

Evidence to the Environment and Sustainability Committee's Inquiry into the Welsh Government's consultation on the M4 corridor around Newport

Introduction

The purpose of Natural Resources Wales is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future. We welcome the opportunity to respond to the committee's inquiry into the Welsh Government's proposals for consultation on the M4 corridor around Newport.

The current proposals from the Welsh Government are at an early, strategic, stage of development. A consultation is under way (23 September 2013 until 16 December 2013) on Welsh Government's draft plan and accompanying environmental assessments which at this stage include a Strategic Environmental Assessment (SEA) Environmental Report and work to inform a Strategic Habitats Regulations Assessment (HRA). We have already submitted a formal response to the scoping stage of the SEA and will be responding to all of the current consultations and documents. Our responses will be publicly available. As this consultation is at a strategic level there is no detailed design for us to comment upon. The options are the Welsh Government's preferred route corridor, two alternative route corridors which differ from the preferred route for approximately one third of its length and consideration of a do-minimum option (i.e. not building a new length of road, but taking into account already proposed transport schemes in the vicinity). The undertaking of the SEA and HRA processes at the strategic stage will inform the need for, and scope of, HRA and Environmental Impact Assessment (EIA) at the project stage.

1. Natural Resources Wales' roles with respect to the M4 Corridor draft Proposals

We recognise the strategic importance of the M4 Corridor to the economic well being of Wales and the wider economy of the United Kingdom. We are committed to working with Welsh Government to identify solutions to help enable the enhancement of the M4 Corridor whilst minimising significant adverse impact on environmental resources of acknowledged importance. Key environmental issues are set out in section 2 below. We will have a number of roles with respect to these proposals:

As an Advisor we provide a range of **technical advice** to inform the development of both the plan and its Strategic Environmental Assessment and plan level Habitats Regulations Assessment. Our advice is without prejudice to that which our Strategic Assessment Team may provide as Statutory Consultee and consultant body once the plans are finalised.

We are a Statutory Consultee on the statutory Strategic Environmental Assessment and plan level Habitats Regulations Assessment.

As a Regulator we have a number of different permitting/ licensing/ consenting roles, with follow up compliance and enforcement roles for any permissions granted, including, but not limited to:

- Flood Defence Consenting
- Environmental Permit or Exemptions - Waste Management Matters
- Environmental Permitting - Water Quality Discharges
- Environmental Permitting - Water Resource Matters
- European Protected Species licensing
- Nationally Protected Species licensing
- Site of Special Scientific Interest (SSSI) consents/ assents
- Marine Licensing

2. Key Environmental Issues for Natural Resources Wales

Potential Impacts on European Designated Sites

Sites of European importance for nature conservation are designated as Special Areas of Conservation (SACs) under the Habitats Directive, and Special Protection Areas (SPAs) under the Birds Directive, and are collectively known as European sites or the Natura 2000 network. In addition, it is Welsh Government policy that sites designated as Wetlands of International Importance, or Ramsar sites are also treated as European designated sites. This means that all three types of sites are subject to HRA; this is an assessment undertaken where there are draft plans, programmes or projects which are likely to have a significant effect on any of the designated features of any European site and the coherence of the Natura 2000 network. Responsibility for carrying out the HRA lies with the Competent Authority, the plan maker or project proposer - in this case the Welsh Government - and requires consultation with the appropriate nature conservation body – in this case Natural Resources Wales.

All of the three proposed new route alignments put forward as part of the draft plan would involve a new bridge crossing of the River Usk (SAC). The WG and Natural Resources Wales have the statutory duty to ‘avoid deterioration of habitats and significant disturbance’ under Article 6(3) of the Habitats Directive.

In addition there are a number of further European sites in the vicinity of the proposals which will need to be considered for potential indirect effects as part of both any strategic and/or project level HRA. Sites which potentially fall into this category include the Severn Estuary SAC, SPA and Ramsar site, and the Wye Valley and Forest of Dean Bat SAC. Such sites would initially be screened for the need for HRA on the basis of there being a mechanism for impact on hydrological connection or aerial emissions. There are a number of stages of a Habitats Regulations Assessment which apply at both plan and project stages:

- Assessment of Likely Significant Effect on a European site
- Where significant effects cannot be ruled out an Appropriate Assessment must be undertaken, which considers whether or not the plan or project will adversely affect the integrity of the European site, in view of the sites conservation objectives
- Where adverse effects cannot be ruled out the competent authority must ascertain whether or not there are alternative solutions to carrying out the plan or project. This consideration cannot take into account economic factors – i.e. a more expensive solution cannot be ruled out
- If there are no alternative solutions, the Competent Authority has to satisfy themselves both that there are imperative reasons of overriding public interest and

that sufficient compensatory measures can be secured to ensure the overall coherence of the European sites.

The Habitats Regulations Assessment process for this proposal requires the Welsh Government to ensure that there would be no harm.

Potential Impacts on National Designated Sites

In addition to the European designation there is a further suite of sites which are formally designated . In the context of these proposals the key sites are various Gwent Levels Sites of Special Scientific Interest (SSSI) that were notified because of the range of aquatic plants and invertebrates associated with the reens and ditches of the drainage system.

The special interest of these SSSIs is dependent on the existence of the drainage system and its continued management, together with the quality and quantity of water in the reens and ditches. Any development that has an adverse impact on any of these features may have an adverse impact on the wildlife for which the area was notified.

The Gwent Levels are important for both submerged plant species associated with open water, such as the hairlike pondweed *Potamogeton trichoides*, and emergent plants such as arrowhead *Sagittaria sagittifolia*.

In our opinion the following sites would be directly affected by any new road alignment as put forward in WG's draft plan:

- Gwent Levels: Redwick and Llandeenny SSSI
- Gwent Levels: Whitson SSSI
- Gwent Levels: Nash and Goldcliff SSSI
- Gwent Levels: St Brides SSSI

This is in the context of direct land take from these SSSIs (loss of SSSI area to road) as well as likely changes to water quality and available water quantity and restrictions on the ability for favourable management operations to be undertaken.

Additionally the following sites could be subject to indirect impacts:

- Gwent Levels: Magor and Undy SSSI
- Magor Marsh SSSI
- Gwlyptiroedd Casnewydd/ Newport Wetlands SSSI
- Gwent Levels: Rumney and Peterstone SSSI

It is worth noting that Gwlyptiroedd Casnewydd/Newport Wetlands SSSI is part of the Newport Wetlands National Nature Reserve, which was constructed to meet the commitment by the UK Government to create "a substantial area of wetland habitat on the shores of the Severn Estuary" as part of the compensation for the loss of the Taf/Ely Estuary SSSI following the construction of the Cardiff Bay Barrage.

Indirect impacts could arise to all of these sites from alterations in the pattern of drainage and changes to available water quantity and changes to water quality.

We are assessing the draft plan for the significance of these impacts in the absence of the detail which would form part of any subsequent project level consultation.

The Welsh Government has a duty to take reasonable steps to further the conservation and enhancement of the designated features when deciding whether to adopt the plan.

Potential Impacts on Protected Species

All species listed in Schedule 2 and 4 of the Conservation of Habitats and Species Regulations 2010 are European Protected Species. In the context of this draft plan relevant European Protected Species include:

- All Bat species
- Great Crested Newts
- Otters
- Dormice

Where a European protected species is present, and a proposal is likely to breach the legislation afforded to them, a development may only proceed, under a licence issued by NRW as the appropriate authority . We can only issue these licences where:

'Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.'

And only if there is:

'No satisfactory alternative' and that

'The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

Consideration of the potential effects of a plan or programme on biodiversity, flora and fauna is mandatory under the SEA process.

At the strategic stage and in the absence of detailed survey information which would form part of an EIA we cannot say whether any of these European Protected Species will be affected by the scheme, although we can advise that all of these species have been previously recorded in the vicinity of the route corridors under consideration in the draft plan.

In addition there are a number of other species of animals and plants protected by national legislation. Similarly, in the absence of detailed survey we cannot say whether of these species will be affected.

Historic Landscape

Consideration of the potential effects of a plan or programme on cultural heritage is mandatory under the Strategic Environmental Assessment process.

The importance of the historic landscape is reflected in the inclusion of the Gwent Levels in the Register of Landscapes of Outstanding Historic Interest (Cadw: Welsh Historic Monuments/ICOMOS UK (International Council of Monuments and Sites)/CCW), 1997)

Competent authorities are asked to take information on the Register into account when considering the implications of developments that “are of such a scale that they would have more than local impact on an area on the Register”, (Planning Policy Wales, 2012). The Assessment of the Significance of the Impact of Development on Historic Landscape Areas on the Register (ASIDOHL2) methodology is used to assess the significance of potential impacts of developments on historic landscapes in liaison with the appropriate Welsh Archaeological Trust and Cadw..

Water

Consideration of the potential effects of a plan or programme on water is mandatory under the Strategic Environmental Assessment process.

Water Framework Directive

The overarching aim of the EU Water Framework Directive (WFD) is to achieve an integrated system of water protection, improvement and sustainable use. All aspects of water, including water quality, quantity and flow (surface and groundwater), water supply and capacity, wastewater treatment and flood risk should be considered. Their impacts on ecological interests are also relevant.

The Directive requires no deterioration in the status of water bodies. All bodies of surface water and groundwater are to aim to achieve good status by 2015. The Directive allows for extended deadlines for achieving this up until the end of the third cycle in 2027. Discharges of priority hazardous substances (the most toxic substances discharged to waters) must cease by 2020.

Transport schemes may produce priority hazardous substances such as cadmium, zinc, copper, mineral oils and organic pollutants. The scheme should demonstrate that there will be no detrimental effect on the status of relevant water bodies. A realistic and feasible programme of measures, costs and commitments must be put in place in order to address any identified water body impacts. Alternatively, the scheme must not adversely affect water resources, water features and water availability at a strategic or project level.

Managing Flood Risks

Proposals must be assessed at both strategic and project development levels. This includes consideration of the potential effects of a plan or programme on material assets and in respect of climate.

The M4 Corridor proposals Around Newport are located in areas considered to be of high flood risk hazard, being based on Welsh Government's Development Advice Maps and our own Flood Zone Maps. With regard to tidal flood risk, existing infrastructure, mainly to the south of Newport is protected against tidal inundation.

In the identification of issues and effects, a precautionary approach should be adopted directing the preferred route option away from areas considered to be of high flood risk hazard. Subsequently, the management of risks and consequences of flooding must be demonstrated as acceptable over the lifetime of development (75 years in line with current Project Appraisal Guidance) given climate change factors. The application of climate change factors may indicate tidal breach/overtopping of the sea defences.

The risks from coastal, main river and/or surface water flooding must be assessed. The effects of the Scheme on flooding elsewhere will need to be established and demonstrated as acceptable.

We will require a water management scheme to be agreed and effectively implemented.

Flood Defence Consent will be required from us for work on, over or close to designated main rivers whilst ordinary watercourses will be subject to consent by the Lead Local Flood Authority.

Soils and Land affected by contamination

Consideration of the potential effects of a plan or programme on soils is mandatory under the Strategic Environmental Assessment process.

Additional Matters Relating to Land Affected by Contamination

There will be significant engineering challenges necessitating detailed technical assessment given the location of the route adjacent to active and historic landfill sites, including Docks Way Landfill.

Any remediation and engineering solutions proposed will need to prevent adverse impacts on controlled waters, soils and ecological interests. We will need to be assured that any mobilisation of contaminants can be avoided.

In the event of any necessary variations to the installations existing Environmental Permits we would need to be satisfied that there would not be adverse environmental impact upon ongoing operation and long term management.

The proposals may offer the opportunity to improve, restore and enhance the soil resource.

Additional Waste Management Matters

We welcome the production of a waste management strategy and plan.

Additional Matters relating to Air Quality

Consideration of the potential effects of a plan or programme on air is mandatory under the Strategic Environmental Assessment process.

We welcome the opportunity to discuss methodologies and parameters for the assessment of air quality and deposition of air borne pollutants and resulting impacts.

3. Natural Resources Wales approach to the draft plan

Our staff are building a good working relationship with the Welsh Government project team and their advisor, Arup. Within the organisation we are confident we have the skills and capabilities necessary to advise and respond to the planning process..

Natural Resources Wales's Strategic Assessment Team will fulfil the statutory consultee role in responding to the SEA Environmental Report and HRA work, at arms length and functionally separate from all staff involved in providing the 'without prejudice' informal advice in meetings and formal response to the draft plan itself.

Natural Resources Wales will not be responding to the Health Impacts Assessment and Equality Impact Assessment as these issues fall outside of our remit.

At a later stage, were any project level road scheme to come forward we will have a role in considering permit/ licence/ consent applications and seeking advice as part of those considerations.

4. Summary

Natural Resources Wales are actively involved in assessing the draft M4 corridor plan and accompanying environmental assessments with respect to our statutory environmental remit. The draft plan raises significant issues across our remit, including with respect to designated sites, flood risk, protected species, contaminated land, waste management and historic landscape. We are currently assessing the level of significance of these issues to provide Welsh Government with a considered view on their draft plan as their statutory environmental advisor. We look forward to having continued dialogue with you on the M4 Corridor around Newport and in particular with regard to environmental matters.

Cyfoeth Naturiol Cymru / Natural Resources Wales
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