

DELEGATED REPORT

Application No:	P/24/0187
Site Address:	Feeder Pipe Bridge Off Tram Road Side Treharris CF46 5EF
Development:	Variation of condition 8 (ecological enhancement) of planning permission P/24/0039 to extend the period of time to implement the ecological enhancement.
Case Officer:	Rebecca Owens
Application Expiry Date:	25th September 2024
Consultation reply date expired:	

APPLICATION SITE

The application relates to an existing feeder pipe bridge which crosses the River Taff. This formerly provided a pedestrian crossing over the river. However, the bridge deck and parapets were removed following structural damaged as a result on Storm Dennis in February 2020. The application site straddles the boundaries of Merthyr Tydfil County Borough Council (MTCBC) and Rhondda Cynon Taf (RCTCBC) County Borough Council. The part of the site that falls within MTCBC is within the Lower Taf and Edwardsville Site of Importance for Nature Conservation (SINC) and the Pontygwaith Special Landscape Area (SLA).

PROPOSED DEVELOPMENT

Planning permission was approved for the erection of a replacement bridge with associated works on 25th April 2024 (Ref: P/24/0039). This application seeks permission to vary condition 8 of planning permission P/24/0039 to allow an additional 3 months in which to submit the necessary details.

Condition 8 currently states:

WITHIN 3 MONTHS of works commencing on site, details of the bird boxes, hibernaculum and otter holt, as set out in the approved documents (outlined in condition 2), shall be submitted to and agreed in writing by the local planning authority. These shall include specifications, their exact siting, details of how this has been secured with the appropriate landowner(s) and timings for their installation/provision. These enhancement measures shall be retained in perpetuity thereafter.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

PLANNING HISTORY

The relevant planning history is detailed below:

- P/24/0110 Discharge of conditions 3 (CEMP), 5 (Precautionary Working Method Statement), 6 (Compensation, Management and Maintenance Plan), 7 (Bat boxes), 9 (Landscape planting plan) and 10 (LEMP) of planning permission P/24/0039
Approved 13 May 2024
- P/24/0039 Erection of replacement bridge and associated works
Granted planning permission subject to conditions on 25 April 2024
- P/23/0147 Erection of replacement bridge
Granted planning permission subject to conditions on 11 March 2024
- P/97/0005 Variation of condition 1 of planning permission P/96/0230 to allow provision of 1.2m high parapet in lieu of 1.8m high parapet.
Granted planning permission subject to condition on 7 March 1997
- P/96/0230 Provision of new footbridge above existing pipe crossing and improvement of existing approach footpath
Granted planning permission subject to conditions on 16 August 1996

CONSULTATION

The following bodies were consulted and their responses are presented below:

Planning Ecology Officer No objection

PUBLICITY

In accordance with the Town & Country Planning (Development Management Procedure) (Wales) Order 2012, a site notices was displayed within the vicinity of the site.

No letters of objection were received following this publicity exercise.

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Planning Policies

Planning Policy Wales (Edition 12, February 2024)

Local Planning Policies

The following policies of the Merthyr Tydfil County Borough Council Replacement Local Development Plan 2016-2031 are relevant to the determination of this application:

- SW4 Settlement Boundaries
- SW11 Sustainable Design and Placemaking
- SW12 Improving the Transport Network
- SW13 Protecting and Improving Local Community Facilities
- CW1 Historic Environment
- EnW1 Nature Conservation and Ecosystem Resilience
- EnW3 Regionally Important Geological Sites, Sites of Importance for Nature Conservation, Local Nature Reserves and Priority Habitats and Species
- EnW4 Environmental Protection
- EnW5 Landscape Protection
- EcW10 Sustainably Supplying Minerals
- EcW13 Minerals Safeguarding

In addition, the application will be determined having regard to the advice contained within the following Supplementary Planning Guidance (SPG) Notes:

- Note 4, Sustainable Design.
- Note 5, Nature and Development.

PLANNING CONSIDERATIONS

The main consideration when assessing this variation of condition is whether allowing an additional 3 months in which to provide the details of the bird boxes, hibernaculum and otter holt would be detrimental to the species they would serve and the objectives of the condition which is to protect the natural environment. Advice has been sought from the Local Planning Authority's Ecologist who is satisfied that there would be no adverse impact from allowing an extension of time of 3 months and as such has not raised any objection to the proposed variation of the condition.

It is noted that this development has already commenced and that a number of conditions have already been discharged or partially discharged (subject to additional requirements stated in the relevant condition). As works have commenced on site, condition 1 of the original permission is no longer deemed necessary and as such has been removed. In addition, to ensure that this permission is undertaken in accordance with the details approved under the discharged of conditions application (ref: P/24/0110) a number of conditions have been amended or removed. The approved documents listed in the former condition 2 (now condition 1) has been updated to include those documents approved following discharge of conditions 3, 5, 6, 7, 9 and 10, former conditions 3 and 5 have been removed and conditions 6, 7, 9 and 10 have been amended. The conditions have then been renumbered accordingly so the varied condition 8 is now listed as condition 4.

CONCLUSION

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act") has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development

principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Having had regard to the above considerations the following recommendation is made:

RECOMMENDATION: APPROVED subject to the following CONDITIONS:

1. The development shall be carried out in accordance with the following approved plans and documents:

Drawing Title: Temporary Works Design Crane Platform Southside Sheet 1 of 2,
Drawing Number: CRXSS056-BBR-00-XX-DR-W-0001 Rev. P4, Received 19 March 2024 (approved under planning reference: P/24/0039)

Drawing Title: Temporary Works Design Crane Platform Southside Sheet 2 of 2,
Drawing Number: CRXSS056-BBR-00-XX-DR-W-0001 Rev. P4, Received 19 March 2024 (approved under planning reference: P/24/0039)

Drawing Title: Remedial Works to Existing Embankment and Bridge Piers (sheet 1),
Drawing Number: 30003237-BHK-00-XX-DR-C-5000 Rev. P03, Received 15 April 2024 (approved under planning reference: P/24/0039)

Drawing Title: Remedial Works to Existing Embankment and Bridge Piers (sheet 2),
Drawing Number: 30003237-BHK-00-XX-DR-C-5001 Rev. P02, Received 19 March 2024 (approved under planning reference: P/24/0039)

Drawing Title: Proposed Section, Drawing Number: 333206-00-24-05 Revision P00,
Received 26 February 2024 (approved under planning reference: P/24/0039)

Drawing Title: Proposed Elevations and 3D View, Drawing Number: 333206-00-24-03 Rev. P00, Received on 26 February 2024 (approved under planning reference: P/24/0039)

Preliminary Ecological Appraisal, dated 28/02/2024, Ref: T7028, Version 3.0, produced by Temple, received 13 March 2024 (approved under planning reference: P/24/0039)

Preliminary Ecological Appraisal (PEA) Report, dated September 2022, Ref: GC3880-RED-74- XX-RP-L-0004 Rev: P01, produced by Redstart, received 26 February 2024 (approved under planning reference: P/24/0039)

Preliminary Ground Level Tree Assessment North and South, dated 28/02/2024, Ref: T7028 Version V2.0, Produced by Temple, Received 13 March 2024 (approved under planning reference: P/24/0039)

Bat surveys, dated 09/01.2024, Ref: T7028, version V2.0, Produced by Temple, received 24 January 2024 (approved under planning reference: P/24/0039)

Method Statement - Invasive Non-Native Species, dated 22/04/24, Ref: T7028, Rev V2.0, Produced by Temple Received 23 April 2024 (approved under planning reference: P/24/0039)

Invasive Species Survey, Updated 12th December 2023, Ref: Y7028, produced by Temple, received 26 January 2024 (approved under planning reference: P/24/0039)

Otter Survey Report, dated August 2021, Ref: GC3880-RED-74-XX-RP-C-1-0001, Rev: P01, produced by Redstart, received 26 February 2024 (approved under planning reference: P/24/0039)

Updated Otter Survey Memo Report, Dated 13 March 2023, Ref: T7028, produced by Temple received 26 February 2024 (approved under planning reference: P/24/0039)

Aboricultural Impact Assessment V8, Dated 15 April 2024, Ref: 7028 Rev. V8.0 amended, produced by Temple, received 23 April 2024 (approved under planning reference: P/24/0039)

Construction Environment Management Plan, dated 3 May 2024, Ref: 30003237-BHK-00-XX-RP-C-0008 Rev. P07, produced by BakerHicks, received on 7 May 2024 (approved under planning reference P/24/0110)

The Precautionary Working Method Statement - Combined for Bats, Birds, Otter, GCN, Reptiles, Hedgehogs and Hazel Dormouse (Precautionary), dated 16 April 2024, Ref: T7028, Version V2.0, produced by Temple, received on 7 May 2024 (approved under planning reference P/24/0110)

Compensation Management and Monitoring Plan, dated 3 May 2024, ref: 7028 version V7.0 produced by Temple, received 7 May 2024 (approved under planning reference P/24/0110)

Landscape and Ecological Management Plan (LEMP), dated 3 May 2024, Project No. 402.V63755.00001, Rev. V6, produced by BakerHicks, received 7 May 2024 (approved under planning reference P/24/0110)

Feeder Bridge - South Side Bat Box Assessment, dated 2 May 0024, Project ref: T7028, produced by Temple, received 7 May 2024 (approved under planning reference P/24/0110)

Reason -To ensure compliance with the approved plans and clearly define the scope of the permission.

2. **NO MORE THAN 48 HOURS PRIOR TO WORKS COMMENCING** a pre-construction inspection for the presence of resting or breeding otter (specifically for holts and lying-up places) is to be undertaken by a suitably qualified ecologist. A report on the findings of the inspection shall be submitted to the local planning authority within 14 days of the Inspection. If the inspection confirms the presence of otter, a derogation licence from NRW will be required and no works may commence until this has been granted.

Reason - To protect the natural environment and minimise impacts on protected species, in accordance with Policies EnW1 and EnW3 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

3. The development shall be carried out in accordance with the Compensation Management and Monitoring Plan, dated 3 May 2024, ref: 7028 version V7.0 produced by Temple, received 7th May 2024. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

4. **BEFORE any site clearance takes place**, bat boxes shall be erected in accordance with the details contained within the South Side Bat Box Assessment produced by Temple dated 2 May 2024. The bat boxes shall remain in perpetuity thereafter.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

5. **WITHIN 3 MONTHS** of the date of this decision, details of the bird boxes, hibernaculum and otter holt, as set out in the approved documents (outlined in condition 1), shall be submitted to and agreed in writing by the local planning authority. These shall include specifications, their exact siting, details of how this has been secured with the appropriate landowner(s) and timings for their installation/provision. These enhancement measures shall be retained in perpetuity thereafter.

Reason - To protect the natural environment in accordance with Policies EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

6. **WITHIN 3 MONTHS** of works to the bridge being completed, the temporary platform shall be dismantled and removed from the site and the land restored to its former condition in line with the Landscape Planting Plans, Sheet 02 (Drawing Number 402.63755.00001.29.005, Rev. 6) and Plant Schedule (Schedule 402.63755.00001-RIVER TAFF) contained in the LEMP (Project No. 402.V63755.00001, Rev. V6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the bridge unless otherwise specified in the approved documents; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason - To protect the natural environment and to ensure that the new development will be visually attractive in the interests of amenity to accord with Policies SW11, EnW1 and EnW2 of the Merthyr Tydfil County Borough Council Replacement Local Development Plan.

INFORMATIVES

1. The developer is advised that Natural Resources Wales Flood Risk Map confirms the application site lies entirely within Zone C1 of the Development Advice Maps (DAM) as contained in Technical Advice Note 15: Development and Flood Risk (2004) (TAN15). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 2 and 3 Rivers.

The Environmental Permitting Regulations (2016) require you to obtain a bespoke Flood Risk Activity Permit (FRAP) for any works or structures located in, under, over or within 8 metres of the bank top of the River Taff, a designated "main river". Further conditions will be associated with the FRAP and these are stand alone conditions alongside any granted for this planning application. Further advice and guidance on FRAPs is available on the NRW website: <http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/flood-risk-activity-permits-information/?lang=en>

2. No in-channel activities shall take place during the fish spawning embargo period (15th October to 15th May) without the prior written approval of NRW. The invasive non-native species, signal crayfish may be present within the river Taff corridor. All plant, machinery and equipment must be cleaned when accessing and leaving the site to prevent the spread of signal crayfish and crayfish plague. If an area of the river is to be sealed off and drained down (to create a dry working area), then a fish-rescue must be carried out by suitably competent people. Note, however, that this may require formal consent from NRW.
3. Should any spills occur, appropriate measures to contain and clean up must be taken immediately and according to the incident response plan incorporated into the Construction Environmental Management Plan. Any discharges to the water environment must be self-reported to Natural Resources Wales on 0300 065 3000 immediately.
4. Warning: this planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.
The European Otter is protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb an otter or to recklessly damage or destroy their breeding sites or resting places.

If works are planned that are known will impact otter in the ways detailed above, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/list-of-protected-species/otter-licensing/?lang=en>.

If work has already commenced and otters are found, or if any evidence that otters are using the site as a resting place is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

5. Warning: this planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.

All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree/structure in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

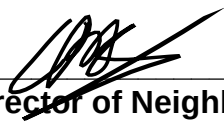
Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

6. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings/structures with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

RECOMMENDATION ENDORSED



 **Director of Neighbourhood Services**

DATE: 09.09.2024