Notice of refusal

Environmental Permitting (England and Wales) Regulations 2016

Refusal of an application for a permit

Application number: PAN-003833

To: Mr John Rickards

Dunn & Ellis
St. Davids Building
Lombard Street
Porthmadog
LL49 9AP

Natural Resources Wales has considered your application. We give notice that the application for a permit is refused.

The reasons for this decision are outlined in the attached schedule.

Name	Date
Terry Gulliford	**16/04/2019**

Authorised on behalf of Natural Resources Wales

Schedule
Reasons for Refusal

Description of discharge activity

The application is for a discharge of 3.6 cubic metres per day of secondary treated sewage effluent originating from six three-bedroom houses. The proposed discharge point is SH 72289 76705 which is a small stream that reaches Conwy Bay after approximately 350 metres.

Determination Decision

We have decided to refuse the application PAN-003833 requesting the granting of an environmental permit for a water discharge activity. The location of the proposed development is within a reasonable distance to connect to a main sewer, Welsh Water have provided two possible connection points that can receive and treat the flows and are situated <20 metres from the development boundary. The discharge is also approximately 200 metres from a designated Bathing Water (Penmaenmawr) and 300 metres from Liverpool Bay Special Protection Area and Menai Strait and Conwy Bay Special Area of Conservation, designated under the Conservation of Habitats and Species Regulations 2010.

Natural Resources Wales (NRW) have an obligation to resist the proliferation of private treatment systems at all stages of development in locations where it is reasonable to connect to the public foul sewer, as defined in Planning Policy Wales (2016) and Welsh Government Circular 008/2018. NRW also have an obligation to ensure the we maintain and enhance water quality under the Bathing Water Directive (BWD) and Water Framework Directive (WFD) and afford sufficient protection to species and habitats within sites designated under the Conservation of Habitats and Species Regulations (HSR).

How we reached our decision

After assessing environmental, practicality and cost factors associated with connection to the foul sewer vs installation and maintenance of a private treatment system in line with Planning Policy Wales (2016) it has been judged that connection to the foul sewer is reasonable and is the most sustainable, low risk option. Planning Policy Wales (2016) outlines that connection to sewer offers the most environmentally, economically and socially appropriate long-term solution. In addition, under section 106 of the Water Industry Act 1991, any domestic property is entitled to have foul water connected to the public sewerage system. Furthermore, NRW are aware of previous pollution incidents associated with the applicant, one of which was an incident which occurred from insufficient maintenance of a sewage management system. With reference to our Regulatory Guidance Note 5 ‘Operator Competence’, we may consider operator competence at any time and refuse or revoke a permit if we consider the operator is not sufficiently competent in carrying out the proposed activity. Given the multiple factors outlined above, we stress connection to the foul sewer is preferable.

The proximity of the discharge to the nearby Bathing Water of Penmaenmawr is also a concern. Penmaenmawr beach has achieved the Excellent standard under the Bathing Water Directive for the last two seasons, the high water quality has led to the beach receiving Blue Flag status. The only permitted continuous discharge within proximity of the

proposal originates from Penmaenmawr Wastewater Treatment Works (permit number CG0141401), if the development were to connect to the foul sewer this is the permit the effluent would be regulated under. There are conditions on water company regulated permits requiring Operator Self-Monitoring and annual Reporting of effluent quality, requirements which would not be on a permit for a private system due to lack of operator certifications and qualifications. Planning Policy Wales (2016) also outlines that compliance rates for private treatment works are significantly lower than public treatment works operated by sewerage undertakers, meaning that if the effluent is to be treated by Penmaenmawr works, there would be less environmental risk, especially when considering operator competence. In addition, funding is available through Ofwat and the AMP (Asset Management Plan) schemes and processes to resolve incidents with the public sewage network as soon as possible.

NRW worked in partnership with the sewerage undertaker to design Penmaenmawr Treatment Works in a way which averts risk to Penmaenmawr Bathing Water; the discharge is via a long sea outfall which discharges 360 metres offshore (1km from the Bathing Water), meaning there is sufficient distance between the outfall and the Bathing Water. Permitting a private discharge in such close proximity to the Bathing Water would undermine the work in conjunction with the sewerage undertaker to protect the waters, posing a serious risk to recreational use of the beach if a pollution incident were to occur (failure of private plant/insufficient maintenance). Given NRW's responsibility to maintain and enhance Bathing Water quality and safeguard public health under the Bathing Water Directive (2006/7/EC), it is not feasible to issue a discharge permit for a private treatment system when the environment would be safeguarded through connection to the foul sewer.

Legislative Framework

By taking into consideration the following guidance and legislation, the application for a permit has been refused:

- Environmental Permitting (England & Wales) Regulations 2016
- Bathing Water Directive (2006/7/EC)
- Conservation of Habitats and Species Regulations 2010
- Planning Policy Wales (2016)
- Water Industry Act 1991
- RGN 5 – Operator Competence
- The Water Framework Directive (2000/60/EC)
- Environment (Wales) Act 2016
- Well-being of Future Generations (Wales) Act 2015