

POWYS COUNTY COUNCIL

Town and Country Planning Act 1990

**Town and Country Planning
(Development Management Procedure) (Wales) Order 2012 (as amended)**

To: Professional Lead Development Management

With reference to the planning application relating to the following proposed development:

Name of Applicant: Mr Ewan Campbell-Lendrum

Location of Development: The River Claerwen, Elan Valley, Rhayader

Description of Development: Construction of a Hydro Electric Scheme to include the erection of a Powerhouse, Transformer and Intake and all associated Works.

The County Council as Highway Authority for the County Class II and III Highways B4518, C1206, U1553 and U0001:

Withdraws: Recommendation for refusal dated 25th June 2018

Recommends: Conditional consent as follows:

Condition (HC33)

No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

1. Updated Traffic Management Plan;
2. Contractor(s) details;
3. Timing of the works;
4. Details of any temporary access points onto the public highway (licences may be required for these from the highway authority);
5. Traffic management arrangements (including road closures if required);
6. Liaison arrangements with local community and businesses;
7. Procedure for periodic inspection of highway routes to identify and repair any defects arising from vehicle movements associated with the works;
8. Any other relevant information agreed with the highway authority.

Reason for Condition

In the interests of highway safety.

Background Information

The Traffic Management Plan (TMP) recognises that the construction traffic will constitute a significant increase on the normal traffic (para 3.1). The initial part of the

access route from Rhayader will be along the B4518 which is predominantly two lane and of sufficient width to accommodate two way movement of larger vehicles.

From the B4518 at the turning to the Elan Village construction traffic will follow the county C1206, U1553 and U0001 roads to site.

The route is a very popular tourist area and thus generates significant peak volumes. Whilst these likely occur during the holiday seasons (e.g. Easter, Summer and Bank Holidays) there can be peaks at other time associated with activities at the Visitor Centre or around the dam network e.g. walking/running events.

The TMP recognises that the access is narrow and thus movements will need to be managed appropriately. Some measures are proposed in the TMP but it is considered that more detailed consideration needs to be given to minimise impacts on other users. It is felt that these can be addressed through liaison with the highway and street works authorities. Some of the movements may require a Temporary Traffic Regulation Order (TTRO) to allow roads to be closed for periods exceeding 15 minutes. Such Orders typically take **10 weeks** to process so early planning is required.

The TMP (para 2.2) refers to the need to use the bridge over the Claerwen which is currently weight restricted to 26 tonnes. This bridge is currently included in an assessment programme to review the condition and ongoing load capacity. The outcome of this cannot be confirmed at this time but we would **recommend early discussion with the highway authority** to ensure that it does not become an issue during the project period.

The drop-off point referred to in para 2.1 of the TMP is located on private land away from the highway and uses an existing private means of access from/to the highway. Use of this drop-off point will remove the need to negotiate the hairpin referred to in one movement. Delivery vehicles will arrive, transfer their load for onward movement on private land thus allowing the transporting vehicle to leave the site in a forward direction onto the other side of the hairpin bend. Work may be required in relation to existing or new access/egress points onto the highway. This can be managed through the Street Works Authority under licence. In addition any access/egress points will need to be inspected regularly to ensure that any damage that occurs as a result of the increased load movement is made safe and repaired in an appropriate timescale.

The final part of the access route is being addressed by Countryside Services as it recorded as a Byway Open to All Traffic (BOAT). Whilst it is also an unclassified county road in part the requirements of the BOAT are likely to have a higher precedent. Liaison between Countryside Services and the highway service will continue over this section as required to ensure that both service needs are met.

Signed *Alastair Knox*

For Highways, Transport and Recycling

Date: 6th February 2019

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: P/2018/0234

Grid Ref: E: 292798
N: 264630

Community Council: Llanwrthwl Community

Valid Date: 04.06.2018

Applicant: Mr Ewan Campbell-Lendrum

Location: The River Claerwen, Elan Valley, Rhayader, Powys,

Proposal: Full: Construction of a Hydro Electric Scheme, to include the erection of a Powerhouse, Transformer and Intake, and all associated works

Application Type: Full application

REPORT UPDATE

Consultee Responses

Countryside Services

As discussed, Countryside Services would like to condition the below:

1. Countryside Services accepts the proposals for the culvert design and would condition that these are adhered to, subject to a minimum pipe bore of 600mm (450mm shown in places on drawings) and Land Drainage consents being granted and advice from that department going forward.
2. We accept the aggregate specifications and would condition that these are adhered to subject to any unforeseen change and subsequent communication and approval with Countryside Services prior to leaving site.
3. Countryside Services would condition that no materials that have been deposited on the line of the Public Right of Way (Byway Open to All Traffic 060/15) to make good the surface during construction are removed following completion of works, allowing unobstructed access along this Public Right of Way for Pedestrians, Cyclists, Equestrians and Motorised vehicles once works are completed.
4. Countryside services would condition that any temporary diversion for vehicular traffic is along the adjacent public highway, and that this is signed for the duration of the works by yourselves in usual highway standard signage, this route being the Adopted Road Network Road No. U1554. All other users (pedestrians, cyclists and equestrians) would be able to make use of the temporary alternative route as

identified in your earlier submitted Byway Management Plan, again signed for the duration of the works by yourselves advising users of the exact route.

5. Countryside Services would condition that where there is any buried apparatus under the finished surface of the BOAT that a minimum of 1 metre depth of suitable compacted aggregate is adhered to, with markers maintainable at the applicants expense to be placed either side of the BOAT clearly indicating buried apparatus between them for the duration of the scheme. These are to be installed prior to the route being re-opened to the public.
6. Countryside Services would like to remind you that we require three calendar months' notice to this department for any application to temporarily close any Public Right of Way for the duration of the scheme.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans (Archive No's – 2140002, 2140003D, 2140004D, 2140005, 2140008, 2140009, 2140012, 2140013, 2140014, 2140016D, 2140018) and documents (Environmental Statement, Archaeological Desk Based Assessment, Preliminary Ecological Appraisal, Byway Management Plan, Aggregate Details and accompanying Byway Culverts Plans).
3. No development or site clearance shall commence until the local planning authority have been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted. No work shall commence until the local planning authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the local planning authority within two months of the archaeological fieldwork being completed.
4. The development hereby approved shall be undertaken strictly in accordance with Section 12 and Table 13 of the Afon Caerwen Hydropower Project Environmental Statement produced by Ellergreen Hydro Ltd dated 12th February 2018 . The identified measures shall be adhered to and implemented in full and maintained thereafter.
5. No development shall commence (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include but not be limited to the following:

- a) Reasonable Avoidance Measures for the Development including:
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - The location and timing of sensitive works to avoid harm to biodiversity features.
 - The times during construction when specialist ecologists need to be present on site to oversee works.
 - Use of protective fences, exclusion barriers and warning signs.
- b) A detailed Pollution Prevention Plan to prevent pollution of surface water and waterbodies from construction activities
- c) Responsible persons and lines of communication.
- d) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The development shall thereafter be undertaken strictly in accordance with the CEMP as approved.

6. Prior to first operational use of the development a Habitat Management Plan shall be submitted to and agreed with the Local Planning Authority. The Plan shall include but not be limited to the following:
- Management of the habitats and tasks to maintain these;
 - Monitoring of heath and grasslands and appropriate revisions to management prescriptions;
 - Management and eradication of invasive species through appropriate and legal techniques.

The development shall thereafter be undertaken strictly in accordance with the Habitat Management Plan as approved.

7. In the event that the pre-commencement water vole survey (as required by condition 4) confirm water voles to be present, the survey shall be submitted to and approved in writing by the Local Planning Authority. The report shall be accompanied by Reasonable Avoidance Measures/Conservation Strategy where appropriate. Thereafter, the development shall be undertaken strictly in accordance with the details as approved.
8. Within 28 days following the completion of the pipe laying construction, the French Drains shall be removed and the land re-instated to it former condition.
9. Notwithstanding the approved plans, the culvert design shall be subject to a minimum pipe bore of 600mm.

Reasons:

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development in accordance with policies SP7 and DM13 of the Powys Unitary Development Plan (2018), Technical Advice Note 24 – The Historic Environment (2017) and Planning Policy Wales (2018).
4. To comply with Powys County Council's UDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
5. To comply with Powys County Council's UDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
6. To comply with Powys County Council's UDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
8. This is to minimise the potential impact of the drains adversely impacting the water levels of the habitats immediately next to the construction sites in accordance with policies DM5 and DM6 of the Powys Local Development Plan (2018), Technical Advice Note 15 – Development and Flood Risk (2004) and Planning Policy Wales (2018).
9. To ensure a suitable drainage scheme in accordance with policies DM5 and DM6 of the Powys Local Development Plan (2018) and Planning Policy Wales (2018).

Informatives

Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife &

Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Reptiles – Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

The maximum penalty that can be imposed - in respect of each offence - is a fine of up to 5,000 pounds, six months imprisonment or both.

In addition, these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Otters – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017.

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat

is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email enquiries@bats.org.uk

Water Vole – Wildlife & Countryside Act 1981 (as amended)

The water vole is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 and is a priority conservation species.

It is therefore an offence for any person to:

- intentionally capture, kill or injure water voles
- damage, destroy or block access to their places of shelter or protection (on purpose or by not taking enough care)
- disturb them in a place of shelter or protection (on purpose or by not taking enough care)
- possess, sell, control or transport live or dead water voles or parts of them (not water voles bred in captivity)

If presence of water vole is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. The maximum penalty that can be imposed - in respect of each offence - is an unlimited fine and up to six months imprisonment or both.

Badger – Protection of Badgers Act 1992

Badgers and their setts (tunnels and chambers where they live) are protected by law. It is therefore an offence for any person to:

- intentionally capture, kill or injure a badger
- damage, destroy or block access to their setts
- disturb badgers in setts
- treat a badger cruelly
- deliberately send or intentionally allow a dog into a sett
- bait or dig for badgers

If presence of badger sett is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. The maximum penalty that can be imposed - in respect of each offence - is an unlimited fine and up to six months imprisonment or both.

Rights of Way

Countryside Services would like to remind you that we require three calendar months' notice to this department for any application to temporarily close any Public Right of Way for the duration of the scheme.

Materials that have been deposited on the line of the Public Right of Way (Byway Open to All Traffic 060/15) to make good the surface during construction shall be removed following completion of works, allowing unobstructed access along this Public Right of Way for Pedestrians, Cyclists, Equestrians and Motorised vehicles once works are completed.

Any temporary diversion for vehicular traffic should be along the adjacent public highway, and shall be signed for the duration of the works by yourselves in usual highway standard signage, this route being the Adopted Road Network Road No. U1554. All other users (pedestrians, cyclists and equestrians) would be able to make use of the temporary alternative route as identified in the earlier submitted Byway Management Plan, again signed for the duration of the works by yourselves advising users of the exact route.