



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CAS-12285-N7D3
Eich cyf/Your ref: P/2015/0463

Llwyn Brain
Ffordd Penlan
Parc Menai
Bangor, LL57 4DE

Ebost/Email: Gareth.Thomas@cyfoethnaturiolcymru.gov.uk
Ffôn/Phone: (0300) 065 3786

Philip Forster
Planning Control Department
Wrexham County Borough Council
16 Lord Street
Wrexham
LL11 1LG

Date: 18th November 2015

Dear Mr Forster,

**INSTALLATION OF SOLAR FARM (INCORPORATING PHOTOVOLTAIC SOLAR PANELS) TO
GENERATE UP TO 5MW OF POWER
LAND TO THE NORTH AND WEST OF MAELOR GAS WORKS, PARKEY LANE, MARCHWIEL,
WREXHAM, LL13 0UW**

Thank you for your email dated 29th October 2015 regarding the above planning application, enclosing further information, namely:

- Flood risk assessment
- Ecological Method Statement
- Habitat Management Plan
- Contaminated land report
- Groundsolve report

We remove our initial objections to the application, and request that any approval includes the following formal conditions:-

Land Contamination

We note that a Phase 1 Desk Study and Preliminary Risk Assessment (PRA) has been carried out for the site, by The Magnificent Science Company Ltd. The report confirms that the site was subject to previous industrial uses including a World War II munitions factory. The report recommends further intrusive site investigation.

We consider that planning permission should only be granted to the proposed development as submitted if the following planning conditions are imposed as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application. Although we recognise that a Preliminary Risk Assessment has already been carried out, nevertheless, we would still recommend that the first condition be applied in its entirety.

Condition: Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning

Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
 - ☐ all previous uses
 - ☐ potential contaminants associated with those uses
 - ☐ a conceptual model of the site indicating sources, pathways and receptors
 - ☐ potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity as the site sits on a Secondary A aquifer and the River Clywedog (tributary of the River Dee) flows approximately 80m from the site; and contamination is suspected from the historic use of the site as a World War II munitions factory.

Condition: Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

Reason: To demonstrate that the remediation criteria relating to controlled waters have been met, and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Condition: Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Condition: 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.

Reason: It is difficult for any site investigation to fully characterise a site. It is possible that there may be unidentified areas of contamination at the site resulting from the past industrial uses of the site that could pose a risk to controlled waters if they are not remediated.

Ecology

The applicant has submitted further ecological information for the purposes of informing the public decision making process: Board, S. (2015). Habitat management Plan: Development of a solar PV array at Williams Farm, Wrexham. The Magnificent Science Company Ltd. Unpublished.

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 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 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.

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 and operational phases of the proposal have the potential to adversely affect GCN. We therefore consider that further information is required for the purposes of ensuring the appropriate implementation and operation of the proposal. Information requirements include clearance of individuals from working areas during construction; and the detail of habitat management and tenure within the dedicated compensatory area.

We consider that the development and its subsequent operation is not be likely to be detrimental to the maintenance of the favourable conservation status of the GCN populations provided 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 great crested newt avoidance and mitigation measures;
- The submission and implementation of long term compensatory proposals including management, surveillance and tenure;
- 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

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 permission and the licence application may affect the outcome of a licence application.

Please note that we have not considered possible effects on all local or regional interests, including those relating to the upkeep, management and creation of habitat for wild birds. Therefore, you should not rule out the possibility of adverse effects on such interests, which would be relevant to your Authority's general duty to have regard to conserving biodiversity, as set out in section 40 of the Natural Environment and Rural Communities (NERC) Act (2006). This advice includes any consideration of the planned provision and management of "linear" and "stepping stone" habitats.

To comply with your Authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or third sector nature conservation organisations such as the local wildlife trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species (www.biodiversitywales.org.uk).

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 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

We advise that any 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.

Protected Ecological Sites

We do not consider that this proposal will affect the features, functionality or integrity of any statutory designated sites of ecological, geological and/or geomorphic interest.

Flood Risk

The submitted Flood Consequences Assessment (FCA) does not adequately explain either the flood risks to the site or proposed flood mitigation measures. It indicates that flood risk data for the site was supplied by the Environment Agency, whereas it is Natural Resources Wales (NRW) which (since its formation in 2013) maintains flood risk data for Wales, and we are not aware that any request has been made to NRW for flood risk information regarding this site. Similarly, the FCA does not refer to Welsh planning policy and guidance (TAN 15 Development & Flood Risk (2004)), instead referencing English policy which does not apply in Wales.

However, based on the submitted site location plan, the majority of the development lies outside the present-day 0.1% AEP fluvial flood outline, in zone A as defined in TAN 15 and shown on Welsh Government's Development Advice Map. Therefore, based on the scale and nature of the proposed development, we would have no objection to the proposed development on flood risk grounds. As flood extents are likely to increase with climate change, we would recommend that the developer considers installing flood proofing measures to water-sensitive equipment such as inverter stations, or locating them at the higher elevations available on the site.

Surface Water

The FCA states that high groundwater levels make the site unsuitable for soakaways and recommends attenuation storage with discharge at a controlled rate. However, the location of the proposed swales and the proposed discharge point are not specified in the FCA.

We recommend that a condition is imposed to ensure that a scheme to dispose of surface water is submitted to and approved in writing by your Authority, to ensure effective management of surface water run-off resulting from the proposed development. As they fulfil the role of Lead Local Flood Authority, we recommend that you contact your Drainage Department for further advice in relation to this. We advise that any proposed scheme should ensure that run-off from the proposed development is reduced or will not exceed existing runoff rates. Details of adoption and management should also be submitted to ensure that the scheme/systems remain effective for the lifetime of the development.

We request that we are consulted on any details submitted for approval to your Authority to discharge these conditions and on any subsequent amendments/alterations (including any condition related to a surface water management scheme). We will usually limit our comments to reviewing the acceptability of the proposed discharge rate as well as the suitability of the discharge point / receiving watercourse.

Historic Landscape

The proposal may affect the Commonwood and Maelor Landscapes of Outstanding/Special Historic Interest. While this is not a statutory designation, chapter 6 of Planning Policy Wales (PPW) states that it is a material consideration in the planning process and must be given due regard when reaching a determination.

Pollution Prevention

We recommend that a Site Waste Management Plan (SWMP) is drawn up prior to scheme's commencement in order to ensure full duty of care is complied with. Waste should be reused on site where possible. The SWMP should incorporate a monitoring system for wastes removed from site for reuse or disposal. This should include potentially contaminated material.

The importing of inert waste onto the site for storage or use in construction, maintenance or improvement works, for example hardcore, soils, must be registered with Natural Resources Wales under The Environmental Permitting (England and Wales) Regulations 2007 and comply with the conditions of the relevant permit. It should be noted that the registration of some exempt activities for the use of waste material for relevant works require a 25 working day consultation period. This is to allow assessment, determination and authorisation prior to commencement of any activity authorised under the relevant permit from The Environmental Permitting (England and Wales) Regulations 2007.

The applicants/developers must minimise discolouration to the watercourse from the construction works. Silty water should be treated, either through the use of settlement lagoons, or tanks, or discharged across a grassed area. For work in river channels the use of coffer dams is recommended, to keep river water out of the working area. River crossings must be kept free from mud or dust deposits. Oil and chemical storage must be kept away from the watercourse, on an impervious base, within a bund, and secured. Absorbents or a suitable spill kit must be kept on site for use in the event of an emergency. NRW should be notified immediately of such an occurrence. The mixing, use and washing of machinery and shuttering of wet concrete and cement must be carefully controlled to minimise the risk of any material entering the watercourse. The applicant is advised to follow the guidance within Pollution Prevention Guidance Note 5 "Works and maintenance in or near water".

Where a condition has been imposed which has been suggested by NRW or which meets NRW's objective, the Local Planning Authority should consult with NRW to secure compliance with the condition prior to its discharge. A copy of the subsequent decision notice would be appreciated.

Yn gywir / Yours' faithfully,



Mr. GARETH THOMAS

Swyddog Cyswllt Cynllunio / Planning Liaison Officer

Ebost/Email: Gareth.Thomas@cyfoethnaturiolcymru.gov.uk

Deialu uniongyrchol/Direct dial: (0300) 065 3786 **Siaradwr Cymraeg / Welsh Speaker**



cc: Solar Ventures Ltd.