Ein cyf/Our ref: CAS-262044-K7C3
Eich cyf/Your ref: NP5/59/495C

Eryri National Park Authority
National Park Office
Penrhyndeudraeth
Gwynedd
LL48 6LF

Dyddiad/Date: 15 October 2024

Annwyl Syr/Madam/Dear Sir/Madam,

BWRIAD/PROPOSAL: Cynllun cynhyrchu trydan dŵr arfaethedig i gynhyrchu hyd at (600kW) yn Afon Cynfal, i gynnwys llwybr pibelli, cored mewnlif, pwll echdynnu, llifddor o dan y ddaear (tua 1.2km), adeilad tyrbin, adeilad mesuryddion, newidiadau i'r mynediad presennol ac ail-osod lleoli mynedfa priffordd bresennol, ardaloedd gosod i lawr, compownd adeiladu dros dro, gwyriad llwybr troed dros dro a chysylltiad pŵer trydan uwchben ac o dan y ddaear i'r grid cenedlaethol (tua 600m) (Ail-gais)/ Proposed hydro-electric generation scheme to generate up to (600kW) at Afon Cynfal, to include pipe route, intake weir, extraction pond, below ground penstock (circa 1.2km), turbine building, metering building, alterations to existing access and re-positioning of an existing highway access, laydown areas, temporary construction compound, temporary footpath diversion and above and below ground electric power connection to national grid (circa 600m) (Re-submission)

LLEOLIAD/LOCATION: Land Near Pont yr Afon Gam, Llan Ffestiniog

Thank you for consulting Cyfoeth Naturiol Cymru (CNC)/Natural Resources Wales (NRW) about the above, which we received on 08 August 2024.

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding protected sites and fluvial geomorphology. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding protected sites and protected species should be attached to any planning permission granted. Without the inclusion of these conditions, we would object to this planning application.

Protected Sites

Migneint – Arenig – Dduallt Site of Special Scientific Interest (SSSI)

The proposal is located partly within the Migneint – Arenig – Dduallt SSSI. The SSSI includes a number of notified features which can be viewed on our website[1].

We previously provided advice to the applicant in our statutory pre-application response (letter dated: 8/11/2023, our reference: CAS-239550-B5V5). This included technical advice on measures to avoid damage to the SSSI. Since this advice was issued, we note that Planning Policy Wales (Edition 12, dated February 2024) has been published. We would therefore remind you, as explained below, of the policy position on the protection of SSSIs now set out in PPW.

- *National Planning Policy*

A key national priority within Future Wales is to develop strong ecosystems through the provision of resilient ecological networks and green infrastructure. Policy 9 places importance on safeguarding and creating or enhancing ecological networks. Safeguarding areas involves identifying land that is important for expanding or connecting ecological networks. The policy focus is on creating large-scale, resilient, and functional ecological networks. It states protected sites (such as SSSIs) are critically important to the long-term resilience of our ecosystems.

Sections 6.4.25 - 6.4.27 of PPW state that there is a presumption against all forms of development in a SSSI as a matter of principle, except for developments necessary for the management of a SSSI and minor developments necessary to secure the SSSI's role as a living landscape. Accordingly, it will be wholly exceptional for most forms of development to be justifiable within a SSSI when applying the step-wise approach and paragraph 6.4.27 of PPW.

In the first instance, as the decision maker, you should consider national planning policy and determine whether the proposed development is:

- necessary for the management of the SSSI; or
- a minor development necessary to secure its role as a living landscape (where effects on the special features for which a site has been designated can be considered to be acceptable); or
- justifiable in the context of wholly exceptional circumstances and only where it is considered to be appropriate and not likely to damage a SSSI and where there is broad and clear agreement for mitigation and enhancement as part of a development plan.

In relation to the first bullet point, it is our opinion that the proposal is not necessary for the management of the SSSI.

On the basis your Authority concludes the proposal is justifiable, we have the following technical advice to provide with respect to the impact of the proposals on the features of the SSSI.

- *Impacts on the SSSI features*

[1] Natural Resources Wales / Find protected areas of land and sea

A number of the notified SSSI features are also features of the Migneint – Arening – Dduallt Special Area of Conservation (SAC) and Special Protection Area (SPA). We refer you to the respective sections of the SAC/SPA below for our advice on those features. Provided the impact pathways referenced for those SAC/SPA features are adequately addressed, we consider those features of the SSSI will also be adequately safeguarded.

However, we have concerns that insufficient information has been submitted to demonstrate how likely damage to the SSSI will be avoided. This is specifically in relation to the "Assemblage of Red Data Book (RDB) and/or Nationally Scarce and/or Atlantic-Western British bryophytes" feature of the SSSI.

The proposed laydown area is at the location for the rare bryophyte *Barbilophozia kunzeana* colony. *Barbilophozia kunzeana* is an RDB species and forms part of the notified assemblage for the "Assemblage of Red Data Book (RDB) and/or Nationally Scarce and/or Atlantic-Western British bryophytes" feature.

The location is detailed in Dr Des Callaghan's report (Appendix 9C bryophyte update 2023). On the map on p4, Dr Callaghan writes: "*The flush in which this species occurs should be protected by temporary fencing prior to any construction activities commencing within the vicinity. The fencing should be removed once construction is complete, as sheep grazing is important to maintain the habitat in favourable condition for the liverwort*."

We have concerns that this may not be sufficient to protect a SSSI feature that is hydrology-dependent. Compaction near, or upslope of the location could easily disrupt hydrological conditions. We therefore advise that the proposed laydown area is relocated to completely avoid the *Barbilophozia* colony. A buffer area of at least 10m should be fenced around the colony and no laydown area should be situated uphill from the location where *Barbilophozia kunzeana* has been recorded.

We therefore advise that a revised site plan is submitted which clearly demonstrates how damage to this feature of the SSSI will be avoided.

We also note that the ES identifies that habitats that are features of the SSSI (for example the M6c community on the route of the pipeline near the intake, along with acid grassland). may be impacted. The ES and the Construction Method Statement include measures to restore habitat on completion of each section of works. We advise that detailed habitat restoration measures, as well as pollution prevention measures, must be clearly set out in the Construction Environmental Management Plan (CEMP) (see Condition 1 below).

<u>Cwm Cynfal SSSI</u>

We consider the proposals have the potential to impact upon the biological features of the SSSI.

Provided the impact pathways referenced below for the SAC features are adequately addressed, and subject to the implementation of an approved CEMP as highlighted above, we consider those features of the SSSI will also be adequately safeguarded.

<u>Migneint – Arenig – Dduallt SAC</u>

The proposal is located partly within the above named SAC which is important for its habitats including blanket bog, dry and wet heath, and oak woods. As explained below, we consider

the development has the potential to impact on the SAC during both the construction and operational phases of development.

- *Construction phase impacts*

The proposed works are located partly within the SAC. However, the "Shadow *Habitats Regulations Assessment – Screening Report*" (RML November 2023) states that habitats that are features of the SAC will not be affected by the proposed works. Although Annex 1 habitats may be affected in some sections, the report indicates that these areas are outside the SAC.

The proposed works also has the potential to affect habitats on site through the risk of pollution. We note the submission of the Construction Method Statement (Baileys & Partners, September 2023). However, we advise that further pollution prevention measures are needed which should be set out in a CEMP to be approved by the Local Planning Authority (LPA), in consultation with NRW, as a condition of any planning permission.

Condition: CEMP

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

- Construction methods: details of materials, how waste generated will be managed;
- 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.
- Species protection: Details of avoidance and mitigation measures (including with respect to bats, otters and Schedule 1 birds), details of bat monitoring, details of ecological compliance audit.
- Habitats protection: Details of measures for habitat restoration during the works.
- Invasive species: Details of measures to control and eradicate any invasive species on site.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration activities (informed by blasting strategy if required), for example acoustic barriers; details of dust control measures; measures to control light spill.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management;
- Traffic Management: details of site deliveries, plant on site, 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.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Environmental clerk of works to ensure construction compliance with approved plans and environmental regulations.

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 prior to commencement of development and implemented for the protection of the environment during construction.

In the preparation of the CEMP, we advise the applicant considers the following points in relation to pollution prevention and to protect sensitive habitats on site.

i. Photos provided in both the geomorphology assessment and the landscape and visual impact assessment show the intake site as being in a secluded gorge with steep sides. Accessing and managing any possible pollution during construction may prove challenging without working in accordance with GPP5. The Meirionnydd area has experienced numerous pollution events related to the construction of hydro schemes, primarily with trenching and the laying of pipes and tracks. The Afon Cynfal has good overall WFD status but is classified as high status for fish and it is therefore important that no pollution from silt or cement should enter the river system. No silt, cement or dirty should be allowed to run-off into any surface water system.
ii. It is possible that the coffer dam of 0.5 m detailed in section 8.7 of the Construction Method Statement will not be high enough to cope with a rainfall event, should it happen. Despite the method statement's clear indication that the intake construction will only be possible in dry weather, summertime weather patterns are too unpredictable to ensure that there won't be any precipitation while work is underway, which would cause river levels to rise rapidly and eventually topple the cofferdam.
iii. Soil stockpiles should not be stored within 10m of the watercourse and should not be located on any steep slopes.
iv. The appointed contractor for the work should provide 24 hour emergency contact details to NRW's Dwyfor and Meirionnydd Senior Environment Officer at timamgylchedddwyforacmeirionnydd@cyfoethnaturiolcymru.gov.uk prior to the commencement of work on site. The contact details would be retained during the construction period and then deleted. The details would be added to a spreadsheet used by duty pollution incident officers and only used if a pollution complaint is received about the site.

- *Operational phase impacts*

The operational phase involves the abstraction of flow from the Afon Cynfal which would result in a depleted reach for an approximate length of 1.2 km within the river. We consider the SAC feature of interest in this stretch to be the Old Sessile Oakwoods habitat: with an open canopy of birch and the typical Hyperoceanic/Atlantic bryophyte assemblage associated with this habitat. Abstraction of water from the river, resulting in a depleted reach, has the potential to reduce humidity levels which could consequently impact on desiccation-sensitive bryophytes in the vicinity of the river.

We note that previous bryophytes surveys undertaken by the specialist Dr Des Callaghan (in 2013, 2015, and 2023) assessed whether cascades within the ravine could support desiccation-sensitive bryophytes characteristic of the SAC woodland. The results indicated that there was limited bryophyte flora within the ravine, and no particularly desiccation-sensitive species were identified. The surveys had shown the slopes of Cwm Cynfal hold significant bryophyte interest, but that it was associated with seepages and steep rocky ground rather than being dependent on mist/spray from waterfalls within the ravine. We

concur with Dr Des Callaghan's conclusion that the oceanic bryophyte assemblage of conservation interest was not flow dependant and would not be affected by the proposed abstraction.

Abstraction and Impoundment Licence

We note that an application to vary the abstraction / impoundment licence has now been granted by NRW.

However, the drawings on the planning submission differ from those on the abstraction licence (WA/065/0001/0020) and the impoundment licence (WA/065/0001/0021) previously granted. It is essential that the drawings included in both licences are accurate, as these will be used by NRW to assess the scheme's compliance with its licences.

We advise that the applicant is informed that the licences must be updated with the correct drawings through a permit variation for both licences, and that this variation will incur a cost. We refer the applicant to our website: Natural Resources Wales / Apply to renew or change an existing abstraction or impoundment licence.

Migneint – Arenig – Dduallt Special Protection Area (SPA)

The proposal is located partly within the above named SPA which is important for its bird species, including hen harrier, merlin and peregrine. As explained below, we consider the development has the potential to impact on the SPA during the construction phases of development.

The Breeding Bird Survey Reports (dated 2019 & 2023; BiOME Consulting Limited) concluded no territories of peregrine, hen harrier or merlin were observed within a 500m buffer zone. The HRA concluded no adverse effects to the SPA features as a consequence of the proposed project.

We welcome the mitigation measures to avoid possibility of damage to active bird's nests and/or disturbance of nesting Schedule 1 species. We advise that detailed mitigation measures should be clearly set out in the CEMP (see Condition 1 above) and should include further detail regarding the following points:

i. Works should ideally be completed outside the bird nesting season (1 March to 31 August), although it should be noted that the nesting period may extend beyond these dates.
ii. Should an occupied bird nest or a nest in the process of being constructed be encountered during works, clearance must cease in this area and should only re-commence once the birds have fledged, or the nest is abandoned.
iii. If works must be undertaken during the nesting season, surveys to identify any nests which may be impacted will be required prior to any works in habitats with the potential to support nesting birds. This survey should be undertaken by a suitably experienced person. Again, should an occupied nest or nest under construction be found, works must cease in this area until the birds have fledged or the nest has been abandoned.
iv. Habitats adjacent to the site are suitable for breeding Schedule 1 birds/SPA and SSSI qualifying features (notably merlin, hen harrier and peregrine). If works are completed during the breeding season, surveys of all areas where disturbance could occur will be required to ensure any occupied territories (if present) are not impacted.

Meirionnydd Oakwoods and Bats Sites SAC

Lesser horseshoe bats are a feature of the nearby Meirionnydd Oak Woods and Bats Sites SAC. A bat survey carried out by RML V2: 23/08/2023 showed that a nearby mine is a hibernaculum for lesser horseshoe bats and is highly likely to be used by other bat species for hibernation. We consider that noise/vibration (including from blasting if needed) has the potential to disturb bats. The ES identifies reasonable avoidance measures, including pre-construction checks. We advise that detailed reasonable avoidance measures, along with details of construction methods (including with respect to any blasting) should be clearly set out in the CEMP (see condition 1 above). The CEMP should also include details of bat monitoring to evidence that bats have not been affected.

As the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended), your authority must, before deciding to give consent for a project which is likely to have a significant effect on a SAC or SPA, either alone or in combination with other plans or projects, make an appropriate assessment of the implications of the project for that site in view of its conservation objectives. You must for the purposes of the assessment consult NRW and have regard to any representations we make within such reasonable time as you specify. In the absence of that assessment, NRW cannot advise that the proposals would not result in an adverse effect upon the SAC or SPA.

Fluvial Geomorphology

We note that a "*subsurface river crossing*" option is now proposed for the pipeline crossing as identified by feature 8 on the Location Plan. This is in place of the bridge crossing option as previously proposed. As highlighted in our statutory pre-application response, where a below riverbed pipeline is proposed, we advise that detailed construction methods, along with any necessary mitigation measures, should be provided as part of the planning application to inform on the likely impacts of the work. The impacts of the buried pipeline will depend on the geology/drift geology through which the pipe will pass, along with the depth of the proposed pipeline and method of burial. We continue to advise that detailed construction methods are provided.

We also note that river crossings 16 and 17 are depicted on the Location map and in more detail on drawings and CYN-300 and CYN-3004 respectively. It is unclear if these are existing river crossing or new culverted river crossings and we advise that clarification is sought as to whether these are existing or proposed river crossings. Alternatives to culverting watercourses should be sought where practicable.

We consider the proposed intake is unlikely to impact on fluvial geomorphology provided that the crest of the intake does not exceed that shown in Photo 5.2 of the photo survey, which is shown to be immediately, and critically, below a significant geological step.

Flood risk

The application proposes less vulnerable development for the installation of a hydro-electric scheme and associated works. Our Flood Risk Map confirms the site to be partially within Zone C2 of the Development Advice Map (DAM) contained in TAN15 and the Flood Map for Planning (FMfP) identifies the application site to be partially at risk of flooding and falls into Flood Zone 2/3 Rivers.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we would refer the LPA to the tests set out in section 6.2 of TAN15. If the LPA considers the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of a Flood Consequence Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

We have reviewed the FCA undertaken by Waterco, dated September 2023, reference 15414-FCA-02. The FCA demonstrates that the turbine house is located outside of the 0.1% (1 in 1000 year) fluvial flood event and sits approximately 1.2m above the flood extent for this scenario. The FCA also demonstrates that the construction compound is located outside of the 0.1% (1 in 1000 year) fluvial flood event.

We also note that the applicant has commissioned and submitted a report based on hydraulic modelling and forms part of Appendix 17 of the Environmental Statement (Waterco. Hydraulic Modelling Technical Note. February 2024).

The modelling/report considers the impact of the weir and associated backwater effect i.e. increase in flood risk upstream of the proposed weir. The model has considered a flood event with a return period of 1% annual exceedance probability (1 in 100) event with suitable allowance for the impact of climate change on flows. The impact is localised and confirmed to 32m upstream and flooding will remain contained within the river's channel (due to the topography and channel characteristics).

We can therefore confirm that the flood risk associated with the proposal has been assessed and has been demonstrated to be acceptable in this instance.

The applicant will need to approach Gwynedd Council as the Lead Local Flood Authority to obtain consent for the construction of the weir under the Land Drainage Act 1991.

Protected Landscape

Our advice relates to the development's potential impacts on the landscape character and visual amenity of the Eryri National Park (ENP), and the statutory purpose of the designation which is to conserve and enhance its natural beauty.

The Rhaeadr Y Cwm waterfall, gorge, and surrounding valley demonstrate the outstanding natural beauty for which the park is designated to conserve and enhance. The area is open, wild, scenic and remote, with no obvious signs of development other than the B4391. It is also recognised for its historic landscape value, in part due to its mythological associations with Mabinogion.

The locality is accessible and is popular with people seeking to experience the special qualities of the ENP. As well as the B4391 road, there is a public footpath which runs parallel to - and overlooks - the falls and Afon Cynfal. This path forms part of the promoted Snowdonia Slate Trail Walk. Cwm Cynfal and the falls in particular, are one of the highlights of this promoted walk. Land surrounding the falls is also publicly accessible being open access land. The waterfall and enclosing hillslopes are also the focus of an advertised viewpoint along the B4391. This viewpoint, the waterfall, and nearby car park are marked on Ordnance Survey maps.

The submitted ES (June 2024) reflects the current application, however the LVIA report September 2019 was originally submitted as part of planning application Ref NP5/59/495A. The design changes (described in ES Chapter 10 'Landscape and Visual Impact' paragraph 10.1.5) respond to a number of specific issues raised in our pre-application comments regarding the need to assimilate the proposals into the sensitive landscape setting. These changes include the removal of the pipe bridge proposal, which was previously one of the most visually intrusive elements.

We note that some mitigation measures are described in ES Chapter 10 but not all are reflected in the submitted plans. We advise that any approval should include the entire suite of plans and reports to avoid confusion arising from inconsistencies. For example, the ES states the pipe bridge has been removed from the proposals but 'Pipe/Access Bridge' (document C17) and 'Pipe Bridge rev 002 watermarked' (document C18) are included in the application and not shown as superseded.

Our comments below are focussed on the ES Chapter 10.

- The application confirms no lighting.
- Sections are submitted to show how the undergrounded pipe will be integrated into the sloping topography.
- The application states that only the western access point would remain to allow occasional access to the metering building with all other temporary access points returned to soft vegetation cover.
- A Flow/Photo survey for the Rhaeadr y Cwm is provided in ES Appendix 13 and concludes due to the rock profile that the proposed hydro scheme would have an insignificant effect on the visual amenity of Rhaeadr y Cwm. We note that (ES para 10.5.2) the weir intake design has been amended to limit abstraction at low flows to ensure the 'intensity of white water would not be adversely affected' – which is a vitally important issue for the maintenance of the character and natural beauty of the falls, and their amenity value.
- For the Turbine House, proposals for Grasscrete have been removed but some form of grass reinforcement is presumably required as shown on the Turbine House Plan although this is not specified and should be included.
- Building materials are appropriate
    - Turbine House: larch cladding, roof in profiled steel colour to be mid-grey/blue as requested by your Authority; ES para 10.6.5 states samples will be provided for approval.
    - Metering Building: local stone cladding, slate roof, timber painted (colour should be specified).

Most of the proposal is undergrounded and will not be visible once restoration has been achieved, but the success of site restoration is therefore key to limiting the LVIA 'major-moderate adverse impacts' to within or just beyond the 8-10 months construction phase. For example, successful integration of the engineered slopes and retaining structures required to accommodate the pipeline will require the highest standards of workmanship and attention to detail in order to avoid significantly and permanently harming the character and appearance of e.g. the footpath which forms part of the promoted Slate Trail. We note that part of this route will be closed and users diverted during construction.

Two documents covering restoration have been submitted, there is some overlap but also some gaps which require further information or could be conditioned as detailed below.

Appendix 16A Construction Method Statement

An EcoW is proposed and would be key to ensuring the method statement is followed during the construction phase.

The document confirms pipes will be laid in short sections with prompt restoration of soil cover and replacement of turves. We advise that phasing of the 8-10 month programme will include either summer working (where turves may require watering), or winter working (where grass seeding, and turf laying will be restricted by cold/wet weather). This is not covered in the Construction Method Statement and we therefore advise that it is incuded in the CEMP, conditioned above.

Appendix 16B CEMP
Chapter 3.3 adequately covers soil conservation.
Chapter 11 covers Standards of Workmanship.

- 11.2 covers the use of a stonemason and provides a precedent building cladding example at Hafod Y Offeiriad. We advise sample panels for both building cladding and retaining wall stonework should be conditioned.
- 11.4 covers management proposals for landcover restoration. We note that:
  - 'a detailed method statement covering landscape and ecology will be prepared before commencement'.
  - the grass seed mix is to be agreed with your Authority.
  - monthly inspections will be undertaken (including after heavy rainfall).
- 11.5 covers 'Establishment aftercare' and states 'the inspection regime proposed in para 10.8.10 will be maintained for 4 months after completion or until all areas are satisfactorily returned to former uses'. As para 10.8.10 is a typo, the inspection regime should be confirmed. We advise monthly inspections should continue on a sectional basis until each section has full vegetation recovery. A condition to require the submission of monitoring reports and photos at key stages of recovery is advisable.
- Table 11.1 covers 'Proposals for reinstatement and aftercare'.
- ES para 3.7 covers cutting or breaking through rock using a hierarchy of options. Controlled trench blasting is the highest risk in terms of landscape impact and appears to be the last resort option for the harder rock areas. Reinstatement to visually blend in levels with appropriate soil and vegetation cover would be required but is not covered in the CEMP and may need to be included in the proposed Trench Blasting Strategy.

Land Contamination

There are mine workings in the vicinity of application site and the proposed works has the potential to result in leachate from disturbed mine spoil, and construction phase silt, causing pollution in the Afon Cynfal. Detailed mitigation measures will need to be set out in the CEMP (see condition 1 above). We advise the applicant addresses the following points in the preparation of the CEMP:

1) We advise that soil sampling be conducted in all areas of proposed excavation and groundworks, including along the length of proposed pipeline, to obtain soil chemical data to assess the risk of pollution by heavy metals, especially copper, from erosion and runoff of particulates and dissolved-phase pollutants. Environmental Quality Standards (EQS) and Priority Pollutants lists should be used to guide the choice of analytes. Consideration should also be given to the Water Framework Directive and potential impacts on chemical and ecological classification.

2) We also advise that the depth of soils be confirmed at the same time that soil samples are collected for analysis. This will help to assess and plan the proposed (~1.5 m deep) trench required for the installation of the 720 mm HDPE transmission pipe, and help with drawing up the CEMP and associated erosion and pollution control measures. Both soil sampling and depth confirmation should be conducted using equipment that will result in the minimum disturbance to the surface soils and vegetation.

3) A Baseline Conditions Report should also be produced based on information obtained to date and any additional information obtained from items (1) and (2) above. This information, especially photographic, soils, vegetation and ecological data should be used to compare with post-construction conditions, to guide management and restoration of the site. We note that much of the material required for a baseline report has already been obtained and documented in the ES and other documents, however, given the uniqueness and sensitivity of the site, we consider it important to have a separate focused Baseline Conditions Report, with the additional information recommended in this response.

4) As part of (3) above, we recommend that baseline river water quality be established upstream, within, and downstream of the area of the proposed scheme.

5) Associated with (4) above, we recommend that a river water quality monitoring plan be proposed for the period during and after construction. Monitoring should include continuous monitoring of key parameters, such as turbidity and EQS metals, and used to provide feedback on construction progress and document river water quality, in the event that environmental harm (e.g. fish-kill) be recorded downstream.

6) Information obtained from (1), (2), (3) and (4) above should be used to help produce the CEMP, which should include details of procedures to control soil erosion, runoff of water, soils and sediment; and compression, drainage and damage to peat soils. The CEMP should detail procedures to deal with heavy rainfall events, which are becoming much more frequent in recent years, and can quickly overwhelm construction sites and erosion control and water control measures and cause long-term serious damage soils, vegetation, water quality and ecology.

7) With exception to the proposed changes to the Afon Cynfal, every effort should be made to maintain current hydrology and water flows, including water conditions in any peat. These should also be documented in the Baseline Conditions Report.

8) In summary, the measures above, which includes collecting additional hydrological and geotechnical data, rather than just relying on visual inspections and assumptions, are needed to properly assess potential risk and to inform the production of the CEMP. We note that this agrees with some of Section 5.5 Recommendation for Further Works of GroundSolve's Geotechnical Assessment (12/09/2023), notably: *"As it has only been possible to carry out a visual inspection of the site to date, it is recommended that some intrusive investigation is carried out as soon as access is available. However, it is noted that such access may only become feasible once planning permission for the scheme is secured and the construction period begins. Intrusive investigation will be especially important around the shaft location, to confirm its dimensions and depth to rockhead. It is however noted that such investigation shall be required to allow the detailed design of the required remedial works to be carried*

out".

Protected Species

We note that the report submitted in support of the above application (Cwm Cynfal Hydro Scheme Environmental Statement. R.M.L. June 2024) has identified that protected species are present at the application site.

The proposal has the potential to affect bats and otters, and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017.

As explained above (see Protected Sites section), lesser horseshoe bats (as well as other bats) are using the adit in the vicinity of the works for roosting, including for hibernation. There are also potential roosting opportunities within a tree on site.

Although no otter holts or resting areas were found on site, the ES concludes that otters are highly likely to use the site, including for commuting and foraging purposes.

The proposed works has the potential to disturb bats and otters. We advise that detailed reasonable avoidance measures (including bat/otter pre-construction surveys and bat monitoring proposals), along with any necessary mitigation measures, should be clearly set out in the CEMP and approved by the LPA in consultation with NRW (see Condition 1 above). If blasting is deemed to be needed, then we advise that a blasting strategy is produced which should be used to inform the CEMP.

We also advise that the report must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

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.

In relation to Schedule 1 birds, we refer you to our comments above (Protected Sites).

Fisheries

This area of river is not a migratory run due to natural obstructions lower down the catchment. However, there are native brown trout and eel present. The design of the proposed scheme should ensure the measures identified below are clearly set out in the CEMP:

i. Downstream passage for trout should be provided.
ii. There needs to be a minimum of 300mm water depth below the entire structure (plunge pool).
iii. Upward and downward passage for eels is required.
iv. The outfall should be elevated as not to be an attracting flow for fish.

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.

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

Yn gywir / Yours faithfully

Rhys Jones
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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.