

16 Lord Street,
Wrexham,
LL11 1LG

Ein cyf/Our ref: TH/CAS-26425-S0Z1

Eich cyf/Your ref: P/2016/0709

02/12/2016

Er sylw / For the attention of Philip Forster

Annwyl Syr/Madam / Dear Sir/Madam,

TOWN & COUNTRY PLANNING ACT 1990

**BWRIAD / PROPOSAL: ADDITIONAL INFORMATION SUBMITTED BY
APPLICANT - CHANGE OF USE OF FORMER CONSTRUCTION
COMPOUND AND CONSTRUCTION OF AN ADVANCED
ANAEROBIC DIGESTION (AAD) PLANT TOGETHER WITH
ASSOCIATED INTERNAL SITE ACCESS ROADS AND SCREENING
BUND**

**LLEIOLIAD / LOCATION: FIVE FORDS WASTE WATER TREATMENT WORKS,
CEFN ROAD**

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above.

The applicant has submitted further reasoning with regard to protected species, biosecurity and further information with regard to the structures which may affect groundwater interests.

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

Summary of Requirements:

Requirement 1: Protected Species: Submission of appropriate mitigation and avoidance scheme.

Protected Species:

NRW remains of the opinion that, 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).

NRW agree that the northern most works may not directly affect GCN. However the range which GCN move can exceed 250m where higher populations are present.

Owing to the predicted range of the species covering the southern component of the proposal, we therefore wish to reiterate our advice that implementation of the proposal is subject to derogation licence.

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 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.

From a compensatory perspective, we advise that proposals are submitted as a material component of the application. We suggest the applicant considers providing an extension to the existing great crested newt compensatory area, which is identified in the attached plan (WG licence number 1840 and 2044). In our view, implementation of this advice accords with the provisions of Section 6 of the Environment (Wales) Act 2016.

We recommend that no approval should be given until a framework document is prepared that outlines how component outstanding issues associated with the conservation of the species will be addressed by the applicant in the short and long term.

We consider that the proposal fails to satisfactorily demonstrate that it will not 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 following planning conditions or obligations (such as a Section 106 Agreement or a unilateral undertaking):

- The submission and implementation of detailed great crested newt avoidance and mitigation measures. This to include detail of exclusion and barrier fencing ;
- The submission and implementation of long compensatory proposals. This to consider material issues associated with tenure;
- A management plan that includes provisions concerning long term management, surveillance and tenure. This submission to include the long term provision of resources;
- Measures to be carried out in order to prevent incidental capture/killing of amphibians during construction and operational phases of the proposal;
- The inclusion of a planning condition to any planning permission that prevents the commencement of development works until your 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 proceed, or Natural Resources Wales has informed the applicant that such a licence is not required
- 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.

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.

Biosecurity:

NRW consider the information submitted by the applicant to be sufficient with regard to the control of invasive non-native species.

Contamination:

The applicant has indicated the structures which may impact upon groundwater receptors (pipes and tanks). As such, providing appropriate pollution prevention measures are adhered to during construction, NRW would no longer require a formal groundwater risk assessment.

Air Quality:

The MWth will need to be provided so that the relevant screening distance which determines the designated sites to include in the air pollution impacts assessment.

Environmental Permitting (England and Wales) Regulations 2010 (as amended):

The anaerobic digestion plant is currently operated under a T21 exemption, as specified by schedule 3 of the above Regulations.

The proposed development at Five Fords may take the Operator above the exemption thresholds, consequently they will need to apply to vary their existing environmental permit (AP3139FT) to include the advanced anaerobic digestion plant as a schedule 1 listed activity.

The Operator should contact Natural Resources Wales to discuss the implications of the proposed development on the Environmental Permit.

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 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,

Tomos Hughes

Mr T P L Hughes

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