

Ein cyf/Our ref: CAS-247643-Q3M8
Eich cyf/Your ref: P/23/0147

Merthyr Tydfil County Borough Council
Unit 5 Triangle Business Park
Pentrebach
CF48 4TQ

Dyddiad/Date: 13 February 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: ERECTION OF REPLACEMENT BRIDGE.

LLEOLIAD/LOCATION: FEEDER PIPE BRIDGE (FOOTBRIDGE CROSSING RIVER TAFF) TO THE SOUTH OF FIDDLERS ELBOW VIADUCT, OFF TRAMROADSIDE TREHARRIS.

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 24 January 2024.

We continue to have concerns with the application as submitted. However, we advise that based on the information submitted to date, conditions regarding European Protected Species and pollution prevention should be attached to any planning permission granted and the documents identified below should be included in the approved plans and documents condition on the decision notice.

- ***‘Preliminary Ecological Appraisal - Feeder Pipe Bridge’***, Doc Ref: GC3880-RED[1]74- XX-RP-L-0004 Rev: P02 by Redstart, dated February 2022
- ***‘Otter Survey Report - Feeder Pipe Bridge’*** Doc Ref: GC3880-RED-74-XX-RP-C[1]0001, Rev: P01 by Redstart, dated August 2021
- ***‘Bat Survey Report - Feeder Pipe Bridge’*** Doc Ref: GC3880-RED-74-XX-RP-C[1]0002, Rev: P01 by Redstart dated August 2021
- ***‘Feeder Pipe Bridge, Abercynon - Preliminary Ecological Appraisal - Report for Rhondda Cynon Taf Borough Council’*** Version 2.0 by Temple, dated 10 January 2024 (PEA by Temple)
- ***‘Abercynon Feeder Pipe Bridge – Preliminary Ground Level Tree Assessment North and South – Report for Rhondda Cynon Taff Borough Council’*** by Temple, dated 9 January 2024
- ***‘Abercynon Feeder Pipe Bridge – Bat Surveys – Report for Rhondda Cynon Taff Borough Council’*** Version 2.0 by Temple, dated 9 January 2024
- ***‘Updated Otter Survey Memo Report’*** by Temple, dated 13 March 2023

Without the inclusion of these conditions and documents we would object to this planning application.

We note that the Feeder Pipe Bridge spans the boundary between Merthyr Tydfil County Borough Council (MTCBC) and Rhondda Cynon Taf County Brough Council (RCTCBC).

We note planning applications have been submitted to RCTCBC (application reference P/23/0147) and MTCBC (application reference P/23/0147). We have reviewed the information submitted in support of the proposal published on both MTCBC's and RCTCBC's websites.

Please note our advice to MTCBC and RCTCBC is the same.

European Protected Species

We note the documents listed above submitted in support of the proposal.

Otters and bats are European Protected Species, legally protected under The Conservation of Habitats and Species Regulations 2017 (as amended). Legal protection relates to the animals themselves and the places they use to rest and breed. Where a European Protected Species is present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. The development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. These requirements are translated into planning policy through Planning Policy Wales (PPW) and Technical Advice Note (TAN) 5, Nature Conservation and Planning (September 2009). The planning authority should take them into account when considering development proposals where a European Protected Species is present.

Otters

We note that there is evidence of otter within the River Taff in the form of spraining sites 30 metres up and downstream from the bridge. No holts or potential holt sites were discovered; however, an area suitable for a potential resting location was present 30m downstream of the site.

We note that the documents listed above advise on precautionary measures to be implemented during construction. However, we note that pre-construction inspection for otter presence has not been recommended.

Our advice on a condition for a Construction Environmental Management Plan (CEMP) and for pre-construction checks is provided below.

Bats

We note that no evidence of roosting bats was found within the bridge or abutment.

We note that six trees with low bat roosting potential will be directly affected by the development and, soft felling techniques and timing restrictions have been stipulated within the tree assessment report. We also note that no trees with moderate or high bat roosting potential are currently proposed to be felled or pruned. We note the recommendations for precautionary measures and further survey, should removal or modification of the trees become necessary.

We support the precautionary approach to the removal or modification of trees with moderate or high bat roosting potential.

Lighting

We note that the PEA by Temple (Section 4.31) advises that no night-time lighting will be permitted.

Condition

We advise that should planning permission be granted for this proposal, the documents listed above are included in the approved plans and document condition on any permission.

Condition

We advise that within 48 hours of the commencement of any works, a pre-construction inspection for the presence of resting or breeding otter is undertaken by a suitably qualified ecologist. We advise this pre-construction inspection is incorporated into a CEMP. Further advice on a CEMP condition is provided below.

Summary

Provided that the measures stipulated in the above documents are adhered to and pre-commencement checks are included in a CEMP, we do not consider that the development is likely to be detrimental to the maintenance of the population of these species concerned at a favourable conservation status in their natural range.

Pollution Prevention - Construction Environmental Management Plan

We note the following documents submitted in support of the proposal:

- *'Preliminary Ecological Appraisal - Feeder Pipe Bridge'*, Doc Ref: GC3880-RED[1]74-XX-RP-L-0004 Rev: P02 by Redstart, dated February 2022
- *'Feeder Pipe Bridge, Abercynon - Preliminary Ecological Appraisal - Report for Rhondda Cynon Taf Borough Council'* Version 2.0 by Temple, dated 10 January 2024

We note the proposal will require works on and adjacent to the river Taff (a main river).

We note that the PEA and the PEA by Temple advise the construction phase of the proposal will be carried out in accordance with best practice and pollution control measures. We also note further details on the storage and refuelling of construction machinery and construction methods that should be adopted to minimise disturbance to the riverbed/banks and watercourse.

In the absence of additional information submitted in support of the proposal, we advise that should planning permission be granted for this proposal, control of pollution prevention for

the water environment is achieved by the imposition of the following condition, or an amended version is attached to the planning permission:

Condition:

No development shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption
- Details of pre-construction otter inspections to be carried out within 48 hours prior to the commencement of works. If any survey confirms the presence of otter, mitigation and/or cogency measures should be used.
- Biodiversity Management: details of management of invasive species: signal crayfish may be present within the river Taff corridor management; species and habitats protection, avoidance and mitigation measures.
- Traffic Management: details of plant on site and wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan, and control of cement/ pointing materials to prevent contamination of the river
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed and implemented for the protection of the environment during construction.

Further advice to the applicant on methods of managing invasive non-native species (signal cray fish) and pollution prevention are provided below.

Further Advice to Applicant

Invasive Non-Native Species

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.

Pollution Prevention

The Construction Environmental Management Plan should also include information from the following:

1 GPP 1: Understanding your environmental responsibilities - good environmental practices

- GPP 5: Works and maintenance in or near water
- PPG 6: Working at construction and demolition sites
- GPP 8: Safe storage and disposal of used oils
- GPP 21: Pollution incident response planning

- PPG 7: Safe storage - The safe operation of refuelling facilities
- GPP 13 Vehicle washing and cleaning
- GPP 22: Dealing with spills.

These are available on the [NetRegs website](#).

Flood Risk

The planning application proposes less vulnerable development (replacement pedestrian footbridge). Our 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.

We note the proposed bridge is a replacement for the one damaged in Storm Dennis, and that the replacement bridge will be raised slightly and include better design to remove the threat of debris build up.

We advise we have no concerns with the design of the slight deck increase / over hang of the decking, and given the nature of the proposed development (and in the absence of a flood consequences assessment) we consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Please note our advice to the developer regarding other consents and permits below under Advice for Developer.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

Advice for the Developer

Flood Risk Activity Permit

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 our website: <http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/flood-risk-activity-permits-information/?lang=en>

Fisheries

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.

Pollution Incidents

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

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Kate Glover

Cynghorydd - Cynllunio Datblygu/Advisor - Development Planning
Cyfoeth Naturiol Cymru/Natural Resources Wales

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Croesewir gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg, heb i hynny arwain at oedi./Correspondence in Welsh is welcomed, and we will respond in Welsh without it leading to a delay.