

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

Date: 25th November 2015

Dear Mr Forster,

**USE OF LAND FOR THE ERECTION OF A SOLAR PHOTOVOLTAIC ARRAY (UP TO 10 MW)
INCLUDING METERING AND INVERTER KIOSKS, SECURITY CAMERAS, FENCING AND
GATES AND A TEMPORARY CONSTRUCTION COMPOUND AND ACCESS TRACK
LAND TO THE WEST AND NORTH OF BORRAS HALL, BORRAS HALL LANE, LLAN Y PWLL,
WREXHAM, LL13 9SG**

Thank you for referring the above application, which was received on 28th October 2015.

We have no objection to the application, but request that any approval includes the following conditions:

Ecology

The applicant has submitted a preliminary ecological appraisal for the purposes of informing the public decision making process, reference: Grey, R. (2015). Proposed Solar PV Scheme Borrass Hall Farm, Wrexham: Preliminary Ecological Appraisal. Etive Ecology Limited. Unpublished

Great Crested Newt

In our view, given the distribution and density of sites known to support the great crested newt in this part of Wrexham, we 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 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 application site for foraging, dispersal or sheltering purposes. In our view, 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 a dedicated ecology area. Current proposals are not considered to be satisfactory.

However, 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):

- o The submission and implementation of great crested newt avoidance and mitigation measures;
- o The submission and implementation of long term compensatory proposals including management, surveillance and tenure;
- o 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 ahead, 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.

Badgers

We understand that a badger sett has been identified within 5m of the boundary of the application site.

Badgers and their setts are protected under the Protection of Badgers Act 1992. It is an offence to kill, injure or take any badger or to disturb a badger whilst it occupies a sett. It is also an offence to damage, destroy or obstruct access to a badger sett. Unless the proposal avoids these effects, the applicant will also require a licence from NRW under Section 10 (d) of the Protection of Badgers Act 1992 before any development could proceed.

A licence application should be accompanied by survey reports and, where necessary, an appropriate mitigation scheme. A scheme for the conservation of badgers should take account of the distance of any sett from the development, the status of the sett and the provision of suitable foraging areas.

Bats, Otters, Nesting Birds and Reptiles

We consider assessment in respect of these species in this case to be satisfactory.

Further advice in respect of these species should be obtained from your own ecological advisors.

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

from being introduced to the site for the duration of construction/operational phases of the scheme.

Ecological Compliance Audit

We also advise that any permission 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.

Flood Risk

The site lies within zone A as defined in TAN 15 Development & Flood Risk (2004) and shown on Welsh Government's Development Advice Map. Our Flood Map information also confirms that the site lies outside of the extreme flood risk outline. However, some limited areas of the site are at risk of surface water flooding in the 1 in 30, 1 in 100 and 1 in 1000 year flood events.

The application form indicates that the site is within 20m of a stream or beck, however it is not clear where this is located. The form indicates that surface water will be discharged to soakaway, but although the information in the Planning Statement indicates that site conditions may be suitable for infiltration, no sustainable drainage scheme has been submitted.

We are aware that other planning applications for developments of this type and scale have been submitted/approved in Wrexham Borough this year. These development proposals have also been supported by Flood Consequences Assessments, one of which proposed a number of mitigation measures to minimise the potential adverse flood risk impacts that may arise from developments of this scale. These mitigation measures include appropriate controls to protect the site's soil structure during construction, operational and de-commissioning stages in order to avoid over-compaction of the soil structure. Significant compaction of the soil could reduce natural infiltration rates and hence increase the surface water runoff rates from the developed site. Your Authority may deem it appropriate to include a planning condition on any planning approval, which requires for a Soil Management Plan to be implemented to mitigate against soil compaction and help ensure that the soil structure is kept in "good condition" throughout, and after, the scheme's lifetime.

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.

Land Contamination

Natural Resources Wales does not consider that the proposed development poses a significant risk to controlled waters. Although unconfirmed, we understand that the sand and gravel quarry workings were infilled with clean material.

We note that a formal preliminary risk assessment has not been submitted and so we cannot confirm whether contamination exists at this site or not. In line with the advice given in Planning Policy Wales, we understand that the Authority must decide whether to obtain such information prior to determining the application or as a condition of the permission. We recommend the Authority refers to its own environmental advisors.

We also advise that the developer /applicant refers to [Groundwater protection: Principles and practice \(GP3\)](#).

Pollution Control and Waste Management

The developer should follow "Pollution Prevention Guideline 6: Working at construction and demolition sites.", to ensure that pollution prevention methods are put in place to minimise the risk of pollution to air, land and water.

All waste produced during the construction of the solar farm should be disposed of at a regulated facility that is permitted to accept that waste. The waste duty of care should be adhered to at all times, ensuring that waste transfer notes, waste carriers & environmental permits and/or exemptions are in place. The applicant may consider producing a Site Waste Management Plan.

Should any waste material be used, the developer should contact Natural Resources Wales to discuss the requirements of an Environmental Permit or exemption.

Should the developer cause a pollution incident to air, land or water during construction, they should self-report the incident to Natural Resources Wales immediately on our incident hotline number on 0800 80 70 60.

Landscape

The site lies at a considerable distance from the Clwydian Range and Dee Valley AONB and approximately 6km to the north of the Maelor registered historic landscape, separated by Wrexham Industrial Estate. We therefore would expect there to be no significant effects upon landscapes within NRW's remit.

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: Caulmert