

ATISN 20833 - ITEM 002

RE: The planning proposal NP/24/0198/FUL, Bus Depot at Moylgrove.

I am objecting to the proposal in relation to the applicant's disregard of with regards to the of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 and the Countryside and Rights of Way Act 2000 and that these need to be taken into consideration when deciding upon the planning decision. Further, the applicants lack consideration to present plans for drainage, services and proper and responsible plans to deal with the evident health, safety and wellbeing risks of asbestos on the site.

The below outlines the regulations as set into UK law regarding duties of a competent authority in exercising its function(s) as a public body. With regards to the planning application named above, I believe that the potential for impacts of the application and that activities they promise to undertake are not being properly considered and that to not properly consider them is contravening UK law.

The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), covers sites of European importance, including the West Wales Marine SAC, Cardigan Bay SAC and Aberarth SSSI that are all present in Ceibwr Bay and its environs. As a competent authority, S10 of the Habitats Regs state that you "must take such steps in the exercise of your functions as a public body (Also included under s28G and 28P The Wildlife and Countryside Act 1981 (WCA 1981) as amended), so far as lies within your powers to, preserve, maintain and re-establish of a sufficient diversity and area of habitat for wild birds, including by means of the upkeep, management and creation of such habitat, as appropriate, having regard to the requirements of Article 2 of the new Wild Birds Directive (measures to maintain the population of bird species)".

It is well known that bird populations are in decline around the UK, including Wales and its coastline. As per the Regs, you must screen for potential effects on the ecological integrity of a European site such as the West Wales Marine and Cardigan Bay SACs, when considering any proposal. These regulations enshrine the precautionary principle in law, meaning that PCNP should be using consistent and risk-based approach to screen planning proposals, to fulfil their statutory duties to protect and enhance the environment for wildlife.

Under WCA81, Choughs (*Pyrrhocorax pyrrhocorax*) are listed under Schedule 1 and can be found in areas that coasteering is commonly known to be frequently undertaken. It is an offence under the Act to intentionally or recklessly disturb a bird while building a nest or breeding, or to disturb dependent young, something that the community members of Moylgrove know that is happening.

Without a decent baseline of species and habitat extents around the bay, and a thorough understanding of the possible impacts of increased activities proposed to be run from the Adventure Hub, can it be ascertained that there is low risk to wildlife should the proposal not be screened. I believe that no screening of the activities to be run from the Adventure Hub has been undertaken at this stage, therefore the proposal cannot be approved at this stage.

Further to the activities to be run from the site at the Bay, under the Habitats regulations "it is an offence to deliberately disturb protected animals in a way that is likely to significantly affect their ability to survive, breed, rear or nurture their young; impair their ability to hibernate or migrate; or affect their local distribution or abundance;" This includes the Common Otter (*Lutra lutra*), which is known to frequent Nant Ceibwr and is listed as a Schedule 2 species.

It should also be noted that there is no defence for accidental damage to, destruction of, or disturbance of the resting places or breeding sites of European Protected Sites, even if this is as an incidental result of a lawful operation. Under WCA81 as amended by Schedule 12(5) to the The Countryside and Rights of Way Act 2000 (CRoW Act), it is an offence to intentionally or recklessly cause damage to protected species. As a competent authority, you must therefore take steps to ensure there are no protected species or habitat they depend on. This is significant for both your own works and for regulating of any third party.

As a competent authority, you have a duty to assess any proposal that is likely to directly or indirectly damage a site, regardless of whether or not the proposal is within a SSSI. This therefore includes the proposal for the Adventure Hub in Moylgrove. If you cannot prove a proposal will have no adverse effect on the ecological integrity of a site, even with conditions or restrictions, you must refuse (enshrined into law by the Conservation of Habitats and Species Regulations 2017) it as Ceibwr Bay and the surrounding coastline is covered by the Aberarth SSSI as it meets specific national thresholds for certain nature conservation or geological criteria. SSSI's are covered by WCA81 which has subsequently been amended and strengthened by CRoW Ac), and the Natural Environment and Rural Communities Act 2006 (NERC06) imposed further duties on you when performing your function(s).

The WCA81 gives protection to the wild birds, animals, plants and their habitats listed in Schedules to the Act. You should therefore screen applications to ensure that you do not authorise actions that violate protected species or their habitat. Schedule 9 inserts a new section, 28G, to the WCA81 imposing a duty that you "must take reasonable steps, consistent with the proper exercise of (your) functions to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is a SSSI".

Further to my concerns over the development, it is also noted that as of 6 July 2024 Pembrokeshire County Council's [REDACTED] noted that, "No SAB application has been received to date and that the amended drawings indicate no changes to the original drainage design submitted for consultation". In the updated report the drainage manager states that they "have no further comment to our original response dated 25th April 2024". However, I am unable to find this document on the PCNP Planning portal, so cannot comment further, other than to say that without details plans from the applicant to deal with the proposals drainage issues, approval for the planning application should at least be postponed until a plan is submitted and approved by the drainage manager. PCC's [REDACTED] [REDACTED] wrote stating that the applicant's preliminary CL assessment had been amended, but that there was no evidence as to what the update had been. These updates were considered necessary to include matters arising from services, for which there is no plans submitted to date from the developer that seem to deal with this issue in a manner satisfactory to the regulations, or indeed any thought presented to deal with them by the applicant. The applicant has also provided no clear plan or shown any consideration on how they dealt with the asbestos that was evidenced to exist on the site before demolition. The PCL consultant expresses concerns over the residual "risk to construction workers, the public and residents living nearby and future users of the site", no doubt in relation to the Control of Asbestos Regulations 2012.

I believe that in relation to all of the above, the PCNP should strongly consider whether it can, as the law currently stands with regards to the of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 and the Countryside and Rights of Way Act 2000, approve the proposal for the creation of an Adventure Hub that will deliver increased activities (in terms of

number of participants and frequency of groups) in and around Ceibwr Bay at this time, without proper assessment of the potential impacts that may arise on the European protected sites and the designated species, and whether such as proposal is consistent with the preservation, maintaining and re-establishment of biodiversity and areas of habitats.

If the above weren't enough to finally unapproved the planning application, I believe that the application should remained unapproved until such times that the developers can show a proper and responsible consideration to the matters raised by both PCC's consultees in relation to the unsatisfactory plans for drainage and services and more importantly, proper and responsible consideration to public, contractors and residents' health, safety and wellbeing.



12 July 2024

