



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-47146-D9B3
Eich cyf/Your ref: P/2017/0937

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12/12/2017

Er sylw / For the attention of: Mared Rees

Annwyl / Dear Ms Rees,

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

**BWRIAD / PROPOSAL: CONSTRUCTION AND OPERATION OF A RESERVE POWER
PLANT AND ASSOCIATED INFRASTRUCTURE**

**LLEOLIAD / LOCATION: P R PUGH MINERS ROAD LLAY INDUSTRIAL ESTATE
LLAY WREXHAM, LL12 0PJ**

Thank you for consulting Natural Resources Wales (NRW) on the application above, which was received on the 15th of November 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 requirement and you attach the conditions listed below. Otherwise, we would object to this planning application.

Summary of requirement:

Requirement 1: appropriate GCN mitigation and compensation scheme to be agreed with the LPA in consultation with NRW.

Summary of Conditions:

Condition 1: Biosecurity: No development shall take place until a Biosecurity Risk Assessment has been submitted and approved to the satisfaction of the LPA.

Condition 2: ECA: Submission and implementation of an approved ecological compliance audit (ECA) scheme to the satisfaction of the LPA.

European Protected Species - Great Crested Newt

We can confirm that application site is located adjacent to ponds that are known to support populations of the great crested newt or GCN (*Triturus Cristatus*). Our records indicate the species is present within 30m of the application site. We are also aware of at least 5 ponds supporting the species located within 500m of the application site.

This species and their breeding and resting places is protected under the provisions of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended). In this case, GCN are considered very likely to be affected by the proposal.

The presence of a protected species is listed as a material planning consideration under the provisions of Planning Guidance Wales and Technical Advice Note (TAN) Number 5.

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 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.

The application site is within the range of ponds known to support the species. We therefore consider that it is possible that the species utilizes the site for foraging, dispersal or sheltering purposes. The application site also forms an import component of a corridor that links populations located to the north and south of the proposed development.

We therefore consider that the development and its subsequent operation has failed to demonstrate that it is not likely to be detrimental to the maintenance of the favourable conservation status of local populations of GCN. Consequently, further information in terms of GCN avoidance, mitigation and compensation measures are required to inform the planning decision making process. We therefore require the following:

Requirement 1: Appropriate GCN mitigation and compensation scheme to be agreed with the LPA in consultation with NRW.

In the absence of this information, we object to the development as currently proposed. We recommend planning permission be refused until it can be demonstrated that the proposed development will either not harm or disturb GCN or their breeding sites and resting places at this site; or all 3 conditions for the eventual grant of a licence under the Conservation of Habitats and Species Regulations 2017 are likely to be satisfied.

At a minimum we would require a framework outline for how compensation and mitigation are to be implemented. Once we have reviewed and approved this framework, we would require that any subsequent consent include the detail of the framework including implementation to be subject to the imposition of a condition.

Bats

Bats and their breeding and resting places are protected under the same legislation as GCN. The applicant's ecological submission (Llay PEA. Ecology Resources Ltd (2017) considered the presence of bats. The survey found no evidence of bats at the site. We consider the survey and assessment to be satisfactory for the purposes of informing the public decision making process, with respect to bats.

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: Biosecurity: No development shall take place until a Biosecurity Risk Assessment has been submitted and approved 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

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 (KPIs) that are to be used for the purposes of assessing and evidence compliance.

Condition 2: ECA: 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.

Air Quality Assessment & Protected Sites

The screening distance for a combustion process of this size (9.9MWe) is 2km. Two designated sites are within that distance with only one having sensitive habitat, Llay Bog Site of Special Scientific Interest (SSSI).

Llay Bog SSSI, which is managed as a wet woodland with a mosaic of boggy / marshy habitat is notified for multiple National Vegetation Classification Communities. We consider raised bogs and their associated flora to be key vegetation, which should be protected from any significant pollution arising from the development

In this case, the relevant potential pollutant is Nitrogen Dioxide. The development's contribution to the nitrogen dioxide critical level and acid critical load are not significant. The assessment of nitrogen deposition is based on a nitrogen critical load of 5kgN/ha/yr, giving the development a contribution of 1.4% of that critical load. Our information suggests that the features of the in fact have a higher nitrogen critical load of 10kgN/ha/yr. This brings the development's contribution to nitrogen below 1% and is therefore not likely to be significant.

Geoscience informative/advice to LPA

Natural Resources Wales considers that the controlled waters at this site are not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

It is recommended that the requirements of Planning Policy Wales and the Environment Agency Guiding Principles for Land Contamination (GPLC 1, 2, and 3), March 2010, should be followed as we have adopted this guidance.

These comments are based on our assumption that gross contamination is not present at this location. If, during development, gross contamination is found to be present at the site, the Local Planning Authority may wish to re-consult the Natural Resources Wales.

Please do not hesitate to contact us if we can be of any further assistance to you or if you wish clarification on 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,



Holly Tomlinson

Cynghorydd Cynllunio Datblygu / Development Planning Advisor

Cyfoeth Naturiol Cymru / Natural Resources Wales