



**NEWARK &  
SHERWOOD**  
DISTRICT COUNCIL

*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

[www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

**Monday, 18 March 2019**

**Chairman: Councillor D Payne**  
**Vice-Chairman: Councillor P Handley**

**Members of the Committee:**

**Councillor Mrs K Arnold**  
**Councillor R Blaney**  
**Councillor Mrs C Brooks**  
**Councillor B Crowe**  
**Councillor Mrs M Dobson**  
**Councillor P Duncan**

**Councillor J Lee**  
**Councillor Mrs P Rainbow**  
**Councillor F Taylor**  
**Councillor Mrs L Tift**  
**Councillor I Walker**  
**Councillor B Wells**  
**Councillor Mrs Y Woodhead**

**MEETING: Planning Committee**

**DATE: Tuesday, 26 March 2019 at 5.00 pm**

**VENUE: Civic Suite, Castle House, Great North Road,  
Newark, Notts, NG24 1BY**

**You are hereby requested to attend the above Meeting to be held at the time/place  
and on the date mentioned above for the purpose of transacting the  
business on the Agenda as overleaf.**

If you have any queries please contact Catharine Saxton on [catharine.saxton@newark-sherwooddc.gov.uk](mailto:catharine.saxton@newark-sherwooddc.gov.uk).



**AGENDA**

**Page Nos.**

9a Land on the South Side Westfield Lane, Collingham  
18/01477/FULM (MAJOR)

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## PLANNING COMMITTEE – 26 MARCH 2019

<b>Application No:</b>	<b>18/01477/FULM (MAJOR)</b>	
<b>Proposal</b>	<b>Erection of a Hydropower Electricity Generating Station, supported by energy storage and fish passage in the area of land adjacent to Cromwell Weir on the right bank of the River Trent near Collingham. The purpose of this development is to generate and store renewable electricity and provide improvement to upstream fish and eel passage and biodiversity on the River Trent.</b>	
<b>Location:</b>	<b>Land On The South Side Westfield Lane, Collingham, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Barn Energy - Mr Mark Simon</b>	
<b>Registered:</b>	<b>24<sup>th</sup> August 2018</b>	<b>Target Date: 23<sup>rd</sup> November 2018</b>
	<b>Extension of time agreed in principle</b>	

This application is being presented to the Planning Committee as the adjoining ward member Cllr M Dobson has referred the application for consideration by Members. This request was made after the main agenda was published. However this application has been published as an additional item on the same day as the main agenda to ensure that a decision can be made before 31<sup>st</sup> March 2019. This will ensure that the applicant is able to take advantage of incentives currently being offered by OFGEM tariffs which expire on 31st March 2019 should Members be minded to approve the scheme.

### The Site

The site is located on the eastern bank of the River Trent to the east of Cromwell and to the west of Collingham on an area of land between the river and the flood plain. The site is known as Cromwell Weir.

A dwelling associated with the lock alongside the weir is situated on the western river bank. A quarry owned and operated by Tarmac lies to the east of the site and there is a restored area of land which forms a RSPB wetland to the north of the site. The proposed site would cover approximately 0.6ha of land which predominantly includes a section of modified river bank on the eastern side of the weir. The site would be accessed from an existing access point serving the neighbouring Tarmac Quarry. The eastern bank of the river downstream of the weir is used by fishermen from local angling clubs.

Access is via the Tarmac Quarry entrance at the A1133 and two other vehicular access routes which are used by the two local angling clubs.

Given the proximity of the site to the River Trent the development land is designated as being within Flood Zones 2 & 3 in accordance with Environment Agency mapping. Public rights of way are situated on both eastern and western banks of the river; the western side terminates at the weir and the eastern side runs to the rear of the site along the boundary of the nature reserve to

the north.

The site sits within the Langford and North Muskham parish wards with the boundary for the Collingham ward being approximately 0.5km further to the east.

#### Relevant Planning History

17/01447/FUL – Full planning permission was granted in May 2018 for the erection of a Hydropower Electricity Generating Station, supported by energy storage and fish passage in the area of land adjacent to Cromwell Weir on the right bank of the River Trent near Collingham. The purpose of this development was to generate and store renewable electricity and provide improvement to upstream fish and eel passage and biodiversity on the River Trent.

This permission was challenged on that basis that no screening opinion had been undertaken under the EIA Regulations, no Habitat Regulation Assessment was undertaken under the relevant legislation and that the application had been wrongly determined under delegated powers. The Council submitted to judgment and the decision was quashed .

#### The Proposal

The development site would involve the removal of an existing engineered section of riverbank and installation of the turbines and associated infrastructure.

The proposal comprises 3 no. Kaplan type turbines (2.5m in diameter) aligned in three reinforced concrete channels set into the ground which (together) are approximately a maximum of 40m long, 20m wide and 8.5m deep. The channels run from immediately above the weir to immediately below the weir to transfer water from the high side to the low side via the hydropower generators.

These would be housed beneath a turbine gallery which measures 18m x 13.7m and 2m in height from ground level by the river. Access to the gallery would be from a kiosk.

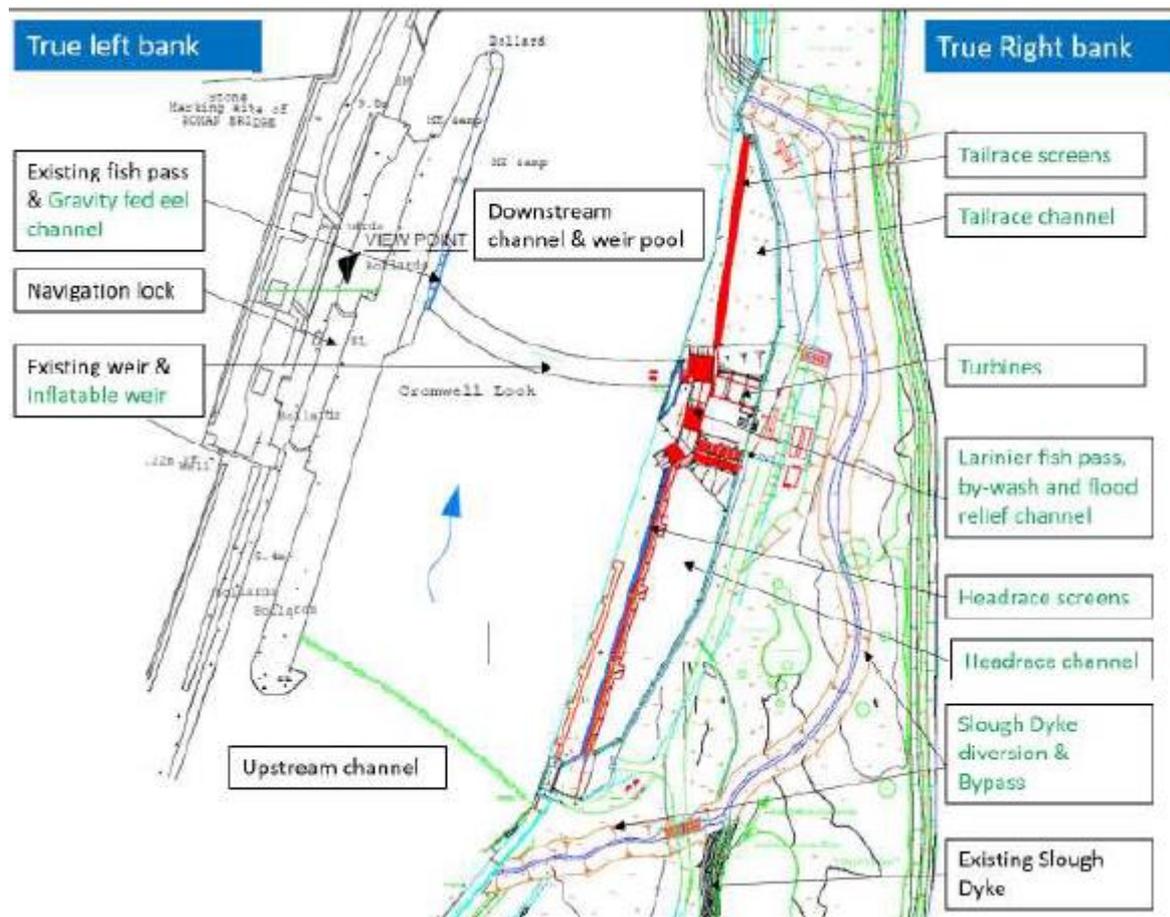
Two energy storage containers each measuring 12.2m x 2.44m and 2m in height are also proposed. A substation kiosk would be situated to the south of these units which would be 5m wide, 9m deep and have a hipped roofline 3.5m high. It is proposed that these buildings be constructed of steel cladding & GRP and be finished in drab olive. The structures would be enclosed within a compound which would be finished with approximately 2.4m high dark green mesh fencing.

A fish pass, by wash and relief flow channels make up another 3 separate channels and would be provided close to the weir with pedestrian access for maintenance. Ancillary equipment associated with the installation includes penstock gates and secondary trash screen cleaners and screen trash rake and screen sweep.

The scheme would involve the installation of an adjustable weir crest on top of the current weir which would ensure that upstream water levels are maintained once a large proportion of flow is diverted in the turbine channels. When the river floods, the weir would deflate back to its original height as to pose no further risk to flooding in the local area.

Clearance of the river bank for a distance of c170m upstream and c110m downstream would be required to facilitate the development which would result in the loss of some riparian trees

It is proposed to restore the Slough Dyke to its original route emerging circa 110m further downstream behind the output channel which would be provided with 2 eel passes in Slough Dyke; one connecting the Dyke to Langford Lowfields and one that connects the upstream part of the River Trent.



To maintain security for the site and the safety of the general public, the site perimeter would be secured by a 2.4m high Type 358 Security fence finished in dark green with a double width access gate.

A rolled stone vehicle access track with an area of hard-standing would be created to serve the site together with a new hard standing at the upstream end of the site to provide parking for anglers. Access would be gained through the quarry to the east of the site and link to the A1133. The proposal includes the continuation of an existing surfaced access track with the creation of 2920m of stone surfaced access track circa 5m wide with passing places.

The site would be connected to the electricity network by a combination of underground and overhead power lines to a substation in South Scarle approximately 8km to the north east.

Construction of the site is estimated to take approximately 100 weeks and a temporary contractor's compound and laydown area would be provided to the south of the site.

### The Submission

The application has been revised during its lifetime to include the new access track to serve the site. Accordingly revised application forms were deposited on 13.11.18

The application is supported by the following plans:-

- Outline Eel Pass Design – 001 Rev A;
- General Scheme Outline - 15/010/500 REV B
- Site Access Corridor - 15/010-CROMWELL-517 REV B
- General Scheme Outline Key Elevations - 15/010/501 REV B
- General Scheme Outline 15/010/500 Rev B
- Contractors Compound and Laydown areas - 15/010-CROMWELL-516 REV B
- Sub Station Kiosk Details - 15/010/504 REV A
- Amended Site Location Plan deposited 13.11.18

The application is supported by the following documents:-

- Abridged Compliance Assessment
- Cromwell Landscape & Visual Appraisal
- Cromwell weir Habitat Maps
- Draft Phase 1 Habitat Map
- Ecological Appraisal update note and Protected Species Scoping Summary and Slough Dyke Survey – August 2018 addendum November 2018
- Fisheries Assessment
- Flood Risk Assessment
- Heritage Statement and Amendment November 2018
- Noise Addendum November 2018
- Hydraulic Impact Modelling Report
- OS Maps showing Local wildlife Sites
- Planning Statement (Noise Addendum November 2018)
- Proposed fencing details
- Transport Statement and Construction Management Plan
- Water Vole Assessment Survey
- Additional external noise information (26<sup>th</sup> February 2019)

### **Planning Policy Framework**

#### **The Development Plan**

*Amended Newark and Sherwood Core Strategy Adopted March 2019*

Spatial Policy 3 – Rural Areas

Spatial Policy 7 – Sustainable Transport

Core Policy 9 – Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

*Newark and Sherwood Allocations and Development Management DPD Adopted July 2013*

Policy DM4 – Renewable and Low Carbon Energy Generation

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

Policy DM12 – Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

National Planning Policy Framework 2019  
Planning Practice Guidance 2014 including updates 2018  
Newark and Sherwood Amended Core Strategy DPD 2017  
Newark and Sherwood Landscape Character Assessment SPD  
The Town and Country Planning (Environmental Impact Assessment) Regulations 2017  
The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations)  
The Climate Change Act 2008

## **Publicity**

No neighbours have been notified given the isolated location. A site notice has been posted in proximity to the site and a notice displayed in the local press.

## **Consultations**

### **Winthorpe with Langford Parish Council – comments received 20.09.18**

Support subject to Comment: I am writing on behalf of the Winthorpe with Langford Parish Council (PC), as a member of that Council, with regard to the above Subject. This Planning Application (PA) has been examined, as seen on your website, and make the following comments:-  
a) Concern is raised as to the noise level made by the turbines/generators and how it will affect the surrounding neighbourhood. b) Will the installation have any effect on the level of the River Trent up-river of the Cromwell Weir? c) Is it proposed to raise the level of Cromwell Weir to give a greater head of water for the water turbines? d) The power generated by the project, 8,000,000KWhs per year, will be capable of satisfying the needs of 3,000 homes, according to the information given in the PA. Will this be distributed locally? This PC supports the generation of electric power by clean methods and if the answers to the above questions support a clean method of electric power generation, then this PC will support it.

Comments received 10.10.18:

I have consulted some of the members of the Winthorpe with Langford Parish Council with your comments and they have no objection to the planning application!

### **North Muskham Parish Council – comments received 30.9.18**

Further to your email below, my Members considered the application at our September meeting. It was proposed by Councillor Harrison, seconded by Councillor Jones, that the application be supported, subject to the Local Planning Authority being satisfied with the Ecology Statement. This was AGREED unanimously. However, I was asked to query how the electricity would be transmitted once produced. It was presumed that it would not be by pylon, but I would be grateful for confirmation of how it is being transmitted off site

### **Cromwell Parish Council – comments received 14.09.18**

The application was discussed at a very well attended parish planning meeting held on 13th September. The meeting was very supportive of this project and no opposition was expressed. It was felt that this renewable, carbon-free, facility would make a modest, but useful, addition to local power generation. The only concern expressed was for the river-side footpath known as "The Trent Valley Way" which should be fully maintained.

### **Collingham Parish Council - comments received 02.10.18**

The Parish Council considered the application 18/01477/FULM for outline permission for the erection of a Hydropower Electricity Generating Station, supported by energy storage and fish passage in the area of land adjacent to Cromwell Weir on the right bank for the River Trent near Collingham. The purposes of this development is to generate and store renewable electricity and provide improvement to upstream and eel passage and biodiversity on the River Trent

The Parish Council resolved by majority to Object to this Proposal on the following grounds:

- The Parish Council has received representations from Collingham Angling Association, expressing their concerns about this development and the impact this would have on the environment. This in turn would have an impact on the number of visiting anglers and the economy of the whole village.
- Material Planning Consideration: recent planning history for the site, for which the original planning decision was quashed following an appeal from the Collingham Angling Association.
- To the Parish Council there appears to very little additional information to support a new application at this site.
- Material Planning Consideration: Design and Visual impact— The design (which includes no dimensions for any of the features of this construction) would appear to be of a significant size — assuming the fence is 2m high and scaling everything else accordingly from that base line. This feature of the rural landscape will be significantly dominant and out of proportion with its surroundings
- Material Planning Consideration: Access and Traffic - No mention has been made to the PRow, which runs along the existing river bank. This route is well used and consideration should have be given to it,
- Material Planning Consideration: Ecology & landscape — the proposal is to remove the existing established trees and replaced with new saplings, this will result in the loss of established wildlife habitats for a considerable number of years and will also be detrimental to flooding in the area
- Material Planning Consideration: economic impact — there is likely to be a loss of trade to existing businesses, e.g. B&B and shops, through a reduced angling offer along the river, which currently provides revenues for many businesses in the village, the proposal is for the employment of 1 person, which will be less than those currently employed,

The Parish Council feel that insufficient information has been provided to enable non-technical people to properly comment on such a significant development on the river, which will impact on the whole village

**Comments received 17.10.18:**

The Parish Council originally considered the application 18/01477/FULM for outline permission for the erection of a Hydropower Electricity Generating Station, supported by energy storage and fish passage in the area of land adjacent to Cromwell Weir on the right bank for the River Trent near Collingham. The purposes of this development is to generate and store renewable electricity and provide improvement to upstream and eel passage and biodiversity on the River Trent.

The Parish Council resolved by majority to Object to this Proposal on the following grounds:

The Parish Council has received representations from Collingham Angling Association, expressing their concerns about this development and the impact this would have on the environment. This

in turn would have an impact on the number of visiting anglers and the economy of the whole village.

Material Planning Consideration: recent planning history for the site, for which the original planning decision was quashed following an appeal from the Collingham Angling Association. To the Parish Council there appears to very little additional information to support a new application at this site.

Material Planning Consideration: Design and Visual impact– The design (which includes no dimensions for any of the features of this construction) would appear to be of a significant size – assuming the fence is 2m high and scaling everything else accordingly from that base line. This feature of the rural landscape will be significantly dominant and out of proportion with its surroundings

Material Planning Consideration: Access and Traffic - No mention has been made to the PRoW, which runs along the existing river bank. This route is well used and consideration should have been given to it,

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Material Planning Consideration: economic impact – there is likely to be a loss of trade to existing businesses, e.g. B&B and shops, through a reduced angling offer along the river, which currently provides revenues for many businesses in the village, the proposal is for the employment of 1 person, which will be less than those currently employed,

The Parish Council feel that insufficient information has been provided to enable non technical people to properly comment on such a significant development on the river, which will impact on the whole village

The above comments remain unaltered with the submission of the amended application form, which changes the area of the site from 6700m<sup>2</sup> (0.67 hectares) to 2.13 hectares. Whilst this is a significant increase of the development size to include the access road it is considered that it will not lessen impact on the Design and Visual Impact, Access & Traffic, Ecology & landscape and the local economy.

The Parish Council and the Fire Service, through the Emergency Steering Group have long been concerned about emergency access to the weir. A member of this steering group has asked if, through planning gain, a proper emergency access route could be constructed as part of this development. The Fire Service are not aware of this application and they should be consulted to ensure that in an emergency, they are still able to gain the necessary access to the weir. The Parish Council, whilst objecting to the proposal, support the suggestion of a proper emergency access to the weir, should the District Council be so minded as to approve the application.

#### **NCC Highways - comments received 13.09.18**

This application relates to the construction of a hydropower station to generate renewable energy. For construction of this development, access to the site will be served by the existing HGV access into Langford Quarry from the A1133. There may be public 'Rights of Way' affected by this proposal and consultation should be carried out with NCC Countryside Access Team if this has not already occurred. Notwithstanding the above, the principle of the development is acceptable and the access is adequate to cater for the additional construction traffic that is estimated to be around 6 HGV movements per day (average) i.e. 3187 movements over a 2 year period. This is understood to mean 6 arrivals and 6 departures per day. It is a requirement that all HGVs turn

right when leaving the site and those arriving must turn left into the site to ensure that no HGV traffic passes through Collingham village. It is understood that normally this is controlled via a Section 106 Agreement, but the LPA may wish to consider the most appropriate method of control. Subject to the above restriction being applied, no objections are raised.

### **NCC Policy – comments received 25.09.18**

In respect of this application I have consulted with my colleagues across relevant divisions of the County Council and have the following comments to make. National Planning Context In terms of the County Council's responsibilities the following elements of national planning policy and guidance are of particular relevance.

#### Waste

The National Planning Policy for Waste (NPPW) sets out the Government's ambition to work towards more sustainable and efficient resource management in line with the waste hierarchy. Positive planning is seen as key to delivering these waste ambitions through supporting sustainable development. This includes ensuring that waste management is considered alongside other spatial planning concerns and helping to secure the re-use and recovery of waste wherever possible.

Paragraph 8 of the NPPW states that:

'When determining planning applications, all planning authorities should ensure that:

- the likely impact of proposed non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;
- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development, and, in less developed areas, with the local landscape. This includes providing adequate waste storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;
- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities and minimises off-site disposal.'

In Nottinghamshire, relevant policies are set out in the Nottinghamshire and Nottingham Replacement Waste Local Plan: Part 1 – Waste Core Strategy (December 2013).

#### Minerals

Section 17 of the National Planning Policy Framework (NPPF) covers the sustainable use of minerals. Paragraph 203 points out that 'It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.'

Paragraph 204 states that planning policies should:

- 'safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);

- set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place’.

In Nottinghamshire, minerals safeguarding and consultation areas are defined in the emerging Nottinghamshire Minerals Local Plan (Draft Plan Consultation 2018) and supported by Policy SP8, which also covers prior extraction.

In terms of the role of local planning authorities in planning for minerals, paragraph 206 of the NPPF states that: ‘Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas where if it might constrain potential future use for mineral working’.

The national Planning Practice Guidance provides further information on the role of district councils in this regard, stating that ‘they have an important role in safeguarding minerals in 3 ways:

- having regard to the local minerals plan when identifying suitable areas for non-mineral development in their local plans. District Councils should show Mineral Safeguarding Areas on their policy maps;
- in those areas where a mineral planning authority has defined a Minerals Consultation Area, consulting the mineral planning authority and taking account of the local minerals plan before determining a planning application on any proposal for non-minerals development within it; and
- when determining planning applications, doing so in accordance with development policy on minerals safeguarding, and taking account of the views of the mineral planning authority on the risk of preventing minerals extraction.’

### Transport

Section 9 of the NPPF addresses the issue of sustainable transport. The NPPF, in paragraph 111, requires all developments which will generate significant amounts of movement to provide a travel plan and the application for such a development to be ‘supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed’. It also states, in paragraph 108, that it should be ensured that ‘appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of location and its location’ and ‘any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree’.

### Healthy communities

Paragraph 91 of the NPPF points out that ‘Planning policies and decisions should aim to achieve healthy, inclusive and safe places which ....enable and support healthy lifestyles, especially where this would address identified local health and well-being needs...’

With regard to public rights of way, paragraph 98 states that they should be protected and enhanced, ‘including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...’

County Planning Context

### Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications. In dealing with planning applications the Highway Authority and Local Lead Flood Authority will evaluate the applicants proposals specifically related to highway and flood risk matters only. As a consequence developers may in cases where their initial proposal raise concern or are unacceptable amend their initial plans to incorporate revisions to the highway and flood risk measures that they propose. The process behind this can be lengthy and therefore any initial comments on these matters may eventually be different to those finally made to the Local Planning Authority. In view of this and to avoid misleading information comments on planning applications made by the Highway Authority and Local Lead Flood Authority will not be incorporated into this letter. However should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

### Minerals and Waste

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas have been identified in Nottinghamshire and in accordance with Policy SP8 of the emerging draft Minerals Local Plan (July 2018) these should be taken into account where proposals for non-minerals development fall within them.

#### *Minerals*

In relation to the Minerals Local Plan, the site is within a Minerals Safeguarding and Consultation Area for sand and gravel. Though the proposed Hydropower Electricity Generation Station development itself is unlikely to pose a sterilisation risk to workable areas of resource, the access route to the site cuts across areas currently containing active quarry infrastructure, current extraction areas and areas which may be being restored associated with the Langford Lowfields Quarry and permitted extensions to this site. This could pose potential issues in respect of the quarry's operation and it is therefore advised that the applicant engages with the quarry operator (Tarmac) to establish whether an access road in this location is viable or whether another means of access to the proposed generating station site needs to be investigated.

#### *Waste*

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10). As set out in Policy WCS2 'Waste awareness, prevention and re-use' of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.' In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

## *Ecology*

The County Council does not have the necessary expertise (in terms of potential impact on fish or riverine habitat) to comment on this application, and would suggest that the LPA appoint someone who does have such expertise to give the application the necessary level of scrutiny. Consultation with the Environment Agency fisheries officers should also be carried out.

## *Conclusion*

It should be noted that all comments contained above could be subject to change, as a result of ongoing negotiations between the County Council, the Local Planning Authority and the applicants. These comments are based on the information supplied and are without prejudice to any comments the County Council may make on any future planning applications submitted for this site.

## **Environment Agency –comments received 03.10.18**

Thank you for consulting us on the application above. We have no objection to the proposal as submitted, on planning grounds, subject to the following mitigation measures being secured and implemented by way of planning conditions on any subsequent planning permission.

- Condition 1 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (dated October 2017) and in particular the following mitigation measure: • Finished floor levels of the kiosk shall be set no lower than 10.30mAOD. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason 1 To reduce the risk of flooding and damage to electrical equipment.

- Condition 2 Prior to the commencement of development, an operational instruction detailing the operation of the moveable weirs shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The operational instruction shall include the following details: a. Calculation of the trigger levels at which the weirs shall be operated; b. Details of the remote and 'on site' operating mechanisms; c. Measures to be put in place in the event of remote operation, electrical or mechanical failure; and d. Details of the maintenance programme. The scheme shall be fully implemented and subsequently maintained in accordance with any timing/phasing arrangements embodied within the scheme or within any other period subsequently agreed in writing by the local planning authority, in consultation with the Environment Agency.

Reason 2 To ensure that the moveable weir remains operational in a flood event and does not increase flood risk elsewhere.

- Condition 3 No development shall take place until the proposed pond and Slough Dyke is constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme shall include the following features: 1) Ponds should not be within the main channel of the Dyke but should be fed by arms leading off the main channel. This is because on line ponds silt up quickly and cause on-going maintenance issues; 2) The opening up of the Slough Dyke is welcomed, however when designing the final layout of the Dyke it should be in keeping with the energy and topography of the land so the new channel operates naturally once completed. Creating meanders where they would not naturally occur can cause siltation issues. The approved

scheme shall be implemented and maintained as agreed for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason 3 This condition is necessary to ensure that the proposed pond and Slough Dyke are developed in a way that contributes to the nature conservation value / fisheries value of the site in accordance with the National Planning Policy Framework (NPPF) paragraph 170, which requires the planning system to aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity. Paragraph 176 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

Informative to the LPA – planning conditions. As you are aware the discharge of planning conditions rests with your Authority. It is, therefore, essential that you are satisfied that the proposed draft conditions meet the requirements of paragraph 4 of the National Planning Practice Guidance (Use of Planning Conditions, section 2). Please notify us immediately if you are unable to apply our suggested conditions, as we may need to tailor our advice accordingly.

Informative to the LPA – Environmental Permitting This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Trent, designated a ‘main river’. This was formerly called a flood defence consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits>. It is not yet clear whether this particular permit has been applied for.

The applicant has already applied for all other permits and licences that are required from the Environment Agency. During the licencing of the proposed Hydropower scheme we reviewed the information provided by the applicant and granted the licenses for the scheme following a determination period. During the licencing process we invested considerable time and effort to ensure that fish stocks were protected. Conditions were imposed on the licenses to ensure this protection on an ongoing basis.

Finally, we would like to take this opportunity to highlight that we do not consider issues such as local amenity etc. Your Authority will need to satisfy yourselves that the applicant has taken adequate measures to reduce the impacts on amenity matters such as existing local angling. This is not for the Environment Agency to consider in our role as a statutory consultee.

**Comments received 19.11.18:**

I can confirm that the Environment Agency accepted the proposal (when reviewing the permitting bits) as we believe the mitigation supplied as part of the scheme managed the risk of moving away from best practice screening guidance for eels and lamprey. This includes the 3mm bar aperture for the bottom section of the screen, the low approach velocities and the fact the lamprey / eel passes are located a long way from the turbine headrace, thus reduced risk to entrainment. In addition, the inclusion of eel and lamprey passes will be beneficial to the fish populations within the catchment.

**Canals and River Trust – comments received 28.09.18**

We are the charity who look after and bring to life 2000 miles of canals & rivers. Our waterways contribute to the health and wellbeing of local communities and economies, creating attractive and connected places to live, work, volunteer and spend leisure time. These historic, natural and cultural assets form part of the strategic and local green-blue infrastructure network, linking urban

and rural communities as well as habitats. By caring for our waterways and promoting their use we believe we can improve the wellbeing of our nation. The Trust is a statutory consultee in the Development Management process.

Having reviewed the information, we note that proposals match those considered under application reference 17/01447/FUL, to which we provided our formal written response on 8th December 2017. The main issues relevant to the Trust as statutory consultee on this application concern the impact on localised tree cover.

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is to advise that a suitably worded condition is necessary to address this matter. Our advice and comments are provided below::

In order to facilitate the scheme, the removal and replacement of riverside trees are proposed (section 4.3 of the Landscape and Visual Appraisal). The existing trees do support the role of the river Trent as a Green Corridor in the local area, and do aid biodiversity. We therefore request that the details of tree removal and replacement are provided to ensure that an appropriate assessment and control of the impact of the soft landscaping arrangements can be carried out.

This detail is reserved via the use of an appropriately worded condition. We note that this detail was reserved by condition 8 upon the consent approved under 17/01447/FUL, and would welcome similar inclusion should this latest application be approved.

Works that affect the waterway are required to abide by the Trust's 'Code of Practice for Works affecting the Canal & River Trust'. Should planning permission be approved, we request that the following informative is appended to the decision notice:

"The applicant/developer is advised to contact the Canal & River Trust's Works Engineering Team on 0303 0404040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust's 'Code of Practice for Works affecting the Canal & River Trust'"

For the Trust to effectively monitor our role as a statutory consultee, please send me a copy of the decision notice and any requirements of any planning obligation.

**Comments above dated 28.09.18 are reiterated.**

**Comments received 05.10.18**

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is that the Trust has no comment to make on the amended application form received. Please note, that our comments made on 28th September 2018 would continue to apply.

**Natural England – comments received 03.10.18**

Thank you for your consultation on the above dated 28 August 2018 which was received by Natural England on 28 August 2018. Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Natural England's advice on other natural environment issues is set out below.

#### Besthorpe Meadows Site of Special Scientific Interest (SSSI)

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection for the following reason: • Besthorpe Meadows (SSSI) is notified as; "two unimproved alluvial grasslands within the floodplain of the River Trent in east Nottinghamshire. They represent an extensive area of a distinctive plant community now nationally rare and reliant upon seasonal flooding and traditional forms of management for their survival" • The Hydraulic Impacts Modelling Report – March 2018 and the Flood Risk Assessment – Oct 2017 state that there will not be significant changes in the flood risk associated with the scheme and as such there will be no impact upon the SSSI Other advice For your information Natural England was consulted by the Environment Agency regarding the HRA for the Abstraction Licence, Impoundment Licence and Transfer Licence to allow for the proposed Hydro-Electric power scheme. Following an extensive review on the potential impact on the environment and fisheries, notably the lamprey, we concluded that there would be no likely significant effect on the integrity of the Humber lamprey population subject to the conditions of the licences Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A. Should the proposal change, please consult us again.

#### **Comments received 17.10.18**

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 03 October 2018 The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

#### **Comments received 24.01.19**

Further to our recent correspondence and conversations with regards to the above application we are writing to clarify the situation with respect to the need for a Habitat Regulations Assessment for this proposed development.

#### Impact on Humber Estuary SAC

The potential for offsite impacts needs to be considered in assessing what, if any, potential impacts the proposal may have on European sites. Special Areas of Conservation (SACs) are designated for rare and vulnerable habitats and species. Many SAC sites are designated for mobile species that may also rely on areas outside of the SAC boundary. These supporting habitats may be used by SAC populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SAC species populations, and proposals affecting them may therefore have the potential to affect the SAC. In this case there is the potential for impacts on mobile species, i.e. river lamprey, *Lampetra fluviatilis*, and sea

lamprey, *Petromyzon marinus*, that form part of the interest for which the Humber Estuary Special Area of Conservation (SAC) is designated, but such impacts may occur outside the site boundary.

For this proposal, our main concern is that lamprey migration should not be impeded or fish injured/killed by the turbines. The screens across the turbine intakes must be sufficient to limit fish injury and death. The EA and Natural England recommend that on the screen on the intake weir is 3mm at the bottom and 6mm above. We note that the applicants have not proposed this screen size.

#### Relevant Casework

In 2017 we considered the impacts of the proposal as part of the Environment Agency licencing process (Abstraction Licence, Impoundment Licence and Transfer Licence) and advised accordingly on this matter. We were satisfied (by our letter of 13 November 2017) that the proposal would have 'no likely significant effect' on the integrity of the sea lamprey and river lamprey populations provided that certain agreed conditions were attached to the licences. These conditions included the provision of a 3mm screen at the bottom of the intake screen. We advise you clarify what mesh size of screen the applicant is proposing. This information will be important for your HRA.

#### Advice on Habitats Regulation Assessment

We advise that your authority has a record of its own Habitats Regulations Assessment of the potential impacts of these mobile species. You may wish to refer to and rely on content in the HRA conducted by the EA for the licences for the Abstraction, Impoundment and Transfer related to this proposal. If you do so you should take account of the potential difference in the scope of the licences and the planning application.

Since the recent ruling made by the Court of Justice of the European Union (the CJEU)<sup>1</sup> any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage. Any element of a plan or project requiring mitigation should be taken forward and considered at the Appropriate Assessment stage with an assessment of effect on site integrity.

If you are to refer and rely on content from the EA's HRA you will need to take account of the fact that their HRA was conducted prior to the ruling. As a result they were able to take into account mitigation, screen out all impacts and determine 'no likely significant effect'. Our interpretation is that the proposed screen on the turbine intake could be considered mitigation and that an Appropriate Assessment is required. As a result of the ruling you will need to come to your own view and, if Likely Significant Effects are identified then this should be followed through to Appropriate Assessment.

To clarify, in 2017 our advice to the EA was that the proposal would not have 'a likely significant effect' so long as particular conditions were attached because possible effects were sufficiently mitigated. As a result of the case law described above, our advice now is that the application will 'not have an adverse effect on integrity' so long as the partial 3mm screen on the intake is included in the proposal or conditioned at decision. The change in language reflects our understanding of the case law rather than any change in our view about the environmental impact of the scheme. You should seek your own legal advice on this.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

**RSPB – comments received 17.09.18**

Re: 18/01477/FULM | Erection of a Hydropower Electricity Generating Station, supported by energy storage and fish passage in the area of land adjacent to Cromwell Weir on the right bank of the River Trent near Collingham. Thank you for consulting the RSPB about the above application. The RSPB supports this application for reasons described below:

1) The proposals will make a locally significant contribution to renewable energy generation, stated in the application as equivalent to the average annual consumption of 3,000 households. Compared to wind or solar power installations this will involve minimal land take or visual impacts. Climate change is widely considered to be the greatest threat to nature, the wider environment and our own society. Until recently it was also described as a “long-term” threat but in truth we must act within the next few years if we are to hold global temperature changes below a 2-degree increase on 1990 levels, a level widely considered to pose real dangers to economic, environmental and social stability. Investment in other forms of renewable energy in Nottinghamshire has virtually halted since the Government removed financial incentives. This proposal therefore becomes even more significant in a local context.

2) The fish pass will mitigate the effects of Cromwell Weir as a serious upstream barrier to movement of fish, especially species like eels, sea-trout and salmon. All these are species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the Act requires all public bodies to have regard to biodiversity conservation when carrying out their functions. This is commonly referred to as the ‘Biodiversity duty’. In the RSPB’s opinion the new fish pass will be a significant improvement on the existing situation and help bring about an improvement in the overall ecological condition of the River Trent. We believe the project will result in a net benefit for biodiversity and should be supported.

Context: The RSPB manages Langford Lowfields nature reserve, directly east of the proposed development location. This is one of Nottinghamshire’s largest and most important wetland sites and it is set to grow further as Tarmac continues quarry restoration work. Langford Lowfields nature reserve is already of at least regional importance for breeding wetland wildlife including marsh harriers and avocets. It sits next to the River Trent, an important natural connecting corridor between Langford Lowfields and other nature-rich sites up and downstream.

Other issues: We are satisfied the proposals will have no significant physical adverse effect on our nature reserve. The proposals incorporate one measure specifically designed to enhance the value of the nature reserve – an eel pass connecting the River Trent to the nature reserve via Slough Brook – and one incidental benefit, which is the provision of a good means of vehicular access that will aid our longterm management of the site. These points alone do not constitute reasons to approve the application, but they are incidental benefits.

To avoid unnecessary disturbance to notable breeding birds on the nature reserve (especially, turtle doves and long-eared owls which have bred in the scrub close to the development site known locally as “the oven”) we ask that the council places a condition on any planning permission as follows:

“Construction of the development hereby permitted will not take place within the period 15 March to 31 July inclusive without the written consent of the local planning authority. The applicant must liaise closely with the RSPB as managers of the adjacent nature reserve to confirm whether notable bird species are breeding in locations that may be prone to disturbance before applying in writing to vary this condition, if desired.”

Reason: to avoid any significant impact on notable breeding bird species at Langford Lowfields nature reserve.

For our part we undertake to share information freely with the applicant where it will enable them to plan and manage construction operations and thereby avoid them either having a conservation impact or committing an offence under the Wildlife & Countryside Act 1981 (as amended).

The RSPB has a good relationship with local angling clubs who fish the banks of the Trent, especially the weir pool. We understand they have serious concerns about the proposals. While as a nature conservation charity the RSPB has no mandate to comment on the impacts on angling, we would be reassured if the applicant more clearly examined the likely effects on coarse fisheries below the weir and the amenity of local anglers – something we have not been able to find mentioned in the application.

#### **Comments received 04.10.18**

We do not wish to add to our comments dated 17 September 2018.

#### **NSDC Conservation – comments received 31.10.18**

I have had a look at the proposal and can confirm that we Conservation has no observations- there are no listed buildings or other designated heritage assets within the proposal area or its immediate setting. However, a cursory look on the Heritage Gateway reveals potential archaeological significance in the form of a possible early-medieval or Romano-British bridge (HER Number: M4286): “Part of the remains of a bridge (thought to be Roman) were removed from the Trent at Cromwell, early in the C19. The piers were described as lozenge shaped, formed by trees laid in the bed of the stream infilled with stone (cf Chesters and Corbridge). 2 further piers were dredged up in 1884. A possible Roman road based partly on the evidence of the bridge is shown on the Roman map. Some concrete and 2 morticed beams, probable date C3 (no evidence for date) from the 1884 finds were deposited in NWM by the Trent Navigation Co. An inscribed stone marks the site of the bridge. Of the timbers salvaged the only known survivor is a fragment of a boxed heart oak balk. This timber has been dated to AD 740-50 (felling date) by dendrochronology. This shows that the bridge was in fact Mercian, built in the middle of the 8th century AD and the only Saxon bridge known from this period. Calibrated results (2 sigma, 95% probability): AD 420 to 635. See L10620 for human remains.” I would advise consulting Louise (Archaeologist) as to whether a desk-based assessment is required, or indeed other investigation prior to a decision being made.

#### **Archaeological Consultant – comments received 22.11.18**

As the hydropower station and the access road are in previously disturbed land, through dredging and quarrying, then there is unlikely to be any surviving archaeological deposits. Given this no further archaeological input is required into this application. There is still a question over the impacts of cable runs to the electricity sub-station, however this will be part of a different application and we will deal with the mitigation of those impacts when this application is submitted.

#### **Trent Valley Drainage Board – comments received 04.10.18**

The site is within the TVIDB district.

The Board maintain the Slough Dyke on behalf of the EA under the PCSA. This is an open watercourse that exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. The EA should be consulted on any development.

It is important that the Board maintain access to this watercourse with a clearance of 9m to allow machinery to carry out repairs and maintenance.

**NSDC Environmental Health (Noise) – Comment received 22.02.19**

I confirm that I am not concerned about noise levels in view of the nature of the development and the distance to human receptors.

**Comments received 06.03.18 (following submission of additional external noise details)**

I have had a look at the additional noise information and it seems Ok, so noise should not be a problem

**Nottinghamshire County Council Rights of Way- comments received 04.03.19**

I have checked the Definitive Map for the Langford area and can confirm that Langford public footpaths 2, 3 & 4 cross or run adjacent to the site. I attach a plan showing the definitive routes of the footpaths and would be grateful if you could make the applicant aware of the legal lines.

The safety of the public using the paths should be observed at all times. The proposal is for site traffic to use existing quarry access tracks, which run parallel in places to Langford footpaths 2 and 3 and Sustrans Route 64. The current arrangements for Quarry traffic should be adequate to ensure the continued safety of the public, so long as contractors are made aware of public use and site safety arrangements.

The site access route crosses Langford footpath 7, at this point suitable signage to both protect the public and inform site traffic should be in place and a temporary crossing surface considered to avoid damage to the public footpath.

Langford footpath 7 runs parallel with the contractors compound and laydown area, with a short distance between the two. Although this work area should not impact on the footpath, there is informal public use of this area that the contractors should be aware of.

A Temporary Closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route should be provided if possible. This could be assessed with a site visit, although on paper it does not look as though this will be necessary.

**Comments received on the 7<sup>th</sup> September from Fish Legal** on behalf of a local fishing group are summarised below:-

Judicial review proceedings against NSDC were issued on the basis that there had been no screening for Environmental Impact Assessment and Habitats Regulations Assessment; there had been a failure to consult the relevant bodies and that the decision had been made unlawfully under delegated authority. The decision to grant permission on 4 September 2018 was subsequently quashed.

In relation to the current application apart from some additional documents, none of the defects of the original planning application which were challenged by way of judicial review have since been resolved.

The development falls within Schedule 2 of the Environmental Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the council has a duty to determine whether the development will be likely to have significant effects on the environment by virtue of factors such as its nature, size or location and must produce a screening opinion, including a negative screening opinion.

### The effect on the fishery

The proposal will affect the hydro-dynamics of the water, the shape, form and location of the gravels and will disrupt the fishing. However, there is little evidence of an investigation of just what will be lost.

Currently, downstream of the weir are gravel beds which provide habitat for coarse species including barbel and also lamprey.

A desk-top fisheries report has been re submitted with this application which includes only a small section to the existing coarse fishery downstream of the weir and includes old data from between 2007 and 2013 from distant sites on the river, between 5.5 and 13km away.

The table within the report sets out report sets out the full list of species and their presumed presence and absence at the weir based on the historical surveys at different locations. Lamprey is marked as absent.

The ecological report does not deal with aquatic ecology and fish and is primarily a terrestrial report.

It is noted that no response from the Environment Agency to the planning application on the basis of the impact on the fishery.

Crucially, no surveys have been undertaken by the developer or by the council and its consultants in order to determine the actual presence of fish at the weir.

### Lamprey and the Habitats Directive

Sea and river lamprey are present at the weir pool.

Given that the catching of lamprey at the weir was undertaken by permit from the EA until recently both species are also known to be present on the gravels at the weir as based on EA records and observation.

Reg 9 of the Conservation of Habitats and Species Regulations 2010 requires that the appropriate authority ) “must exercise [its]functions. . .so as to secure compliance with the requirements of the directive.”

This development is a “plan or project” for which Article 6 (2) and (3) are engaged. The council, as the appropriate authority, must ensure that there is no decline in the natural habitat and disturbance to the species for which a site has been designated.

Any plan or project not directly connected with or necessary to the management of the site but which may have a significant effect has to be subject to appropriate assessment agreement to the plan or project can only occur when it is established that it will not adversely affect the site - the Humber SAC

The EA have stated that they have undertaken an HRA Screening although this was not a public document and only viewed after the 2017 planning decision.

This screening records that there are no likely significant effects in all categories. However it denies that gravels are lamprey habitat.

However the EA has been licensing the taking of lamprey from the weir for some time and those fishing under license for lamprey have noted the presence of ammocoetes – or the larvae of the lamprey downstream of the weir.

The EA HRA screening document assumes that if any damage is caused to the gravels habitat, this would be mitigated by the provision of a fish pass.

This invalidates the HRA (as per the judgement made in the People Over Wind and Peter Sweetman v Coillte Teoranta Case)

Even if it were possible for the council to rely on an HRA by the EA permission should not be granted until the document is carefully scrutinised:

The Council, must therefore:-

EIA screen the proposal consulting the EA and Natural England and relevant bodies

Undertake its own HRA taking account all relevant considerations in terms of significant environmental impacts and produce a written statement; and

Given its controversial nature should be called into planning committee

**Further comments received 14.01.19.** This summarises their previous claim against the 2017 decision namely that the Council had not undertaken a screening for EIA, had failed its obligation under the habitats Directive to consider impact on protected species namely lamprey, had failed to consult Natural England and had no delegated authority to determine the application. The latest comments consider that the latest EIA screening is defective – only making a cursory reference to lamprey being present at the weir. The Fishtek report submitted with the application is only a desk top assessment and does not fully consider lamprey or impact on fish populations at the weir. The EA comments in June 2018 states that there screening of the HRA submitted to them was defective as it took into account mitigation at screening stage.

The Council cannot rely on the HRA submitted to the EA but must, as the competent authority, conduct their own HRA.

The Council is therefore put on notice that if a decision is made without correcting the procedural errors and insisting on proper fish surveys being undertaken at the weir then steps will be taken to challenge the decision in the High Court.

### **Comments of the Business Manager**

This proposal falls primarily within the Newark and Sherwood District jurisdiction albeit it should be noted that a small part of the site lies within borough of Rushcliffe. This means that the applicant requires planning permission from both authorities. Members will note from the site history section of this report that an application to Rushcliffe has been lodged and this remains (at

the time of writing) undetermined. As the authority with the largest portion of the site we are the main determining Authority.

Members will also note that the application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that an EIA is not required in this instance. The EIA is attached as Appendix 1 to this report.

An Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) has been undertaken by consultants on behalf of the LPA. The findings are agreed and this has been adopted which forms Appendix 2.

The Principle of Development

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

The site lies outside of any settlement and is therefore located within the countryside. Spatial Policy 3 seeks to protect the countryside and states that schemes to enhance heritage assets, to increase biodiversity, enhance the landscape will be encouraged. It also states that 'Development not in villages or settlement, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Policies to deal with such applications are set out in the Allocations and Development Management DPD...' Policy DM8 of the A&DM(DPD) provides that 'In accordance with the requirements of Spatial Policy 3, development away from the main built up areas of villages in the open countryside will be strictly controlled and limited to the following types of development.' It then lists a number of types of development that may be acceptable. The proposed development doesn't fall neatly into any of the development type exceptions listed. However this type of development by its very nature needs to be in a countryside location. It is a logical step to consider policies related to renewable development set within the Development Plan.

The District Council's commitment to tackling climate change is set out in Core Policy 10 of the Core Strategy. This provides that the Council will encourage the provision of renewable and low carbon energy generation within new development. The policy seeks to mitigate the impacts of climate change through ensuring that new development proposals minimize their potential adverse environmental impacts during construction and eventual operation including the need to reduce the causes and impacts of climate change and flood risks. New proposals should ensure that impacts on natural resources are minimized and the use of renewable resources are maximised and be efficient in consumption of energy water and other resources.

Policy DM4 also reflects the NPPF and provides that permission shall be granted for renewable energy generation schemes unless there are adverse impacts that outweigh the benefits.

Whilst the development plan takes primacy, the policies in respect of climate change are consistent with the NPPF, which is a material consideration. Chapter 14 of the NPPF (2019) 'Meeting the Challenge of climate change, flooding and coastal change' at paragraph 148 requires that the 'planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and

improve resilience; encourage the reuse of existing resources.....; and support renewable and low carbon energy and associated infrastructure.

Paragraph 153 states that in determining planning applications, local planning authorities should expect new development to comply with development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

Paragraph 154 adds that when determining planning applications for renewable and low carbon development, local planning authorities should only approve the application if impacts are (or can be made) acceptable.

The proposal is set to:

- provide 1,600 kilowatt-peak (1.6MW) of renewable electricity generation capacity;
- generate in a typical year, 8,000,000 kilowatt-hours (units) of carbon free electricity per annum for the life of the project, which represents all the electricity used by around 3,000 average UK households
- ensure improved levels of non-intermittent, clean, renewable energy to the grid at times of most demand;
- reduce the release of greenhouse gases by around 8,200 tonnes of CO<sub>2</sub> per annum;

As such the proposal will accord in principle with both local and national policy aspirations. In determining an application it would be necessary to balance the policy presumption in favour of applications for renewable technologies against any specific adverse impacts. These are discussed below.

### **Impact on Landscape Character**

The planning application has been accompanied by a Landscape and Visual Appraisal based upon Guidelines for Landscape and Visual Impact Assessments published by the Landscape Institute for Environmental Management and Assessment but does not comprise a full Landscape and Visual Impact Assessment.

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Core Policy 13 requires the landscape character of the surrounding area to be conserved. Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design materials and detailing of proposals for new development.

Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The application site is located with the Trent Washlands Policy Zone 17 – Besthorpe River Meadows with key characteristics such as medium to large scale fields in arable production and open long-distance views often with power stations on the skyline.

Via East Midlands Limited has been commissioned by this Council to provide advice on landscape and character impacts. Having considered the proposals and accompanying assessments, they conclude that there is no conflict with environmental Policies in the National Planning Policy Framework or the Newark and Sherwood District Council Core Strategy. The Environmental Management and Design Team recommend that the proposed development should be granted permission.

It is acknowledged that the addition of a number of incongruous and urbanising elements into the landscape will give rise to landscape and visual impacts. These include elements such as the proposed turbine gallery, transformer kiosk, switch gear building, shipping containers, boundary fencing and parking and turning areas together with the additional access track.

However VIA concludes that the only significant adverse visual effects that have been identified are from close viewpoints on the residential receptors and the adjacent public footpaths and only over a short distance, these effects will decline to moderate adverse after the construction stage.

The detailed VIA comments are available to view on the District Councils website

In respect of the landscape impact it is concluded that this is anticipated to be no worse than moderate adverse during construction and slight adverse after 5 years. Visual Impacts are likely to be substantial adverse during construction reducing to moderate adverse during operation and it is concluded that the proposed mitigation planting and ecological measures outlined at section 2.4 of the Abridged Assessment of Hydrology, Morphology, Ecology, Operation and Water Framework Directive (WFD) Compliance – July will help to achieve the policy objectives set out in the LCA. The mitigation proposals include stand-off zones to be maintained to the tree lined edge of the Slough Dyke to prevent damage to trees during the construction of the access track; widening the dyke to create online ponds and backwaters for fish refuges and disturbed riverbank reinstated to by with species rich grassland mix and maintenance. These matters are all necessary and reasonable in order to make the impacts acceptable and can be subject to conditions. Subject to these matters the application is considered to accord with the relevant policies.

### **Impact on Trees**

Policy CP12 and DM5 seeks to protect and enhance natural features where possible. CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

Although no tree survey has been deposited with the application, the Phase 1 Habitat Survey provides some commentary on the trees within the application site. This identifies the trees as

being predominantly young species and include Willow and Ash. Notwithstanding the lack of a tree survey, I am satisfied that there is sufficient information for officers to form a view regarding their loss and its acceptability.

It is noted that in order to facilitate the scheme, the removal and replacement of riverside trees are proposed. It is accepted that the existing trees do support the role of the River Trent as a Green Corridor in the local area, and do aid biodiversity. The extent of affected trees is indicated in part on the visual below. The trees affected in the construction compound are shown within the blue outline. Those to be retained on the periphery of the site can be protected with tree protection fencing. The trees within the red area are to be removed. The number of trees to be removed is limited and are not mature species that make a significant contribution to the amenity of the area such that these trees are not worthy of protection in their own right. In any event this loss can be adequately compensated through the replanting of native trees elsewhere on the site edged blue



Other trees affected are those alongside the Slough Dyke which have already been referred to above whereby mitigation through condition is recommended to adequately protect these trees.

A landscape condition is recommended should Members be minded to grant permission requiring that precise details numbers of trees to be removed , their replacement and the protection of existing trees during the construction phase are to be submitted to and approved in writing by the LPA during and to ensure that robust and appropriate replacement planting takes place. Subject to this I consider that the impact is acceptable.

### **Impact on Ecology**

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The potential impacts of the proposed development on fish and the Collingham Angling Association are identified in the HRA. In addition, the applicant has undertaken an extended Phase 1 Habitat Survey in 2016, updated in August 2018. The assessment identifies the potential impacts on biodiversity.

It is acknowledged that the proposed development has the potential to impact locally on biodiversity.

The disturbance of Slough Dyke, loss of river's edge margins and loss of trees, scrub and ruderal grasslands have the potential to give rise to impacts on water vole, otter and breeding birds respectively. Section 8 Mitigation Proposals of the Phase 1 Habitat survey proposes a number of suitable mitigation measures pre development, at construction phase and at operational phase to minimise these impacts which can be secured through the imposition of appropriate conditions should Members be minded to grant permission.

These include a further survey of the Slough Dyke in the spring to allow clearer views of water voles, the maintenance of an adequate stand off zone along the tree lined edge of the Dyke to prevent potential damage to the root zone, when re routing the Dyke emphasis should be on creating a meandering shallow stream margin, a search of the site prior to any vegetation clearance to ensure no amphibians or nesting birds are present, retention of the fencing along the wooded section of the Dyke, commencement of construction work prior to the bird breeding season, fencing should allow animal movement around the edges of the site, vehicle movements should be kept to a minimum and compensation planting should be of species rich grassland and trees. These matters can be controlled by conditions.

The further survey of Slough Dyke was undertaken in May 2018 which concluded that the diversion of the drain was unlikely to affect any occupied water vole burrows. Although the diversion may affect habitat which may offer some seasonal foraging territory for any water voles which inhabit the margins of the adjacent Langford Lowfields Nature Reserve, especially when the emergent grasses are sprouting in Spring, but the habitat is heavily-shaded by nettles in the Summer, reducing the abundance of water vole food plants.

The survey does note that Slough Dyke provides an important route for riparian mammals to pass between the River and the adjacent Reserve which would need to be enhanced through appropriate design of the diversion channel so as to incorporate suitable bank profiles and wide berms in order to provide a greater diversity of marginal vegetation. Management of the drain banks (including, if possible, grazing on at least one bank) also important to secure a good quality habitat wildlife. This could be secured by condition

Furthermore the comments of the RSPB in terms of ecological impact on the Langford Lowfields nature reserve are noted who are satisfied that the proposals will have no significant physical adverse effect on their nature reserve.

In terms of impacts on the fish population, the fisheries assessment and addendums deposited with the application has been reviewed by professional ecologists commissioned by the Council.

It is not considered that the proposal would give rise to unacceptable adverse impacts on the watercourse, its habitats or protected species. Currently, Cromwell Weir acts as a barrier to the upstream movement of fish. The planning application proposes the installation of fish passes into the hydro-electric scheme which it is considered will result in improved upstream fish passage and

will therefore give rise to significant benefits to the resident fish population, particularly to eel, lamprey, sea trout and salmon. Again, these measures can be secured by way of condition.

In terms of impacts on fish the application has been accompanied by a Fisheries Assessment undertaken by Fishtek consulting a specialist fisheries consultancy. Their consultants have visited the site twice to collect empirical data to inform the evaluation and the Fisheries report provides a desk-based assessment of site data together with conclusions and recommendations which have informed the detailed design.

It notes that the weir forms the tidal limit of the River Trent and is frequented by migratory fish including Atlantic Salmon, sea trout, sea lamprey and European eel together with a diverse range of coarse fish and is a cyprinid dominated fishery.

The assessment considers the potential effects of the proposed development on hydrology, geomorphology fish habitat, fry refuge habitat, Slough Dyke, upstream passage and impacts to fishing beats.

It concludes at Section 11 that:

- There would be a shift in spawning habitat availability and quality given the changes in hydrology and geomorphology downstream of the weir and modeling predicts some variation in the availability of near optimal and optimal habitat for different species life stages.
- The HEP is unlikely to affect the availability of fish refuge habitat given its current sparsity
- The creation of an eel and lamprey naturalised by pass channel would allow the lamprey and eel to bypass the weir and the HEP (there is an existing eel pass)
- The Larinier fish pass (which reduces water velocity) would significantly improve the upstream fish passage at the weir particularly for migratory salmonid
- The provision of upstream fish, eel and lamprey passage would significantly improve habitat connectivity.
- The proposed 6mm intake screen does deviate from best practice guidelines. The weir forms the tidal limit of the Trent and may be frequented by lamprey ammocoetes (larva) and glass eels. However the proportion of ammocoetes at risk would be low give that by the time they reach the weir most would be below the guideline size (84cm) to be at risk.

The fisheries assessment has been reviewed by both the Environment Agency and Natural England as statutory consultees (detailed comments are noted within the Consultation section of this report) and by Aecom who were commissioned by the Council to provide an assessment of the suitability of the report to support the planning application.

Our commissioned consultants do not question the validity of the methodology or conclusions of the Fishtek report. A Technical Note has been prepared by AECOM and is available on the public file.

This considers that the submitted assessment provides robust evidence that the proposals will improve fish passage at Cromwell Weir. At present the weir provides a barrier to fish migration and the existing fish pass is not passable for 95% of the year, making it unfit for purpose.

In summary the Technical Note concludes that:-

There will be a slight increase in spawning habitat for gravel spawning species including sea and river lampreys and salmonids downstream of the weir;

The creation of rheophilic habitat would compensate for any loss of such habitat downstream;

Habitats for some species would increase whilst for others decrease;

It is unlikely that the scheme would have any noticeable on habitat in the upstream channel;

Therefore it is considered that there would be negligible impact on the fish population, and habitat would continue to support the fish population on completion of the development;

With regards to, the diversion of Slough Dyke this together with the proposed fish passes is considered by AECOM to provide an opportunity for species such as lamprey and eel to navigate the weir and access new habitat which they currently cannot access.

What the EA refers to as "mitigation" is actually a component of the scheme. I would point out that the 3 mm bottom part of the screen is part of the screen and is not mitigation. Indeed the Technical note has rased concern with regards to the initially proposed 6 mm intake screening which deviated from best practice guidelines. However, the scheme has been amended to incorporate a screen with 3mm mesh at its base to prevent the entrainment of lamprey ammocoetes (larva) and glass eels and have subsequently granted the license.

The representations made by Fish Legal on behalf of Collingham Angling Association are noted and have been considered carefully. On the basis of advice received Council Officers are satisfied that the scheme will, in fact, improve bio-diversity over the longer term. The proposed development is therefore consistent with adopted planning policy, the NPPF and Section 40 of the Natural Environment and Rural Communities Act 2006 which places a duty on public bodies to have regard to the conservation of biodiversity when carrying out their functions.

### **Impact on Highways.**

Spatial Policy 7 provides that proposals should be appropriate for the highway network in terms of volume of traffic generated and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected and should avoid highway improvements that might harm the environment and character of the area ensure that appropriate and effective car parking provision should be made. Policy DM5 mirrors this.

The site would be accessed from the A1133 using the existing road for Tarmacs Langford Quarry.

The Transport Statement deposited with the application estimates that during the construction phase there would be an average of 40-50 car movements each day (up to 60 movements during the peak construction phase but this would be for limited periods). It notes that drivers entering or leaving the site would be strictly advised to avoid travelling through Collingham and those leaving the site would always turn right at the junction of the access with the A1133. This would be

secured through a lorry routing condition. Parking will be provided within the site and deliveries wherever possible will be phased to limit vehicles accessing the site at any one time.

Once operational the site would be accessed by a member of the maintenance team approximately 4 times a week.

The proposal has been reviewed by NCC Highways Authority and their comments are detailed within the consultation section of this report. In summary they raise no objection and state the access is sufficiently adequate to cater for the estimated level of additional construction traffic. Their objection is subject to the restrictions for traffic entering and leaving the site being appropriately controlled, which officers consider could reasonably be secured by condition.

Overall vehicle movements associated with the development are considered to be acceptable and will not have unacceptable impacts on the highway network either during construction or once operational, given the limited movements which would be associated with maintenance. Subject to appropriate conditions it is not considered that the proposal would result in highway safety concerns and therefore would accord with the requirements of Spatial Policy 7.

### **Impact on Flood Risk and Drainage**

The Planning Practice Guidance outlines that planning applications for hydropower should be accompanied by a flood risk assessment and that advice on environmental protection for new hydropower schemes has been published by the Environment Agency.

Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the revised NPPF set out a sequential approach to flood risk (paras 158 onwards). The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance. Where development is necessary within areas at risk of flooding, it will also need to demonstrate it would be safe for the intended users without increasing flood risk elsewhere.

The site is designated as being within Flood Zones 2 & 3 as shown on the Environment Agency's (EA) Flood Map. A large area of the site which is closest to the river (which includes the power house) falls within Flood Zone 3.

However I take the view that this application passes the Sequential Test. The site is required to be adjacent to the Weir by its very nature so there is no scope to provide this outside of a flood zone. Doing so would be impractical and illogical.

In considering whether the Exception Test needs to be applied I refer to Table 3 within the NPPG on Flood Vulnerability Classification. The proposal is could be considered to fall into either the 'water compatible' or the 'essential infrastructure' category where in both zones 2 and 3 development is considered appropriate. The Exception Test only has to be applied in the event that it is considered to be essential infrastructure and not for water compatible. The EA have

advised that it falls within both categories in which case I have considered it as the worst case scenario and have applied the Exception Test.

The NPPF sets out that for the exception test to be passed it should be demonstrated that:

(a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be allocated or permitted.

I consider that Part A of the Exception Test is passed. In reaching this conclusion I give considerable weight to fact that the scheme would generate 8,000,000 kw hours of carbon free electricity via a renewable energy source which is a significant public benefit and is in my view a wider sustainability benefit that outweighs the (minimal) flood risk which is discussed further below.

In terms of Part B of the Exception Test, the application is supported by a Flood Risk Assessment, which has been the subject of lengthy on-going discussions with the Environment Agency (EA).

This has concluded at 5.1 of the document that:-

- The scheme has been designed to withstand design flood events without increasing flood risk elsewhere. The generator housing is designed for a 200-year water level with about 1200mm freeboard.
- The roof slab level for the turbine house will be above the 1 in 200yr flood level. Anything above this level will not be necessarily further flood protected. There will be a single removable panel in the roof of the turbine house which will facilitate removal of any of the equipment within. This will be sealed with a watertight concrete roof slab.
- For the final scheme arrangement, the risk of flooding will not increase compared to the flood risk currently. The scheme will not impede flows and no further measures are proposed.
- The turbines will automatically shut down at times of high flows in the river, and the control panels will sit in the turbine house on the level at the top of the turbine pits, along with the generators and hydraulic power packs.
- The flood levels are not expected to increase significantly upstream of the weir during the construction period when the sided cofferdam is in place in the river.

At section 5.2.2 of the FRA a number of recommendations have been made during the construction period which include registration with the Environment Agencies Floodline service, provision of method statements to ensure safety and to minimise flood risk at the works and to have standby pumps to help deal with any surface water flooding in the vicinity of the works. At operational stage the FRA recommends that turbines are closed during flood conditions and water directed over the weir, the power house, substation and battery units would be designed to withstand 200 year flood level.

A further hydraulics impact modelling report has been submitted at the request of the Environment Agency (EA). As detailed in their comments the EA is satisfied that, subject to the imposition of a number of conditions, the proposed development would not impact on flooding in the area. The proposed development has been designed in conjunction with the EA and the Canal & Rivers Trust and would also contribute to flood resilience in the area through the ability of the development to raise and lower the water level of the weir to ensure optimum flow over the turbines.

It is noted that the Lead local Flood Authority raise no objection to the proposal.

It is therefore considered that the proposal would, subject to the conditions recommended by the EA, not raise any flood issues. Part B of the Exception Test is therefore passed.

In conclusion, the Sequential Test is considered to be passed and the Exception Test is also passed having regard to the schemes wider sustainability benefits of providing electricity to the national grid and having also demonstrated that the scheme would be safe in terms of the flood resilient design of buildings, the provision of flood warning devices and the proposed operation and continued maintenance of the scheme. The proposal in this regard complies with CP10, DM5 and the NPPF.

### **Impact on Amenity**

Core Policy 9 sets out an expectation that development is of a high standard and that contributes to a compatible mix of uses. Policy DM5 requires that all proposals be assessed to ensure that amenity is not adversely affected by surrounding land uses and where this cannot be mitigated should be resisted. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

The applicant has submitted a noise assessment which notes that the dominant noise source in the area is from water passing over the existing weir. The Kaplan turbines would typically produce 83-86 dB of noise but this would be generated within the turbine house which is designed to minimize acoustic leakage through the use of a dense concrete block and associated cladding construction which would be sufficiently heavy to suppress noise. Given the proximity to the weir the noise assessment document deposited with the application states that it is unlikely that the turbines would be heard above the dominant noise of the weir.

The applicant has submitted further external noise details which state that a noise survey was undertaken for a similarly designed scheme (with subground turbine houses) which once fully commissioned had the following basic noise levels:-

- 1m from a turbine – 83 dBA
- Within the turbine house but at the entrance door (door closed) – 82 dBA
- Outside the turbine house but overlooking the Larinier Fish Pass (4m from door) – 76 dBA
- Outside the turbine house but overlooking the weir (8m from door) – 68dBA

This is considered to demonstrate that any external noise would be set against the noise of the weir and fish pass and noise levels would not be audible from the lock island (some 50m from the turbine house) or from the nature reserve some 30m distant given these relationships and separation distances.

The closest dwelling is some 180m from the proposed turbine house on the opposite side of the riverbank. Environmental Health colleagues have assessed the proposal and have confirmed that no concerns are raised by Environmental health colleagues with regards to noise levels in view of the nature of the development and the distance to human receptors.

Taking the above into account, I conclude that the proposed development would not be likely to create any noise which would be audible above the background noise of water flowing over the weir.

With regards to noise impact on fish AECOM on behalf of the Council have assessed the noise assessment deposited by the applicant and have concluded that the noise expected within the powerhouse is not expected to be more than 86dB, which will be significantly reduced in the aquatic environment based on the building design noted above which will suppress noise. Additionally, the close proximity of the turbine and powerhouse to the weir, will mean that it is unlikely that the noise produced from the proposed HEP will be heard over the baseline noise of the weir cascade. Therefore, there is not expected to be any influence on fish populations from the noise produced by the HEP system.

Given the comments received from Environmental Health officers and our commissioned consultants Officers are satisfied that the proposed development can be constructed and operated without giving rise to significant impacts on the amenity of occupants land or buildings or on the fish populations. Furthermore, where local impacts have been predicted, mitigation measures are proposed to make these acceptable. The mitigation measures can be secured through the imposition of appropriate conditions.

### **Other matters**

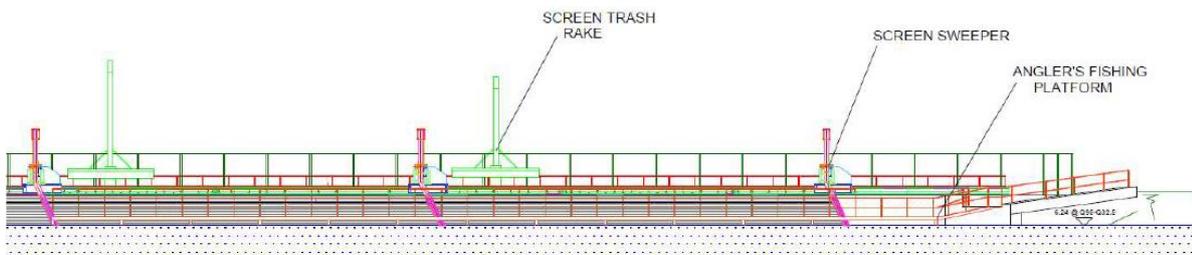
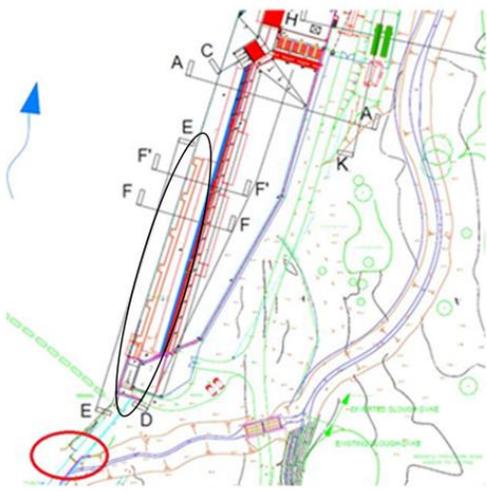
#### *Impact on Collingham Angling Association*

Paragraph 182 of the NPPF introduces the concept of the “agent of change” and expects planning policies and decisions to ensure that new development can be integrated effectively with existing business and community facilities. The policy goes on to require that existing businesses and facilities should not have unreasonable restrictions placed upon them and where the operation of an existing business or community facility could have a significant adverse effect on new development, the application should be required to provide suitable mitigation.

The Fisheries Assessment accompanying the application finds that changes in pool hydrology and morphology may result in a shift in the optimum fishing spots. The assessment considers that Barbel may thrive in the higher velocity waters near the turbine outfall whereas carp may shift downstream.

The Fisheries Assessment goes on to identify that the proposed development is likely to have an impact on fishing pegs. The applicant has confirmed that the upstream channel of the hydro will extend a good distance upstream from the weir and will remove a stretch of river bank which currently houses EIGHT bankside pegs. However, the applicant is proposing to install a fishing platform with improved access for less mobile anglers which as confirmed by the agent is to be provided on the gantry in front of the screen as circled in black on the extract of drawing no. 15/010/500 Rev B. This will provide 6 fishing pegs. Precise details of the structure could be secured by condition.

Post construction 2 upstream pegs would be lost and, as a result of the rerouting of Slough Dyke, 2 further pegs would be removed together with 2 additional pegs being lost downstream.



An front on elevation view of the proposed intake screen with a angler's fish platform built in front of it.

Although a number of fishing pegs would be lost I note that the applicant is proposing some mitigation in the form of the replacement fishing platform which can be secured by condition should Members be minded to grant permission.

#### *Impact on Public Right of Way*

Public rights of way are situated on both eastern and western banks of the river. The western side terminates at the weir and the eastern side runs to the rear of the site along the boundary of the nature reserve to the north. These rights of ways would remain unobstructed by the development.

The NCC Rights of Way Officer notes that construction traffic would utilise the existing quarry access tracks which in places does run parallel to Langford Footpaths 2 and 3 and the Sunstrans route 64. However, they are satisfied that current arrangements for quarry traffic should be adequate to ensure public safety providing that contractors are made aware of public use and of site safety arrangements. The site access route also crosses Langford footpath 7, at this point public safety can be secured by suitable signage to protect the public and to inform site traffic and a temporary crossing surface considered to avoid damage to the public footpath.

Langford footpath 7 also runs parallel with the contractors compound and laydown area. Although this work area should not impact on the footpath, there is informal public use of this area that again the contractors should be made aware of.

Given the proximity to the access track and the construction compound to these public rights of way and to safeguard public safety it is considered reasonable to attach conditions should Members be minded to grant permission requiring:-

a) the submission and agreement in writing by the LPA of precise details including location and numbers of signs to warn members of the public of the construction access and works; and

b) the submission of a briefing note to be agreed in writing by the LPA to be made available to all staff during construction phase.

#### *Heritage Impacts*

A Heritage Statement has been deposited with the application. There are no listed buildings or other designated heritage assets within the site or its immediate setting nor is there likely to be any surviving archaeological deposits. Officers are therefore satisfied that the proposed development would not raise any heritage issues and the proposal accords with heritage policies CP14 and DM9 of the Development Plan.

#### *Economic Impact*

The comments received from Collingham Parish Council with regards to economic impact on the village are noted. However it is not considered that the proposal would unacceptably impact on the amenity of the local fishing club or the visual amenity of the river to discourage anglers or visitors to the area to warrant a justifiable reason for refusal, especially when weighed against the benefits of the scheme in terms of energy generation.

#### **Planning Balance and Conclusion**

This renewable energy installation is considered to be acceptable in principle, subject to conditions, and in line with both national and local policy aspirations. Impact upon the landscape, trees, highways and noise are considered to be acceptable and adverse impacts can be adequately mitigated to an acceptable level by conditions. The proposal passes the Sequential Test in flood risk terms and taking the worst case scenario of having to apply the Exception test, this is also passed as the scheme has demonstrated that the development would be safe for its lifetime, wouldn't increase flood risk elsewhere and would have wider sustainability benefits which in any case would outweigh limited flooding harm.

Ecology specialists have been engaged, alongside various specialist technical consultees, to assist officers with the assessment of the potential impacts of the proposed development. They have concluded, and I concur that whilst it is acknowledged that the proposal may give rise to localised impacts these can be adequately mitigated. There is also some likely betterment in terms of the provision of fish and eel passages at the weir.

It has in my view been satisfactorily demonstrated that the development can be constructed and operated without giving rise to unacceptable impacts upon the environment or amenity. In any event, any harm (such as loss of trees) can be adequately mitigated and would be outweighed in my view by the fact that the scheme would provide sufficient carbon free energy to the national

grid to 3,000 UK households each year, through the generation of jobs and growth in the green energy construction sector, and the ecological betterments.

There are no other material considerations that would indicate that planning permission should not be granted.

## **RECOMMENDATION**

### **Approve Planning Permission subject the following conditions:-**

#### 01 (Time for Implementation)

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004

#### 02 (Plans)

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

General Scheme Outline - 15/010/500 REV B

Site Access Corridor - 15/010-CROMWELL-517 REV B

General Scheme Outline - 15/010/500 REV B

General Scheme Outline Key Elevations - 15/010/501 REV B

Contractors Compound and Llaydown areas - 15/010-CROMWELL-516 REV B

Sub Station Kiosk Details - 15/010/504 REV A

Amended Site Location Plan deposited 13.11.18

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

#### 03 (External Materials)

Prior to commencement of the development, manufacturers details (and samples upon request) of the external facing materials (including colour/finish) of the buildings/structures hereby approved shall be submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

#### 04 (EA requested condition 1)

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (dated October 2017) and in particular the following mitigation measure:

- Finished floor levels of the kiosk shall be set no lower than 10.30mAOD.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding and damage to electrical equipment.

#### 05 (EA requested condition 2)

Prior to the commencement of development, an operational instruction detailing the operation of the moveable weirs shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The operational instruction shall include the following details: a. Calculation of the trigger levels at which the weirs shall be operated; b. Details of the remote and 'on site' operating mechanisms; c. Measures to be put in place in the event of remote operation, electrical or mechanical failure; and d. Details of the maintenance programme. The scheme shall be fully implemented and subsequently maintained in accordance with any timing/phasing arrangements embodied within the scheme or within any other period subsequently agreed in writing by the local planning authority, in consultation with the Environment Agency.

Reason: To ensure that the moveable weir remains operational in a flood event and does not increase flood risk elsewhere.

#### 06 (EA requested condition 3)

No development shall take place until the proposed pond and Slough Dyke is constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme shall include the following features: 1) Ponds should not be within the main channel of the Dyke but should be fed by arms leading off the main channel. This is because on line ponds silt up quickly and cause on-going maintenance issues; 2) The opening up of the Slough Dyke is welcomed, however when designing the final layout of the Dyke it should be in keeping with the energy and topography of the land so the new channel operates naturally once completed. Creating meanders where they would not naturally occur can cause siltation issues. The approved scheme shall be implemented and maintained as agreed for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: This condition is necessary to ensure that the proposed pond and Slough Dyke are developed in a way that contributes to the nature conservation value / fisheries value of the site in accordance with the National Planning Policy Framework (NPPF) paragraph 170, which requires the planning system to aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity. Paragraph 176 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

#### 07 (Construction Hours)

Notwithstanding the Construction Management Plan dated 11th July 2017, construction or development (including excavations) shall only take place between the hours of 0730 until 1800 on Mondays to Fridays inclusive and between 0800 and 1300 on Saturdays and not at all on Sundays or Bank/Public Holidays unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential amenity.

#### 08 (Lorry Routing)

Notwithstanding the details contained within section 8.1 of the Construction Management Plan dated 11th July 2017, no development shall be commenced until details of construction lorry routing has been first submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to during the construction period.

Reason: In the interests of highway safety and amenity.

#### 09 (Tree Protection)

No works or development shall take place until an Arboricultural Method Statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include

- a. A plan showing details and positions of the trees/hedgerows to be retained and associated ground protection areas (stand-off zones).
- b. Details and position of protection barriers.
- c. Details and position of any underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of any scaffolding erection and associated ground protection within the root protection areas;
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. The protection measures shall be retained during the development of the site.

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

#### 010 (Hard & Soft Landscaping)

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be

designed so as to enhance the nature conservation value of the site, including the use of locally native plant species and shall provide for replacement trees (of at least 5 sapling crack willows) to compensate for the loss of existing trees;

- proposed finished ground levels or contours;
- car parking layouts and materials;
- hard surfacing materials including fencings/means of enclosures (it is expected that the existing fence alongside the wooded section of Slough Dyke be retained);
- proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)
- a timetable for the implementation of the hard landscaping elements.

Reason: To ensure that adequate protection is afforded to existing trees during the construction phase of the development and that tree losses are compensated with replacement planting and in the interests of visual amenity and biodiversity and in line with the recommendations of the ecology report submitted with the application.

#### 011 (Landscaping Implementation)

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscape scheme shall be implemented to a timescale to be agreed as per Condition 10.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

#### 012 (Provision of Fishing Platform)

Prior to commencement of the development, precise details of the fishing platform proposed within the Fishtek document dated 01.06.17 deposited with the application shall be submitted to and approved in writing by the Local Planning Authority. The details shall include their precise location, design (including materials) and timings for the installation. The development shall thereafter be carried out in accordance with the approved details and retained for the lifetime of the development.

Reason: To provide adequate compensation of the lost fishing peg in the interest of safeguarding the amenity of anglers.

#### 013 (Fish & Eel Passes)

Prior to the development hereby approved from becoming operational (i.e generating electricity) the proposed fish and eel passes shall be provided on site in accordance with the approved plans. These passes shall thereafter be retained for the lifetime of the development.

Reason: To ensure that these elements of the scheme are provided at an appropriate time in order that the ecological enhancements detailed in the proposal are delivered.

#### 014 (Protection for Breeding Birds)

No development, including site clearance (such as pruning, the removal of hedgerows, vegetation or trees) shall take place between the beginning of March to the end of August inclusive, unless otherwise agreed in writing by the Local planning authority.

Reason: In order to afford protection to breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended) and specifically to avoid any significant impact on notable breeding bird species at the adjacent Langford Lowfields nature reserve.

#### 015 (Habitat creation)

No development shall be commenced until full details of a Habitat Creation Scheme have been submitted to and approved in writing by the local planning authority. The Scheme shall include, but is not limited to, the creation of a meandering shallow stream margin with a wide band of emergent vegetation with fish refuges, provision to enable otters to bypass the weir on dry land at all times and new species-rich grassland habitat. The scheme shall also detail:

- a) the purpose, aims and objectives of the scheme;
- b) a review of the site's ecological potential and any constraints;
- c) description of target habitats and range of species appropriate for the site;
- d) selection of appropriate strategies for creating/restoring target habitats or introducing target species;
- e) selection of specific techniques and practices for establishing vegetation;
- f) sources of habitat materials (e.g. plant stock) or species individuals;
- g) method statement for site preparation and establishment of target features;
- h) extent and location of proposed works;
- i) aftercare and long term management;
- j) the personnel responsible for the work;
- k) timing of the works;
- l) monitoring;
- m) disposal of wastes arising from the works.

All habitat creation works shall be carried out in accordance with the approved details and timetable unless otherwise agreed in writing by the local planning authority.

Reason: In line with the recommended mitigation measures outlines in the ecology appraisal submitted in support of the application and in the interests of maintain and enhancing biodiversity.

#### 016 (Riverbank precautionary search)

Immediately prior to development taking place in the vicinity of the riverbank directly affected by the development, a precautionary inspection shall be undertaken by a suitably qualified ecologist to check for the presence of nesting waterbirds or signs of wildlife usage such as Waterfowl. Should their presence be confirmed no works should commence until appropriate mitigation (and the timings of this) to avoid negative impacts has been set out and has been submitted to and been approved in writing by the LPA.

Reason: In order to afford adequate protection to nesting waterbirds in line with the recommendations of the ecology report submitted with the application.

#### 017 (No external lighting)

There shall be no external lighting installed as part of this development.

Reason: To safeguard the ecological interest of the site and in line with the ecology appraisal submitted as part of the application.

#### 018 (Bat Protection)

Should any pruning of lower limbs of trees adjacent to the proposed access track be required, the affected tree(s) shall first be inspected by a suitably qualified and experienced bat surveyor to ensure that no roosts are affected. Should a roost be identified as affected, no pruning shall take place unless mitigation has first been submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall thereafter be adhered to in accordance with an agreed timetable.

Reason: In order to afford adequate protection to protected species and in line with the ecology report submitted in support of the application.

#### 019 (Amphibian Mitigation)

Prior to any site clearance work, a 'destructive' search of the potential terrestrial amphibian refugia (e.g. piles of logs, old tree stumps etc. within the affected areas should first be undertaken by a suitably qualified and experience ecologist to ensure no amphibians are present. Any animals found should be removed and transported to an appropriate habitat nearby for immediate release. This search should be undertaken in the later summer /early autumn period prior to clearance works, before amphibians go into hibernation.

Reason: In order to protect the wildlife that may be inhabiting the site in line with the recommendations of the ecology appraisal that accompanies the planning application.

#### 020 (Vegetation Clearance in relation to amphibians)

Any vegetation clearance work (such as tree removal) or clearance of tall herbage should commence immediately after the amphibian refugia search (between September and the end of February i.e. outside the bird breeding season). Cut material (logs and branches) should be removed from the working area. The cut material may be deposited as log piles in a location well away from the construction zone, *provided* that they are not in an area prone to deep flooding.

Reason: In order to protect the wildlife that may be inhabiting the site in line with the recommendations of the ecology appraisal that accompanies the planning application.

#### 021 (Rights of Way)

Prior to the commencement of the development hereby approved precise details of signage including numbers and their locations to warn users of the Langford public footpaths 2,3 and 7 of the construction works and traffic shall be submitted to and approved in writing by the Local Planning Authority. The approved signage shall be provided in accordance with the approved details and shall be retained and maintained during the construction phase of the development.

Reason: In the interests of public safety

#### 022 (Site safety briefing note)

Prior to the commencement of development hereby approved a site safety briefing note to be made available to all construction staff shall be submitted to and approved in writing by the Local Planning Authority. The approved briefing note shall be made available at all times during the construction phase of the development.

Reason: In the interests of site and public safety

#### 023 (Restoration of the site)

Not later than six months after the date on which the site ceases to be operational, the above ground structures and ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

#### 024 (Noise)

The level of noise emitted from the development hereby approved shall not exceed the following levels at the distances specified at any time as stated in correspondence dated 27<sup>th</sup> February 2019 unless otherwise agreed in writing by the Local Planning Authority :-

- 1m from the turbine – 83 dBA
- Within the turbine house but at the entrance door (with the door closed) – 82 dBA
- Outside the turbine house but overlooking the Larinier Fish Pass (4m from the door) – 76dBA
- Outside the turbine house but overlooking the weir (8m from the door) – 68dBA

Reason: In the interests of amenity.

#### **Informatives**

01

The applicant/developer is advised to contact the Canal & River Trust's Works Engineering Team on 0303 0404040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust's 'Code of Practice for Works affecting the Canal & River Trust.

02

The site is within the TVIDB district. The Board maintain the Slough Dyke on behalf of the EA under the PCSA. This is an open watercourse that exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies. The EA should be consulted on any development. It is important that the Board maintain access to this watercourse with a clearance of 9m to allow machinery to carry out repairs and maintenance.

03

Environmental Permitting - This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Trent, designated a 'main river'. This was formerly called a flood defence consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits>. It is not yet clear whether this particular permit has been applied for.

04

In respect of the condition 14 relating to breeding birds, it is recommended that the applicant liaise closely with the RSPB as managers of the adjacent nature reserve to confirm whether notable bird species are breeding in locations that may be prone to disturbance.

05

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

06

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

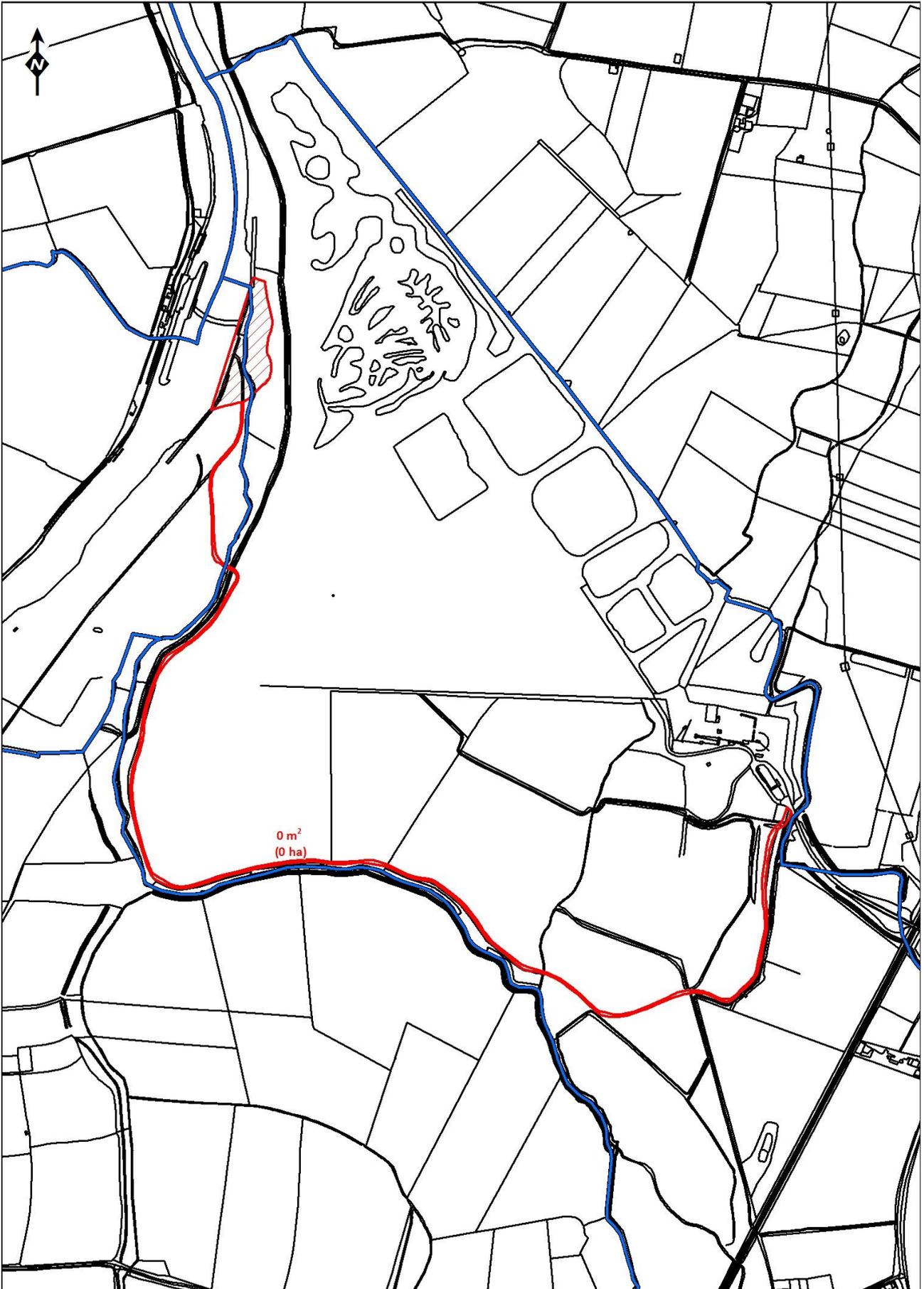
#### BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext 5840.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Director – Growth and Regeneration**



**TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND & WALES) REGULATIONS 2017 (“the Regulations”)**

**SCREENING OPINION (18/01477/FULM)**

**Proposal:** Erection of a Hydropower Electricity Generating Station, supported by energy storage and fish passage in the area of land adjacent to Cromwell Weir on the right bank of the River Trent near Collingham. The purpose of this development is to generate and store renewable electricity and provide improvement to upstream fish and eel passage and biodiversity on the River Trent.

**Site: Cromwell Weir, Land On The South Side of Westfield Lane, Collingham.**

- A. Is the development listed in Schedule 1 of the Regulations? No**
- B. Is the development listed in Schedule 2 of the Regulations? If so, which description in column 1 of the table in paragraph 2 of Schedule 2 of the Regulations applies?**

Yes

The development falls within:-

Schedule 2, Part 3a (Industrial installations of the production of electricity, steam and hot water).

Schedule 2, Part 3h (Installations for hydroelectric energy production) of Schedule 2 apply to the proposed development.

Schedule 2, Part 10f (construction of roads).

- C. Is the development in a ‘sensitive area’ as defined in Regulation 2?**

No

The closest sensitive area is a Scheduled Monument, which is located about 500m upstream on the left bank of the river.

- D. Does the development meet any of the relevant thresholds and criteria in Schedule 2 of the Regulations?**

Yes

In relation to Schedule 2 Part 3(a) the area of development exceeds 0.5h

In relation to Schedule 2 Part 3(h) the installation is designed to produce more than 0.5 Megawatts of power

In relation to Schedule 2 Part 10(f) the area of works exceeds 1 hectare (the access road measures 2,920m x 5m (notional width) which produces a total area of 1.46h

- E. Taking into account such of the selection criteria in Schedule 3 of the Regulations as are relevant to the development , is this ‘Schedule 2 development’ likely to have significant effects on the environment?**

**The selection criteria in Schedule 3 of the regulations and the Council’s comments on those criteria are set out below:**

**1. Characteristics of Development**

**(a) the size of the development;**

No. This is a small scale development.

The largest components of the scheme are the access track and the hydropower station. The access track runs through open countryside designated as being of low and moderate sensitivity (character areas TW PZ 17 & 36 Besthorpe River Meadowlands & Holme Pastures River Meadowlands). It will not have a significant impact on the landscape as a resource. Nor will it have a significant visual impact.

The hydropower station will be seen in conjunction with the existing infrastructure of the weir and lock. It will be accommodated by and not be out of character or scale with the existing landscape nor visually intrusive.).

**(b) Cumulative and combined impact**

There are no existing or approved developments in the vicinity within the meaning of Schedule 3 paragraph 3(g) that would, taken together with the proposed development and the existing weir and lock infrastructure, be likely to have a significant effect on the environment.

**(c) the use of natural resources;**

The scheme will generate and store a source of renewable energy utilising the existing watercourse of Cromwell weir. The hydropower station will sustainably provide up to 1.6MW of carbon free electricity using the natural resources of the River Trent, and is expected to power an average of 3000 UK households. These are material environmental benefits.

**(d) the production of waste; Not relevant**

**(e) Pollution and nuisances;**

The scheme will not pollute or otherwise give rise to nuisance that is likely to have a significant effect on the environment. A potential source of pollution is riverine noise and vibration affecting fish. However, relevant professionals have advised the Local Planning Authority that the noise generated by the turbine is likely to be

lower than background noise levels. Therefore noise is unlikely to have a significant impact upon the fish population. ,

The Council has considered whether building operations might have a significant effect on the environment. It has concluded that provided works take place in accordance the Transport Statement and Construction Management Plan such effects are very unlikely to occur.

**(f) the risk of accidents, having regard in particular to substances or technologies used.**

The risk of accidents associated with the scheme is not judged likely to give rise to a significant environmental effects.

**(g) risks to human health**

It is not considered that there will be any risks to human health resulting from the development, specifically through air pollution, water contamination or an increased risk of flooding.

**2. Location of development**

**The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—**

**(a) the existing land use;**

The existing land use is a weir along the River Trent adjacent Cromwell Lock and adjacent riverbank. Neither lock nor weir are defined as sensitive within the Regulations nor sensitive in any other way. The development would not have a significant impact upon the appearance of the site nor surrounding area.

**(b) the relative abundance, quality and regenerative capacity of natural resources in the area; .**

The scheme's potential impact on hydrology and water resources have been considered and summarised in the Abridged Compliance Assessment Hydrology, Morphology, Ecology, Operation and Water Framework Directive Compliance Report. This indicates the scheme's use of water resources is unlikely to have a significant effect on the environment.

**(c) the absorption capacity of the natural environment, paying particular attention to the following areas—**

**(i) wetlands, riparian areas, river mouths;** The scheme is capable of being absorbed into the local riverine environment without giving rise to any significant effect on the environment.

**(ii) coastal zones;** Not relevant

**(iii) mountain and forest areas; Not relevant**

**(iv) nature reserves and parks; Not relevant**

**(v) areas classified or protected under Member States' legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Not relevant**

**(vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded; Not relevant**

**(vii) densely populated areas; Not relevant**

**(viii) landscapes of historical, cultural or archaeological significance.**

The proposed development is unlikely to have a significant environmental impact upon the identified historical or archaeological assets within the development site nor wider vicinity. Relevant professionals have advised the Council that it is unlikely that there are any surviving archaeological deposits that the proposal could impact, given that the land is previously disturbed and regularly dredged. It is not considered likely that the scheme will have a significant environmental impact upon historical, cultural or archaeological assets.

There would be no impact on any statutory heritage designations, including Scheduled Monuments, Listed Buildings and Conservation Areas.

### **3. Characteristics of the potential impact**

**The likely significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to—**

**(a) the extent of the impact (geographical area and size of the affected population);**

**(b) the nature of the impact;**

**(c) the transboundary nature of the impact;**

**(d) the intensity and complexity of the impact;**

**(e) the probability of the impact;**

**(f) the duration, frequency and reversibility of the impact;**

**(g) the cumulative impact with other existing/approved development;**

**(h) the possibility of effectively reducing the impact**

### **Summary in respect of paragraph 3(a) –(h)**

It is unlikely that the proposal will have a significant effect upon the environment. Therefore that the development does not constitute EIA development requiring a further Environmental Statement. Following the advice of AECOM, Natural England, RPSB, the Environment Agency, Nottinghamshire County Council Archaeologist and Nottinghamshire County Council Landscape Architects it is considered that the scheme will have a permanent but not a significant impact upon the receptors identified within Schedule 3 of the Regulations. Any identified environmental impacts are only anticipated to be insignificant, localised, with ecological enhancements expected to result from the proposal further upstream.

It is not considered that there will be a significant environmental impact with regard to the historical or archaeological receptors within the vicinity of the site, nor on identified landscape receptors beyond the short-term construction phase.

The ecological impact (in terms of its extent, nature, and complexity) will not give rise to unacceptably permanent adverse environmental impacts on either the watercourse, habitats or protected species, both localised and in the wider vicinity. The scheme has incorporated identified ecological enhancements, including the betterment of upstream fish passage, habitat enhancements and access improvements within the nearby RSPB nature reserve, of benefit for the long-term management of this sensitive receptor.

The Council has received and relies on expert reports on the effect of the scheme on fish population. It is acknowledged that the proposal will affect the local weir pool hydrology and geomorphology and fish passage at Cromwell Weir. However, the development is not judged likely to have a significant effect on the environment (and upon the Humber Lamphrey population in particular). Indeed, when the fish passage has been installed it is likely to benefit the resident fish population.

The impacts upon the environment are anticipated to bring about lasting but localised beneficial changes. The proposed infrastructure is a source of carbon-free renewable energy generation which lends itself to being located alongside the existing weir, which in itself currently acts as an ineffective ecological barrier to upstream fish passage.

Impacts upon biodiversity through the necessary removal of trees and other vegetation both up and downstream of the development area are to be compensated for by planting upon completion of the development, and those trees which are to be retained appropriately protected throughout the construction phase.

No permanent significant environmental impacts are anticipated in relation to noise, pollution or nuisance. Short-term construction operations are to be managed in a way as to reduce the impact upon the environment as much as is practicable.

The Local Planning Authority has considered the potential significant impacts of development in relation to the criteria set out above having regard to the extent of the impact. It is concluded that the effects are not significant enough to require the submission of an Environmental Impact Assessment.

**Conclusion:** On the basis of the submitted information and advice of relevant professionals, it is considered that the development required a Screening Opinion to be produced, on account of the development exceeding the thresholds as details within Schedule 2 Part 3(a), 3(h) and 10(f). The Local Planning Authority does not consider that there will be significant impacts on the environment when assessed against the criteria set out in Schedule 3 sufficient to trigger a requirement for an EIA Environmental Statement being produced.

*Bev Pearson.*

**Officer:**

**Date:** 4<sup>th</sup> January 2019

**Signed by**

*L. Cardno*

pp. Matt Lamb  
Business Manager - Development

**Documents relied on:-**

**Deposited 31.07.18**

Abridged Assessment of Hydrology Morphology, Ecology and WFD Compliance July 2017

Cromwell Landscape and Visual Appraisal

Cromwell weir Habitats Map October 2016

Draft Phase 1 Habitat Map July 2016

Ecological Appraisal (MRB Ecology and Environment) October 2016

Cromwell Weir Hydroelectric Scheme Fisheries Assessment (Fishtek Consulting)  
01/06/2017

Cromwell Weir Hydropower Scheme Flood Risk assessment (JBA Consulting) October 2017

Heritage Statement 31<sup>st</sup> August 2017

Cromwell Weir HEP hydraulic impacts modelling report (JBA Consulting) March 2018

Planning Statement 10<sup>th</sup> July 2017

Transport Statement & Construction Management Plan 11<sup>th</sup> July 2017

Slough Dyke Cromwell Weir Water Vole Survey 2<sup>nd</sup> May 2018 (MRB Ecology and Environment)

**Deposited 29.08.18**

Ecological Appraisal – Update Note August 2018

Cromwell Weir Protected Species Scoping Summary report

Slough Dyke Cromwell Weir Water Vole Survey 2<sup>nd</sup> May 2018 (MRB Ecology and Environment)

Deposited 20.11.18

Ecological Addendum – Bat Tree Inspection (Middleton Bell Ecology dated 6<sup>th</sup> November 2018)

Planning Statement Addendum – Noise Assessment dated 12<sup>th</sup> November 2018

Heritage Statement deposited 22.11.18

**Other Documents**

VIA Landscape and Visual Impact and appendices dated 11<sup>th</sup> 17<sup>th</sup> December 2018

Technical Note Planning Documents Review (AECOM ) Dated 28<sup>th</sup> November 2018

Screening Advice of Planning Application 18/01477/FULM (AECOM) received 17<sup>th</sup> December 2018

## External Memo: technical note

To	Bev Pearson, Newark and Sherwood DC
From	Neil Davidson CMLI CEnv CIEEM, Lepus Consulting
Subject	Habitats Regulations Assessment record of the Appropriate Assessment
Code	LC-506 Cromwell Weir
Date	14 <sup>th</sup> March 2019
CC	-



### Summary

*This note is a record of the Appropriate Assessment process followed by Newark and Sherwood District Council for a proposed HEP scheme at Cromwell Weir, Nottinghamshire. The assessment concludes that the scheme will have no adverse effect on the integrity of any European site, either alone or in-combination with any other plan or project. Monitoring measures are recommended in this note.*

### Introduction to the Habitats Regulations Assessment (HRA)

1. The HRA relates to a planning application for full planning consent of a Hydropower Electricity Generating Station, supported by energy storage and fish passage at Cromwell Weir, Nottinghamshire. It has been prepared in accordance with the Conservation of Habitats and Species Regulations 2017 (SI 1012) commonly referred to as 'the Habitats Regulations'.

### Summary of the conclusion of the assessment

2. The assessment concludes that the scheme will have no adverse effect on the integrity of any European site, either alone or in-combination with any other plan or project.

### **Information used for the assessment**

3. The Shadow HRA submitted by the applicant dated 2<sup>nd</sup> March 2019. And the Addendum dated 8<sup>th</sup> March 2019.

### **The screening of the project**

4. The project identified the Humber Estuary SAC and likely significant effects on some of its qualifying features, namely sea and river lamprey, as the trigger for HRA. See Shadow HRA submitted by the applicant dated March 2019.

### **Mitigation measures**

5. See Shadow HRA (and addendum) submitted by the applicant dated March 2019.

### **Appropriate assessment**

6. See Shadow HRA (and addendum) submitted by the applicant dated March 2019.

### **Further mitigation measures**

7. All necessary mitigation is included in the Shadow HRA.

### **Integrity test**

8. It is considered that the planning application and submitted information allows Newark and Sherwood to ascertain that the scheme will have no adverse effect on the integrity of any European site, either alone or in combination with any other plan or project. In making that decision as the competent authority, Newark and Sherwood has taken account of the potential of the planning application proposals to contribute to cumulative effects when compared to other plans and projects. See

Shadow HRA (and Addendum) submitted by the applicant dated March 2019 for more details.

9. Natural England should now be consulted on the scheme proposals again. A letter dated 24<sup>th</sup> January from Natural England specified a requirement for a 6mm and 3mm screen on the intake weir; this has been incorporated in to the mitigation for the project.

#### **Assumptions and limitations**

10. See Shadow HRA (and Addendum) submitted by the applicant dated March 2019.
11. The applicant has made an informed assumption as part of the conclusions in the Shadow HRA and addendum (dated 12<sup>th</sup> March 2019), that *'in terms of ammocoetes migration downriver, the entirety of flow will be discharged over the remaining section of weir (where works are not being undertaken) and there will be no change from the current situation'*.
12. To confirm that this is in fact the case, water samples should be taken in the spring time to confirm that ammocoetes are passing safely through the weir. Numbers and ammocoete condition should be recorded. Precise details should be agreed with the applicant's fisheries ecologist.
13. Besides the focus on ammocoetes, given that the HRA relies in part on mitigation, e.g. the new fish pass, to overcome identified adverse effects, it would be prudent to consider conditioning any consent with the requirement to monitor lamprey populations in and around the location of the weir, including impacts of the HEP scheme before and after construction and operation. In other words, as soon as consent is given. And the monitoring condition ought to consider whether operations be reviewed if significant adverse effects are identified on river and sea lampreys or their habitat as a consequence of operation.

### **References and reports**

- The Habitats Regulations Assessment Handbook (2013, as updated) DTA Publications.
- Cromwell Weir Hydropower: Draft Shadow Habitat Regulations and Appropriate Assessment (2019) Eelpower Ltd. 2<sup>nd</sup> March 2019.
- Addendum to Cromwell Weir Hydropower HRA Screening and Appropriate Assessment (8<sup>th</sup> March 2019) Word document received from Eelpower Ltd, 12<sup>th</sup> March 2018.
- Letter from Natural England dated 24<sup>th</sup> January 2019.

**- End of note -**