

Dear Daron

We have received Elizabeth James' reply to our pre-application for a proposed Gravitational Water Vortex Power Plant at Llandysul.

Several points were raised in the reply that were fully addressed in the proposal which makes me wonder if some points in the proposal were not clear.

I include sections from your reply in italic and where these points are covered in our original proposal (copy attached) in plain type below:

"Our main areas of concern relate to the proposed weir and the in-river construction, and the potential impacts of these on flooding and the designated sites and species of the Afon Teifi; as you know, the Teifi is designated as both a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI). While development is permitted within these designated sites, we cannot allow the habitats and species protected by these designations to be impacted by a development."

Please refer to section 5 of our proposal. While I have only quoted the Water Framework Directive, the same exceptions also apply to the Habitats Directive:

"Article 16.1. Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15 (a) and (b): ... in the interests of public health and public 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;"

While the development may impact the local Cornish Moneywort *Sibthorpia europaea* at the site, this is fairly well spread across Britain (<http://www.brc.ac.uk/plantatlas/index.php?q=node/1846>) and Western Europe. The population has not declined in range or abundance in recent years. So the development will have an insignificant effect on the overall population and will not be "detrimental to the maintenance of the populations of the species". The public and environmental interest benefits of the project far outweigh any impact, as explained in section 5 of our proposal.

Saying that you "**cannot allow** the habitats and species protected by these designations to be impacted by a development" is not true according to "ASSESSING PROJECTS UNDER THE HABITATS DIRECTIVE, GUIDANCE FOR COMPETENT AUTHORITIES" (www.ccg.gov.uk/idoc.ashx?docid=c264ac7b-7a47-41e8-8aed-3f8ef37fe672&version=-1):

"The decision as to whether to allow a project to proceed under the provisions of Article 6(4) is, in effect therefore, a Government decision. In accordance with the tests set out within the Habitats Directive, the Government will scrutinise the availability of alternative solutions before addressing the case for imperative reasons of overriding public interest."

i.e. while you may recommend that development should not proceed for specific reasons, it is down to the Government to weigh up the development and make a decision as to whether it is of overriding public interest.

“We explained in our response and meeting last year that a proposal to create a new weir within the Teifi SAC would be unlikely to be acceptable. The reason for this is because constructing any type of weir in the river could create a physical barrier to fish migration and would alter the local flow conditions. Such changes can have a detrimental impact upon the success with which fish move through this stretch of the river and ultimately reduce the number of migratory fish that reach spawning sites upstream; the Teifi is an internationally important site for salmon and two migratory lamprey species.”

Please refer to section 3.1 of our proposal which gives evidence that fish are free to swim through the GWVPP so there is no physical barrier to fish migration. We have additionally offered in the email to Sally to install automatic fish counters to monitor the flow of fish upstream and downstream of the site, both before and after installation and if there is any negative impact, to open the weir until the impact can be resolved.

“The Multi-fruited River-moss Dendrocryphaea lamyana, is an independent feature of the SSSI designation and a component of the Ranunculion feature of the SAC. It is also specially protected under Schedule 8 of the Wildlife & Countryside Act 1981. The colony located within the gorge at Llandysul is the second largest both on the Teifi and in Wales. This Dendrocryphaea population is known to extend downstream midway between points 17 and 18 on your map. It grows on rocks and tree bases at a range of heights above water level and will be susceptible to changes in flow levels and flow variability and would potentially be affected by this proposal.”

It is possible that Dendrocryphaea lamyana will be affected in the area where water levels are raised. However, this is a small proportion of the stretch where it is found so there should be no significant effect on the overall population (so it is permitted under Article 16 of the Habitats directive as explained above). Where water levels are raised it is quite likely that the Dendrocryphaea lamyana will spread to the higher levels so there will be no overall impact. If there is any impact, the public interest benefits of the project will far outweigh it, as explained in section 5 of our proposal.

“The Cornish Moneywort Sibthorpia europaea, is a feature of the Afon Teifi SSSI and occurs in an area of wet flush / spring vegetation on the north bank of the river at the location where it is intended to install the turbines. An installation at this location would result in the loss of this feature, either by physical destruction or by the loss of the flush habitat. The location of the Llandysul bypass was moved downstream at the design stage to avoid this Sibthorpia colony. For this reason we would object to any planning application to install the GWVPP at this location.”

Already covered in the section above about Article 16 of the Habitats directive.

The fact that the Llandysul bypass was moved downstream at the design stage is supported by Article 16 which says *“Provided that there is no satisfactory alternative”* – in the case of the bypass moving it to one side at the design stage was a simple and cost effective measure. In the case of the GWVPP, our surveys have shown this is the only practical location in the area. Additionally the bypass could not be considered of overriding public and environmental interest, but the exemplar set by the GWVPP is most definitely of overriding public and environmental interest and will help long term to reduce impact to species like the Sibthorpia which are very sensitive to changes in rainfall and river patterns which will be greatly affected by climate change.

“On the matter of flood risk, there are a number of properties in Llandysul which are already at risk of flooding. The creation of any new weir, and potentially the construction of the GWVPP, would present an increased risk of flooding. Whilst we acknowledge that you propose to install a weir that is capable of being lowered during higher flows, such a structure would not be failsafe and we would need to consider the proposal in a worse case scenario. You would need to demonstrate that there is no third party detriment as a result of your proposal.”

We have already proved clearly that there is no third party detriment in section 3.3 of the proposal, even if the weir fails to open.

I look forward to your clarification on these points.

Thank you

Greg