW) about the above with additional information, which was received on 07/12/2017.

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 conditions. We would object if the scheme does not meet these requirements and conditions.

Summary of Requirements and Conditions

Requirement 1 – Confirmation of whether any toilet and/or sanitary facilities are proposed.

Requirement 2 – Amendment to the Manure Management Plan to reflect new scheme for manure

Requirement 3 - An appropriate scheme that will need to include, but not be limited to, the submission of the following further information:

- a) The submission of detailed great crested newt avoidance and mitigation measures;
- b) The submission of long-term compensatory proposals including, appropriate sized compensation area (based on 'like for like') and appropriate tenure;

Condition 1 - The implementation of detailed great crested newt avoidance and mitigation measures;

Condition 2 - The implementation of long term compensatory proposals including, appropriate sized compensation area (based on 'like for like') and appropriate tenure;

Condition 3 - The submission of long-term management, surveillance and wardening proposals;

Condition 4 - The submission of proposals that evidence the long-term provision of resources for future management, wardening and surveillance.

Condition 5 - No commencement of development works until the Local Planning Authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to ahead, or Natural Resources Wales has informed the applicant that such a licence is not required.

Condition 6 - The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Condition 7 - Submission and implementation of an approved ecological compliance audit scheme to the satisfaction of the local planning authority.

Foul Drainage

Requirement 1 – Confirmation of whether any toilet and/or sanitary facilities are proposed.

On the application form section 12 Foul Sewage it is noted that the method of disposal is unknown. If toilet and/or sanitary facilities are proposed, NRW require confirmation of the method of foul disposal.

Manure Management Plan

We note the letter from R J Tomlinson that states that they are able to receive the manure as soon as the shed is cleared out. Therefore, our requirement with regards to the manure heaps can be removed.

Requirement 2 – Amendment to the Manure Management Plan to reflect new scheme for manure

However, we require the clarification of the Manure Management Plan to be amended accordingly to reflect this new scheme as now 1000 tonnes will be exported to the Anaerobic Digester at Lower Park Farm

Protected Species

Regulations 9(3) of the Conservation of Habitats and Species Regulations 2010 (as amended) requires public bodies in exercise of their functions, to have regard to the provisions of the 1992 'Habitats' Directive (92/43/EEC) and the 2009 'Birds' Directive Birds' Directive (2009/147/EC) so far that they might be affected by those functions.

The applicant has submitted revised ecological information for the purposes of informing the proposed planning decision making process, Reference: Thorne, RG and Thorne, K. (2017). Ecological impact Assessment of land at Mulsford. Threapwood, Wrexham. Churton Ecology. (Unpublished)

It is NRW's view that the updated ecological submission does not satisfactorily address our requirements in respect of Great Crested Newts . Material issues include the adequacy of compensatory proposals and the duration of long term measures. Therefore our requirement with respect to GCN remains.

- Great Crested Newt

Requirement 3 - An appropriate scheme that will need to include, but not be limited to, the submission of the following further information:

- b) The submission of detailed great crested newt avoidance and mitigation measures;
- b) The submission of long-term compensatory proposals including, appropriate sized compensation area (based on 'like for like') and appropriate tenure;

We will also request that any subsequent consent is subject to the imposition of the following planning conditions:

Condition 1 - The implementation of detailed great crested newt avoidance and mitigation measures;

Condition 2 - The implementation of long-term compensatory proposals including, appropriate sized compensation area (based on 'like for like') and appropriate tenure;

Condition 3 - The submission of long-term management, surveillance and wardening proposals;

Condition 4 - The submission of proposals that evidence the long-term provision of resources for future management, wardening and surveillance.

Condition 5 - No commencement of development works until the Local Planning Authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to ahead, or Natural Resources Wales has informed the applicant that such a licence is not required.

The great crested newt (GCN) is considered likely to be present within the boundary of the application site. We therefore consider 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 2010 (as amended) 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 satisfy 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 the Local Planning 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 uses the site for foraging, dispersal or sheltering purposes. In our view, we consider that construction phase of the proposal has the potential to adversely affect GCN.

We therefore consider that further information is required for the purposes of demonstrating that the proposed development is not be likely to be detrimental to the maintenance of the favourable conservation status of the GCN population at this site. In our view the proposals require the submission of a long-term dedicated newt compensation area together with the provision of resources to implement long term surveillance and management.

Biosecurity

The submission regarding biosecurity is not adequate.

Condition 6 - The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

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 future 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.

Ecological Compliance Audit

Condition 7 - Submission and implementation of an approved ecological compliance audit scheme to the satisfaction of the local planning authority.

We advise that any future consent includes the imposition of a condition that requires the submission and implementation of an approved ecological compliance audit scheme to the satisfaction of the local planning authority. The purpose of this condition is to facilitate the provision of evidence that demonstrates implementation of the proposal accords with the provisions of planning (and other) statutory consents.

Air Quality

We have applied the new (post-April 2017 guidance) screening distance of 5km (that would exclude the SSSIs, SACs and Ramsar which are further than 5km). That means the only sites that need to be considered by NRW are River Dee SSSI, River Dee & Lake Bala SAC and Cloy Brook Pastures SSSI. We cannot comment on Well Rough & Long Plantation SSSI (1.8km) which is for Natural England to comment upon. You may wish to consult with Natural England separately in this regard.

Ammonia Report

We have applied the new thresholds of 1% for initial screening for both ammonia emissions and nitrogen deposition. For all of these sites, the ammonia and nitrogen contributions are 1% or below, so for planning terms they are acceptable. NRW Permitting Service will assess the proposals when put forward by the developer under The Environmental Permitting (England and Wales) (Amendment) Regulations 2013. As such, the impacts relating to the permit process should be assessed within that legal framework and will not be addressed within this response. Our Permitting Service may require further detailed modelling carried out; you are advised to contact them for further advice. As such, NRW cannot confirm whether or not the proposals will be acceptable from a permit perspective at this stage.

Flood Risk & Management of Surface Water Runoff

A Flood Consequences Assessment (FCA) has been produced to support and inform development on the site. The contents of the FCA (Waterco Limited, w10377-170908-FCA) are generally commensurate to the scale and nature of the development proposals. The FCA shows that the proposed buildings are to be sited on land which is significantly elevated above the levels of Wych Brook, and therefore fluvial flood risks are considered low. We therefore have no flood risk objections to the development proposals.

The FCA acknowledges that the development, without appropriate mitigation, has the potential to increase flood risks both onsite and offsite if surface water runoff is not

effectively managed. The FCA proposes that surface water runoff be directed to Wych Brook, at a restricted rate of 7.2 litres per second. Onsite surface water attenuation is to be provided in an attenuation pond, which is illustrated on drawing numbered RJC-MZ63-Huxley-05 (Drainage Plan). The proposed point of discharge and the proposed discharge rate appear acceptable. However, we would recommend that you refer the details of the application to your Flood Risk/ Drainage Team, who act as the Lead Local Flood Authority. Whilst we note that your Flood Risk Officer has already provided some comment on the application (email dated 11 October) they should be made aware that an FCA has now been submitted in support of the application. Once they have reviewed the surface water management strategy outlined in the FCA, they may wish to make further representations. The LLFA may recommend the imposition of appropriately worded planning conditions to ensure that the management of surface water runoff is effectively managed as part of this development. Further guidance on the LLFA's typical surface water drainage requirements are set out in their guidance available at:

http://www.wrexham.gov.uk/english/planning_portal/publications/surface_water.htm

Flood Risk Activity Permit – Informative

Wych Brook is designated a “main river”, and as such any works or structures located in, under, over or within 8 metres of the bank top of the watercourse may require a bespoke Flood Risk Activity Permit from Natural Resources Wales under the Environmental Permitting (England and Wales) Regulations, 2016.

Further advice and information about Flood Risk Activity Permits is available on our website:

<http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/?lang=en>

Environmental Management

Mulsford farm is on the boundary between Emral and Worthenbury Middle Water Framework Directive water bodies.

- Emral Brook (GB111067052211) Moderate ecological status (2015) – elements not currently meeting good classification status are Fish, Phosphate, Macrophytes (aquatic plants) and phytobenthos (algae).
- Worthenbury Middle (GB111067052220) poor ecological status (2015) – elements not currently meeting good classification status are Phosphate and Inverts.

Operation of the poultry unit, must not cause any deterioration of these water bodies or prevent them from getting to good status.

Wash down - It is noted in the application that all wash down water will be directed to a dirty water tank; we recommend this tank is inspected before washing down the sheds. The capacity of the tank should be able to cope with the volumes of water used during the wash down phase of the operation.

- Pollution Prevention Plan

The plan addresses the main issues of concern in terms of pollution prevention. With regards to the proposed dirty water drainage, an alarm system should be installed to ensure that the dirty water tank doesn't overflow, causing accidental release of contaminated water into surface water drains.

With regards to waste related issues you must ensure that:

- Any movement of waste must be undertaken in compliance with the Waste Duty of Care legislation.
- If inert waste material is to be imported to site for use of construction, the relevant exemption (U1) must be registered with Natural Resources Wales, provided that the exemption criteria are met.
- Any contaminated soil excavated from site must be removed and disposed offsite as hazardous waste, and its movement must be accompanied by hazardous waste consignment notes.

Further advice can be found at:

- PGG6 Working at construction and demolition sites (Please note this is an EA only guidance, however the principles are applicable in Wales) <https://www.sepa.org.uk/media/60125/ppg-6-working-at-construction-and-demolition-sites.pdf>
- PPG 26 Safe Storage: drums and intermediate bulk containers (Please note this is an EA only guidance, however the principles are applicable in Wales) <https://www.sepa.org.uk/media/60190/ppg-26-safe-storage-drums-and-intermediate-bulk-containers.pdf>
- GPP22 Dealing with spills <https://www.sepa.org.uk/media/60177/ppg-22-incident-response-dealing-with-spills.pdf>
- For advice on Waste duty of care applicable to construction and demolition please visit: http://www.flytippingactionwales.org/files/2614/0120/3448/FtAW_Construction_Demolition_Bilingual.pdf
- For advice on U1 exemptions please visit: <https://www.gov.uk/guidance/waste-exemptions-using-waste>

Environmental Permitting

As the proposal accommodates in excess of 40,000 birds, an Environmental Permit under the Environmental Permitting Regulations 2010 will be required from Natural Resources Wales. No Environmental Permit application has been received to date.

If more than 20m³/day of water will be abstracted from the proposed borehole, then this will also need an Environmental Permit (groundwater abstraction licence).

If any toilet/sanitary facilities, will be proposed, the private foul drainage system associated with this development will also require an Environmental Permit under the Environmental Permitting Regulations 2010, from Natural Resources Wales, unless an exemption applies. The applicant is advised to contact Natural Resources Wales on 0300 065 3000 for further advice and to discuss the issues likely to be raised. The applicant should be aware that a permit may not be granted. Additional guidance on 'Environmental Permitting' can be accessed:

<http://naturalresources.wales/permits-and-permissions/water-discharges/discharges-to-surface-water-and-groundwater/?lang=en>

We advise that you engage with NRW's Permitting Service as early as possible and at pre-application stage, by calling 0300 065 3000 or sending an enquiry to:

enquiries@naturalresourceswales.gov.uk

The standard determination period for such applications as above is 4 months from the date the application is "duly made".

The grant of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

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 included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). 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. 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,

Siôn M. Williams

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Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales