

Wish the following recommendations/Observations be applied
Recommendations/Observations

It is noted that the access and parking required for 'access point one' are reliant upon a separate application P/2018/0237 and that no access details have been submitted for the current application.

The Highway Authority have concern that the current access track (for the use of pedestrians and grass cutting equipment), is unsuitable in its current state for vehicular traffic. The gradient, width, alignment and surfacing of the track are unsuitable for the vehicle types that are likely to use it.

Should the applicant wish to submit a suitably scaled plan showing the, width and gradient of the access for the first 15 metres, means of draining the access and surfacing detail, we shall certainly consider any such submission. We also require the applicant to submit a breakdown of the proposed movements from the site for all vehicles types. Furthermore, the access and visibility splays need to be included within the red line application site boundary.

Wales and West Utilities

E mail of the 20th March 2018

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it.

They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in A3 size and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested. Let me know if you require any further assistance.

Severn Trent

E mail of the 23rd March 2018

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals, including the STW ref within the email/subject.

PCC - Environmental Health

E mail of the 23rd March 2018

Environmental Protection has no objection to the above application.

PCC – Ecologist

E mail of 22nd March 2018

Thank you for consulting me with regards to planning application P/2018/0316 which concerns an application for the Creation of 4 no. river access points to allow accessible use by canoeists at 4 sites along River Severn, Newtown, Powys.

I have reviewed the proposed plans and supporting information submitted with the application as well as aerial photographs of the site and surrounding habitats and local records of protected and priority species and designated sites within 500m of the proposed development.

Species recorded in the local area include otter, Atlantic salmon, kingfisher, white-clawed crayfish. Colleagues have recently observed otter commuting along the River Severn in close proximity to the proposed development and non-native invasive species are known to be present along the watercourse including Himalayan balsam, Japanese knotweed and American signal crayfish.

No statutory or non-statutory designated sites are present within 500m of the proposed development.

No ecological information has been submitted with the proposed development, the D&S makes reference to consultation with NRW during the design process but no details of this correspondence has been provided with the application.

Riparian habitats are features of high ecological value and support a wide variety of protected and priority species. It is considered that further information is required to enable the LPA to assess the potential impacts of the proposed development to biodiversity.

It is therefore considered that a Preliminary Ecological Appraisal including a background data search from the Powys and Brecon Beacons National Park Biodiversity Information Service (BIS) will need to be undertaken to identify the habitats present on and adjacent

to the site and potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Details of Pollution Prevention measures that will be implemented during the construction of the access features will need to be submitted to demonstrate that the proposed development would not result in negative impacts to the river Severn through pollution impacts. Details of current guidelines regarding pollution prevention can be found at <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppps-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/> . Details of pollution prevention measures are required to demonstrate that the proposed development would comply with the Water Framework Directive Regulations.

Invasive non-native species are known to be present along and within a number of watercourses within Powys, if INNS are found to be present within the proposed development areas then an appropriate INNS management plan will need to be identified to demonstrate how these species will be managed during the construction phase of the proposed development and to demonstrate actions that would be taken to ensure the use of the access features would not result in the spread of any INNS.

Therefore it is considered that the application currently lacks sufficient information to enable the LPA to determine the potential for the proposed development to impact biodiversity and to demonstrate that the development complies with relevant National and Local planning policies and associated legislation, further information as identified above is required to be submitted to inform this assessment. Biodiversity is a material consideration in the planning process and this information is therefore required prior to determination of the application.

E mail of 22nd September 2018

Thank you for consulting me with regards to the additional information submitted with regards to planning application P/2018/0316 which concerns an application for the Creation of 4 no. river access points to allow accessible use by canoeists at 4 sites along River Severn, Newtown, Powys.

The additional information has been submitted to address concerns raised in my previous consultation response (dated 22nd March 2018) with regards to this application. The additional information submitted is an Ecological Appraisal Report produced by Marches Ecology dated 9th August 2018.

I have reviewed the report and consider that the survey effort employed to inform the assessment of potential ecological constraints and identify any required mitigation measures was in accordance with current survey guidelines. The ecological appraisal comprises an ecological desktop study and an Extended Phase 1 Habitat Survey which was conducted on the 5th July 2018. The extended phase 1 habitat survey focussed on land within each of the 4 sites of the application and an approximate 30m buffer.

The habitat survey identified that the sites of the proposed access points comprise a mixture of broadleaved woodland, amenity grassland, hardstanding/bare-ground and riverbank. The habitat resources at all 4 sites was deemed to be of local value. The proposals will result in minor impacts/habitat loss at each site and it has been concluded that the loss of these small areas of habitat will not result in significant impacts to biodiversity at the site or in the wider environment, recommendations have been made to ensure protection of adjacent/retained habitats.

No impacts were identified to badger, bats or water vole. Low potential for otter, reptile and nesting birds to be impacted by the proposed development, given the evidence found during the surveys and level of disturbance experienced by the sites currently it is considered that the risk of impact to these species is low. Precautionary measures have been identified with regards to nesting birds and reptiles and it has been identified that a stand- alone Otter Method Statement outlining a non-licensed RAMs scheme should be prepared.

Four species of non-native invasive species were recorded during the survey, it has been identified within the report that a stand-alone Biosecurity Method Statement is prepared and implemented to prevent the spread of INNS currently present at the site and to avoid the introduction of other INNS to the sites.

Having reviewed the results of the surveys and taking into account the recommendations with regards to avoidance/mitigation measures it is considered that subject to appropriate conditions being included to secure adherence to the identified measures there would be no risk of loss or negative impacts to biodiversity as a result of the proposed development.

Therefore, should you be minded to approve the application I recommend inclusion of the following conditions:

Prior to commencement of the development a detailed Otter Reasonable Avoidance Method Statement shall be submitted for approval to the Local Planning Authority and implemented as approved.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

Prior to commencement of the development a detailed Biosecurity Method Statement with regards to Invasive Non-native species shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

The development shall be carried out strictly in accordance with the recommendations regarding avoidance/mitigation/enhancement identified in the Ecological Appraisal Report produced by Marches Ecology dated 9th August 2018. The identified measures shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

In addition I recommend inclusion of the following 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

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 structures 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 0845 1300 228 or email enquiries@bats.org.uk

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.

Natural Resources Wales

E mail of the 27th April 2018

I also note that you have already requested a preliminary ecological assessment following Rachel's recommendations. I can confirm that I have read the response Rachel sent you and I am in agreement with the recommendations.

We will be happy to finalise comments on all relevant matters associated to this application upon receipt of a copy of the ecological assessment report. If you require an official letter at this stage, please let me know and I will try to send you a response as soon as possible.

Letter of 12th July 2018

Thank you for consulting Natural Resources Wales (letter dated 19/03/2018) regarding the above.

NRW does not object to the proposal. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed, subject to submission of further information and use of appropriate conditions.

NRW is fully supportive of the delivery of Sustainable Management of Natural Resources [SMNR] in Newtown, Powys. With partnership organisations, Natural Resources Wales has been working closely with the community on a project to promote opportunities for water recreation on the Afon Hafren / River Severn in Newtown and to encourage complementary habitat creation and enhancement associated with recreational access. Habitat improvements may include woodland creation, woodland enhancement, control of invasive non-native species [INNS], protection of the native Black Poplar, sympathetic planting for wildlife, and the creation of otter holts and hold up areas.

Summary of Requirements and Conditions

Requirement 1 – PPP: The submission and implementation of a Pollution Prevention Plan.

Condition 1 – INNS: The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

Flood Risk

We consider the principle of the four access structures to be acceptable in flood risk terms.

More information is available in the 'Advice for the developer' section below.

Pollution Prevention

Appropriate pollution prevention measures need to be implemented to ensure the river is not impacted by the development. All works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-qpps-full-list/>

Appropriate pollution prevention measures should be secured within a Pollution Prevention Plan to be approved by your authority and adhered to.

Requirement 1 – PPP: The submission and implementation of a Pollution Prevention Plan.

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 **Condition 1 – INNS**: 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 if present; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Protected Species

NRW has not considered European Protected Species(EPS) because the application does not appear to include an EPS report. We are aware an ecological report has been requested by your ecologist and we would be happy to make additional comments if the report identifies the presence of EPS.

Advice for the developer:

Flood Risk

The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016 require you to apply for a Flood Risk Activity Permit (FRAP) for works in, over, under or adjacent to main rivers.

Depending upon the type, where and when you wish to undertake a flood risk activity, you may not need to apply for a Flood Risk Activity Permit. If your proposed activity meets certain

Advice for the developer:

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Depending upon the type, where and when you wish to undertake a flood risk activity, you may not need to apply for a Flood Risk Activity Permit. If your proposed activity meets certain

Letter of 13th September 2018

Thank you for consulting Natural Resources Wales (letter dated 06/09/2018) regarding additional information on the above.

In our previous response NRW did not object to the proposal but advised that additional information was required by your authority to determine the application. We therefore advised that the applicant should:

Requirement 1 – PPP: The submission and implementation of a Pollution Prevention Plan.

Condition 1 – INNS: The submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We have read the Ecological Appraisal dated 09/08/2018 by Max Ellson and we are now of the opinion that the proposal is not likely to adversely affect any of the interests listed, subject to the use of appropriate conditions.

Summary of Conditions

Condition 1 – Protected Species: Prior to commencement of works a method statement detailing reasonable avoidance measures and works required to avoid disturbance to protected species shall be submitted to the satisfaction of the Local Authority. The method statement will be informed by the findings of a pre-construction survey in line with the recommendations made in sections 4.2.21 to 4.2.23 of the ecological appraisal.

Condition 2 – PPP: The submission and implementation of a Pollution Prevention Plan in line with section 4.2.6 of the ecological appraisal.

Condition 3 – INNS: The submission and implementation of a Biosecurity Risk Assessment in line with the recommendations made within section 4.2.13 of the ecological appraisal and to the satisfaction of the LPA.

Protected Species

We note that the Ecological appraisal report submitted in support of the above application (09/08/2018 by Max Ellson) has identified that otters use the River Severn for foraging and potentially as a resting place, but no evidence of otter resting places were found near the 4 proposed access points. There is also a chance that water voles are still present on site in small numbers, but no evidence was found during the Phase 1 survey.

In this case, the report concludes that the proposal is unlikely to harm or disturb any protected species or their breeding sites and resting places and will, therefore, not require a licence from NRW. The report also suggests that as a precautionary measure pre-construction surveys should be carried out to establish presence of otters and water voles in and around the affected areas. A method statement will then be produced containing reasonable avoidance measures and if any protected species are found, work will not commence until the applicant has secured a license from NRW.

Otters and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where bats are 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 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 ii. There is no satisfactory alternative and
- iii 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.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any otters on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Water Voles are protected by law and are a conservation priority within the UK's Biodiversity Action Plan (BAP). Under the Wildlife and Countryside Act 1981 (as

amended by Variation of Schedule 5) (England) Order 2008 it is an offence to intentionally or recklessly:

- damage, destroy or obstruct access to any structure or place that water voles use for protection or shelter,
- disturb a water vole whilst it occupies such a place.

This increased protection adds prohibitions against intentional killing, taking or injury, possession and sale. It should also be noted that Section 10 of the Act requires that "reasonable" steps are taken to avoid unnecessary damage to such structures or places.

On the basis of the findings of the ecological appraisal, we do not consider that the development is likely to be detrimental to the species concerned provided all the recommendations made in the ecological appraisal are implemented.

Condition 1 – Protected Species: Prior to commencement of works a method statement detailing reasonable avoidance measures and works required to avoid disturbance to protected species shall be submitted to the satisfaction of the Local Authority. The method statement will be informed by the findings of a pre-construction survey in line with the recommendations made in sections 4.2.21 to 4.2.23 of the ecological appraisal.

We consider that the species utilizes the site for foraging, dispersal or sheltering purposes. In our view, we consider that both construction and operational phases of the proposal have the potential to adversely affect GCN and therefore, we advise that the works are to be carried out in accordance with the provisions of a derogation licence issued by NRW under Regulation 55 of the Conservation of Habitats and Species Regulations 2017.

NRW would refer the Local Authority to the Chief Planning Officer's letter dated 01 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

However, because the development represents a lower risk for bats in this case, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range provided all the recommendations made in the mitigation section 12 of the report are implemented.

Pollution Prevention

Appropriate pollution prevention measures need to be implemented to ensure the river is not impacted by the development. All works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Appropriate pollution prevention measures should be secured within a Pollution Prevention Plan to be approved by your authority and adhered to.

Condition 2 – PPP: The submission and implementation of a Pollution Prevention Plan in line with section 4.2.6 of the ecological appraisal.

Biosecurity

The ecological appraisal report has highlighted the presence of invasive non-native plants at the proposal. 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

Condition 3 – INNS: The submission and implementation of a Biosecurity Risk Assessment in line with the recommendations made within section 4.2.13 of the ecological appraisal and to the satisfaction of the LPA.

We consider that this assessment must include

- i (i) appropriate measures to control any INNS on site if present; and
- ii (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Flood Risk

Please refer to the comments made in our letter of 12/07/2018 (CAS-58610-Y9M2).

Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (: <https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Advice to the developer:

Please refer to the comments made in our letter of 12/07/2018 (CAS-58610-Y9M2).

Countryside Services

5th March 2018

I can confirm that a public footpath N26A runs adjacent to the proposed first access site.

The footpath may not be directly affected by the main development but could be affected by associated development.

It is strongly recommended that the applicant checks their proposals against the Definitive Map, which is the legal record of the location and status of public rights of way.

For public rights of way advice please visit our web page:

<http://www.powys.gov.uk/en/countryside-outdoors/footpaths-bridleways-and-other-public-rights-of-way/>

In the event of a successful planning permission please include a note advising that:

- Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
- Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
- New fencing or boundaries – The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- Temporary closures – The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- Legal Diversion – The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

Canal & River Trust

E mail of the 20th March 2018

The Canal & River Trust is a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015. The current notified area applicable to consultations with us, in our capacity as a Statutory Consultee was

issued to Local Planning Authorities in 2011 under the organisations former name, British Waterways. The 2011 issue introduced a notified area for household and minor scale development and a notified area for EIA and major scale development.

This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee.

We are happy to comment on particular applications that fall outside the notified areas if you would like the Canal & River Trust's comments in specific cases, but this would be outside the statutory consultation regime and must be made clear to us in any notification letter you send. The document Development Management and British Waterways, issued to all LPAs with the changes to the notified areas in 2011, highlights some areas where specific cases may occur. This and further information on Planning and the Canal & River Trust can be found at: www.canalrivertrust.org.uk

Should you have a query in relation to consultation or notification of the Canal & River Trust on planning applications, please email us at planning@canalrivertrust.org.uk

Public Response

Ramblers Association

E mail of the 4th April 2018

Powys ramblers wish to support this application and endorse the comments made by Countryside Services.

Planning History

P/2017/1274: Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works. Pending

P/2018/0237: Construction of access track and parking spaces to serve river activities access. Pending

Principal Planning Policies

National Planning Policy

Planning Policy Wales (10th Edition, 2018)

Technical Advice Note 5, Nature Conservation and Planning (2009)

Technical Advice Note 12: Design (2016)

Technical Advice Notes 15 - Development and Flood Risk (2004)

Technical Advice Note 16: Sport, Recreation and Open Space (2009)
Technical Advice Note 24: The Historic Environment (2017)

Local Planning Policy-Local Development Plan (2018)

SP7-Safeguarding of strategic Resources and Assets
DM2-Natural Environment
DM3-Public Open Space
DM4-Landscape
DM5-Development and Flood Risk
DM6-Flood Prevention Measures and Land Drainage
T1-Travel, Traffic and Transport Infrastructure

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note LDP=Powys Local Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Other Legislative Considerations

Crime and Disorder Act 1998
Equality Act 2010
Planning (Wales) Act 2015 (Welsh language)
Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

Principle of Development

Policy DM3 concerns development proposals within public open space, the proposed development is within public open space and as such this policy is relevant.

While this development proposes recreational facilities they would affect informal recreation areas at 4 locations along the riverbank. The policy includes a set of criteria that seeks to ensure public space is only lost where there is adequate reuse and alternative uses for the spaces have been explored.

The 4 sites comprise small areas of riverbank which, due to the topography and proximity to the river, are not actively used for recreational purposes. The proposed development would facilitate the recreational use of the river and open up these areas for access and general recreation. It is considered the proposed scheme would enhance the recreational potential on these areas of open space and the riverine environment and as such is considered acceptable.

Development in a flood risk area

The sites are within the river Severn C2 floodzone as defined by the TAN15 Development Advice Flood Maps (DAMs). Plans showing existing and proposed site sections and details of the apparatus to be constructed have been submitted as part of the scheme,

NRW confirm in their July response that principle of the 4 access structures is acceptable in terms of flood risk.

Reasonable avoidance measures for otter and vole and pollution prevention measures shall be secured via condition or via informative on any forthcoming consent.

The scale of the 4 sites in relation to the overall area of open space to be retained in Newtown and the proposed alternative uses are in keeping with the policy criteria set out under DM3 and as such the proposed formalised play areas are considered acceptable in principle. This report shall now consider detailed considerations.

Landscape and visual assessment

The character of the surrounding landscape is primarily riverine, the access points are constructed from natural materials in keeping with the natural appearance of the area and would further integrate into its surroundings as the wood and stone weather. The handrail is the only structure to extend above ground level and would not exceed 2m above ground level at its highest point.

Policy DM4 seeks to protect valued landscape characteristics and qualities from development which would have an unacceptable adverse effect. The proposed scheme would not alter the character of the landscape and would not be visible from any visually sensitive sites, as such the scheme is in accordance with policy DM4.

Ecological impact

It is important to be mindful of how a development proposal would impact directly and indirectly on biodiversity and in particular those species identified as being at risk under the Habitat Regulations (HR). In accordance with the HR, policy DM2 seeks to protect biodiversity from development which would have an unacceptable impact on the favourable conservation status of protected species.

Following initial consultation with the county ecologist and NRW, an Ecological Appraisal Report was produced by Marches Ecology dated 9th August 2018. The survey work identified no impact to badgers, bats or water vole and low potential impact to otter, reptile and nesting birds. The Ecologist considers any low impact can be suitably mitigated through the agreement of reasonable avoidance measures.

NRW and the County Ecologist confirm they are satisfied the proposed scheme would not have an unacceptable adverse impact on protected species provided the conditions regarding RAMs, pollution prevention and biosecurity risk form part of any forthcoming consent. The proposed scheme is considered in accordance with policy DM2.

Impact on the highway infrastructure

In accordance with policy T1 all development proposals are assessed in relation to their potential to generate traffic, suitable parking provision and a safe means are access. These elements are key to determining whether or not development would be acceptable in terms of highway safety.

Sites 2, 2a and 3 would have little to no impact on the existing highway infrastructure. Each site of these sites is located close to a public car park and would enable vehicles to bring/collect kayaks and canoes close to the access/egress points without altering the existing highway infrastructure.

Site 1 would be served by a new access, this access is considered under a separate application (P/2018/0237) and as such further information in line with the highway response has not been sought. To confirm, the highway authority are satisfied with the proposed access under the separate application.

The proposed river access points are acceptable in terms of highway safety.

Impact on residential amenity

Site 1 is close to houses on the Vaynor residential development, a number of third party responses have been raised under another application (P/2018/0237) which seeks consent for access and parking, however the provision of a river access point, in isolation to the proposed vehicle access point, does not raise concerns in terms of amenity of the neighbouring property.

Recommendation to Members

The proposed development is in accordance with the relevant national and local planning policies, as listed within this report, and as such it is recommended conditional consent is issued, together with the attached conditions.

Conditions

- 1 The development shall begin not later than five years from the date of this decision
- 2 The development shall be carried out in accordance with the following approved plans and documents, Point 2-Access/Egress UPST of Rapid Black Land Carpark (T009.3a.2.04), Point 2a Access/Egress DWST of Rapid Black Lane Car Park (T009.3a.2.05), proposed access point 1-Vaynor sports field and amenity space (T009.3a.2.03), Point 2 Egress-Gravel Lane Carpark (T009.3a.2.06)
- 3 Prior to commencement of the development a detailed Otter Reasonable Avoidance Method Statement shall be submitted for approval to the Local Planning Authority and implemented as approved.
- 4 Prior to commencement of the development a detailed Biosecurity Method Statement with regards to Invasive Non-native species shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

5 The development shall be carried out strictly in accordance with the recommendations regarding avoidance/mitigation/enhancement identified in the Ecological Appraisal Report produced by Marches Ecology dated 9th August 2018. The identified measures shall be adhered to and implemented in full and maintained thereafter.

6. Prior to commencement of development a pollution prevention plan shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.

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 comply with Powys County Council's LDP Policies DM2 in relation to the Natural Environment and DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

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5 To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

6. To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2018), TAN 5: Nature Conservation and Planning (2009)

Informative Notes

Ecology

1 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

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

It is an offence for any person to:

- o Intentionally kill, injure or take any bats.
- o 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:

- o 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 structures 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 0845 1300 228 or email enquiries@bats.org.uk

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.

- 2
 - o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
 - o Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
 - o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
 - o Temporary closures - The developer can to seek a temporary closure of a public

right of way from the council if they feel the public may be at risk during development.

- o Legal Diversion - The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

Countryside services

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Signed.....
Planning Officer

Date:

Signed.....
Principal Planning Officer

Date: