

Heading:

REFERENCE NO. 31/2013/1079/PFHY  
LAND AT ELWY MEADOWS  
LOWER DENBIGH ROAD, ST ASAPH

Graham Boase  
Head of Planning & Public Protection  
Denbighshire County Council  
Caledfryn  
Smithfield Road  
Denbigh  
Denbighshire LL16 3RJ

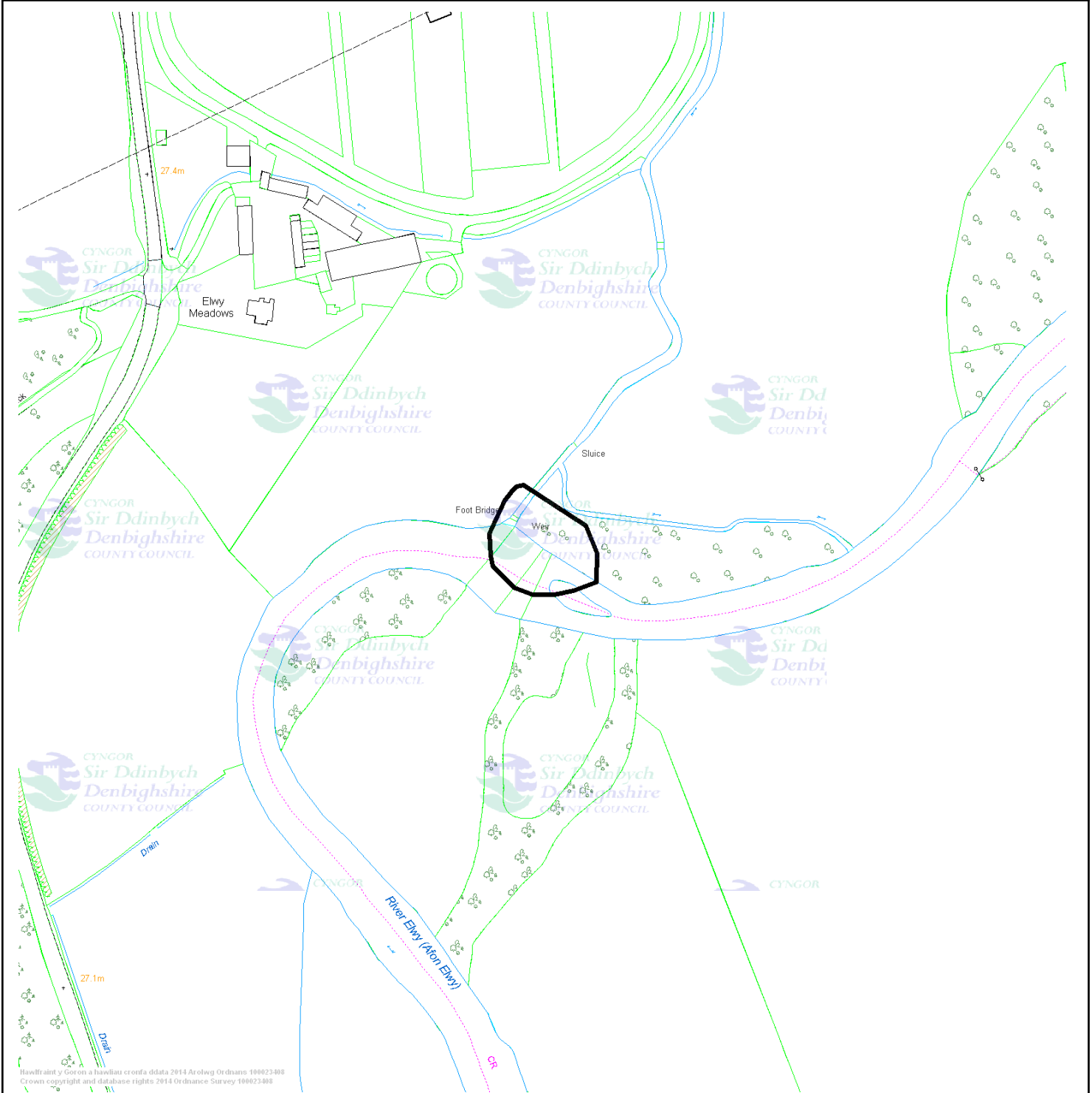
Tel: 01824 706800 Fax: 01824 706709



Date 25/9/2014  
Centre = 303891 E 372442 N

Scale 1/2500

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



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# LOCATION



**Approximate Peg Coordinates:**

Intake: SJ 03878 72454  
Turbine House: SJ 03885 72455  
Outfall: SJ 03897 72439

Site 66: Hydro Scheme at Elwy Meadows Hydro - Afon Elwy


OS Location Plan and Illustrative Aerial Overlay

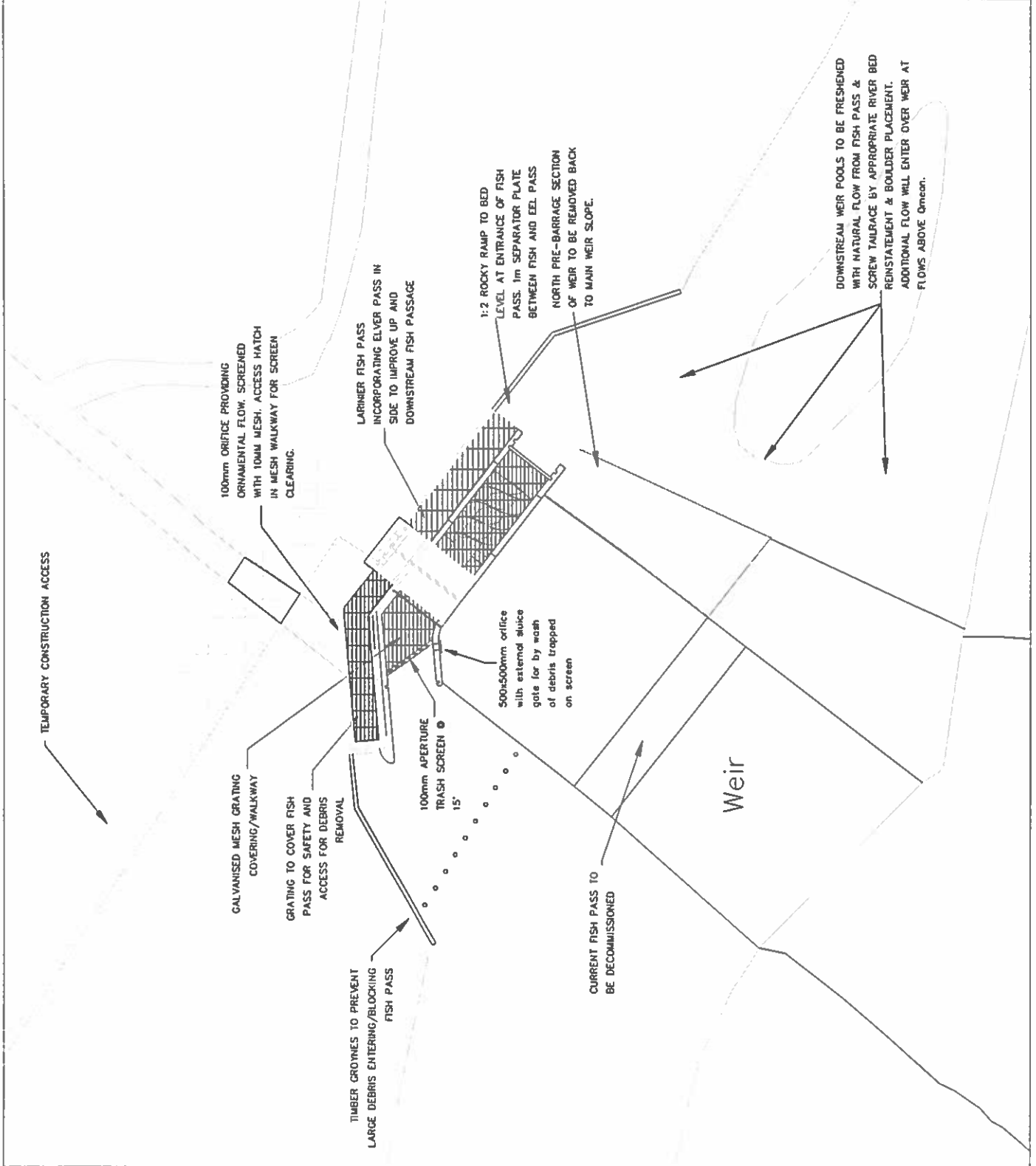
Not to Scale

29.07.2013



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<p>TOLERANCES</p> <p>The final orientation may vary marginally as site conditions dictate.</p>	
<p>— Power Cable</p>	
Project:	Maes Elwy Hydro Scheme
Drawing Title:	General Layout
Drawing Number:	NWHP_ME_General_Layout
Client:	Maes Elwy Hydro
Scale:	1:285 @ A3
Revision:	R
Sheet:	1 OF 1
Drawn by:	AJF
Date:	15/08/2014
	



TU Delft

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CONSTRUCTION NOTES

The hydro scheme will be constructed using a  
concrete frame, which will be integrated  
with the existing weir and improved where  
necessary.

Roofhouse:

- Roofed with local slate
- The roof will have internal noise insulation
- Vents to be baffled internally to further control any noise emission.
- Doors to be double skinned with noise attenuation built in.

Infillcase

To prevent scour and erosion of the river  
bed a plunge pool will be created from locally  
sourced stone/boulders at the end of the  
tailrace of the screw and fish pass.

TOLERANCES

The final orientation and dimensions may vary  
marginally as site conditions dictate.

Project:

Maes Elwy Hydro  
Scheme

Drawing Title

General Arrangement

Drawing Number:

NWHP\_ME\_General\_Arrangement

Client:

MAES ELWY HYDRO

Scale:

1:200 @ A3

Revision

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Sheet:

1 of 2

Drawn by:

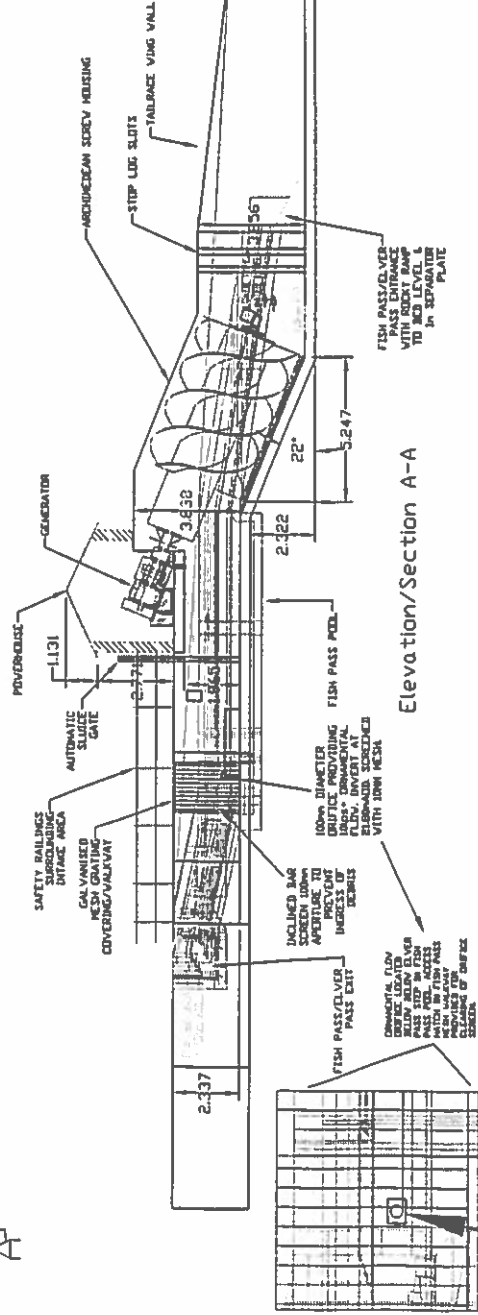
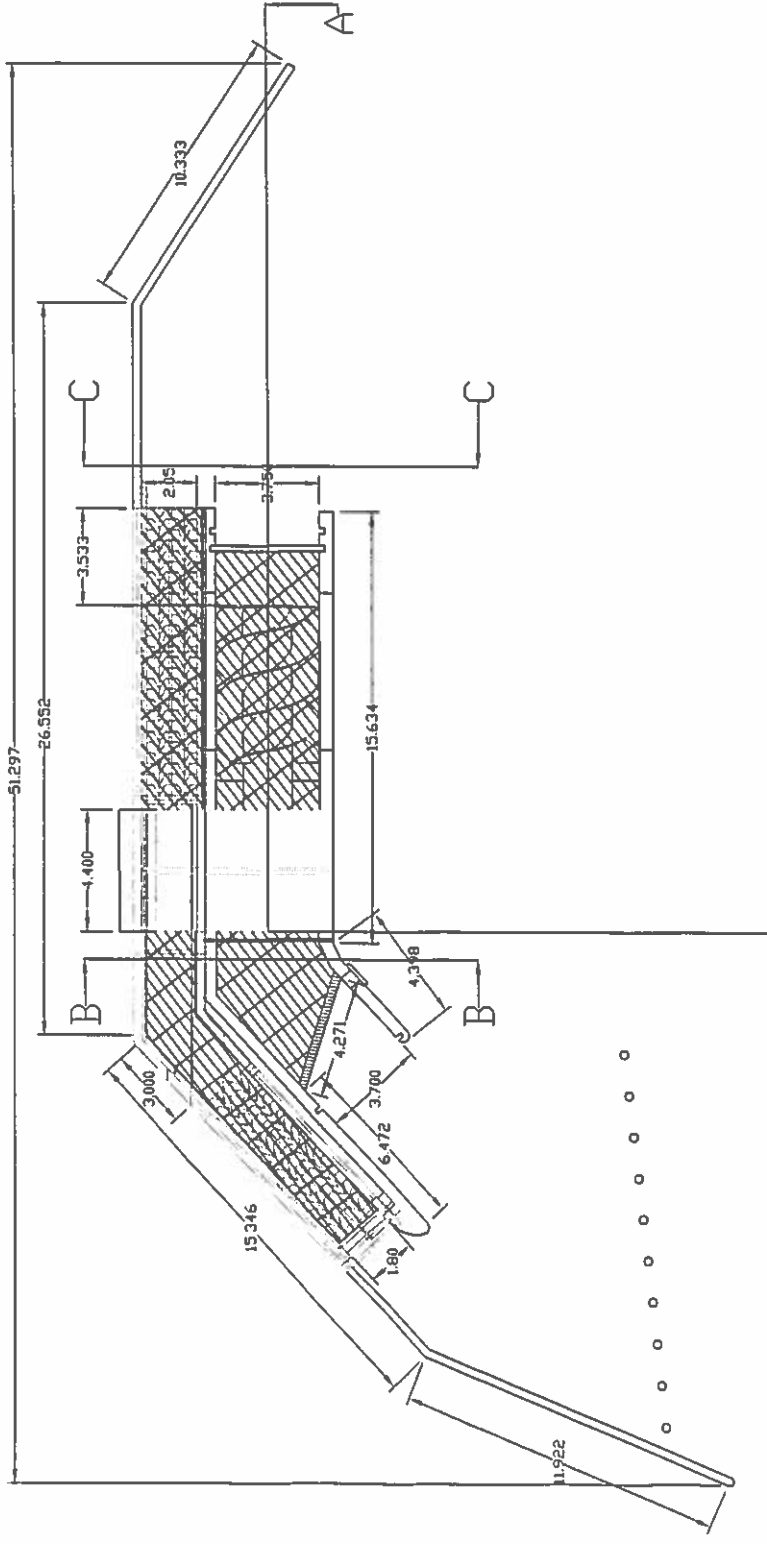
AJF

Date:

26/08/2014

DETAIL

PLAN VIEW



Elevation/Section A-A





Emer O'Connor

**WARD :** Trefnant

**WARD MEMBER(S):** Cllr Meirick Lloyd Davies

**APPLICATION NO:** 31/2013/1079/PFHY

**PROPOSAL:** Installation of micro hydro electric scheme

**LOCATION:** Land at Elwy Meadows Lower Denbigh Road St Asaph

**APPLICANT:** Mr Richard Rees  
North Wales Hydro Power Ltd

**CONSTRAINTS:** C2 Flood Zone  
Main River

**PUBLICITY UNDERTAKEN:** Site Notice – No  
Press Notice – No  
Neighbour letters - Yes

**CONSULTATION RESPONSES:**

CEFN MEIRIADOG COMMUNITY COUNCIL –

“Cefn Meiriadog Community Council have no objections, they fully support this application”

ST ASAPH CITY COUNCIL –

“Following a meeting on Monday 27th October with Mr Richard Rees from Welsh Hydro Power Ltd., St. Asaph City Council have no objections to the Hydro System per se, we would insist on a maintenance programme being included and that the weir be fit for purpose prior to the installation of the Hydro System. We ask for assurance from Planning that these conditions are in place prior to approval of the planning.”

TREFNANT COMMUNITY COUNCIL -  
Comments awaited

NATURAL RESOURCES WALES (NRW)

In relation to the amended proposals –

NRW have no objection to the application.

- ENVIRONMENTAL PERMITTING (ABSTRACTION / IMPOUNDMENT LICENSING)
- NRW confirm they have no objection in principle to the proposals and are able to issue an abstraction licence.
- FLOOD RISK – NRW have reviewed the revised Flood Consequences Assessment and confirm the contents are generally commensurate to the type, nature, and scale of the development. Welcome proposals to incorporate flood proofing measures within the turbine house.
- FLOOD DEFENCE CONSENT – In accordance with the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of Natural Resources Wales has been granted for the works and structures located in, under, over or within 7 metres of the bank top of the Afon Elwy, designated "main river" (Consent NE2013LD125B). Temporary in- channel works require separate Flood Defence Consent from NRW.
- POLLUTION CONTROL AND WASTE MANAGEMENT – NRW outline measures required to minimise impacts on the watercourse, to accommodate any oil storage facilities and disposal of waste excavation or building materials

- PROTECTED SPECIES – NRW consider the surveys and assessment in respect of statutory protected species to have been completed to a satisfactory standard for the purpose of informing the decision making process
- NRW had previously commented on the following:
- FISHERIES – NRW have received and approved the Fish Pass Details.
- ENVIRONMENTAL MANAGEMENT – There must be no adverse impact on water quality. The applicant should comply with NRW PPG5: Works and maintenance in or near water. Waste should be disposed of in accordance with Section 34 of Environmental Protection Act 1990. The activity of importing waste into the site must be registered as a permitted activity under the Environmental Permitting Regulations 2007.

#### CLWYD POWYS ARCHAEOLOGICAL TRUST (CPAT)

- No objection, according to OS first edition mapping the weir may be connected to the former Wigfair Isaf Mill by a long leat heading north from the weir. The weir therefore dates to at least 1874 and it probably earlier than this in origin. CPAT recommend a survey and archaeological watching brief is undertaken prior to the commencement of development.

#### DENBIGHSHIRE COUNTY COUNCIL CONSULTEES – BIODIVERSITY OFFICER –

No additional comments on amended submission. Ecologist had previously expressed satisfaction that the ecological surveys undertaken are suitable and commensurate with the development and agreed with the conclusions within the report.

#### TREE CONSULTANT

Has assessed the submission and is aware of the basis of objections. Advises that 11 trees are proposed to be removed; of these, the best specimen is a mature ash which is of very minor importance as an amenity feature in the landscape because there are numerous other trees at this location. Other trees to be felled are either not particularly good, or poor specimens. Confirms there is confusion over reference to Black Poplars – as the specimens in the area are not Native Black Poplars, but hybrids which are not rare or important. Suggests any consent obliges replanting, details of protective barriers, and work being carried out in accordance with the Tree Protection Plan.

#### RESPONSE TO PUBLICITY:

Chris White (by email no address provided)

John Lewis, Mill Brook, The Mill Yard, Lavister, Wrexham

Andrew Kelton, Fish Legal, Leominster, Herefordshire (on behalf of Rhyl and St Asaph Angling Association)

Stephen Barlow, Nefydd House, Llanefydd

David Jones, Federation of Clwyd Angling Clubs, Panorama, Rhuallt

John Morris, 39 Orme View Drive, Prestatyn

David Roberts, 11 Park Drive, Carmel, Holywell

Paul King, 17 Llys Y Tywysog, Tremeirchion

Eugene Grube, 28 Rhodfa Glenys, St Asaph

Robert Hall, 6 Breezehill Park, Neston, Cheshire

Graham Whalley, 25 Grasmere Close, Prestatyn

Allan Cuthbert, 25 Ceg y Ffordd, Prestatyn (on behalf of Campaign for the Protection of Welsh Fisheries)

Ian Macdonald, Secretary, Rhyl and St Asaph Angling Association, 20 Y Maes, Denbigh

John Davidson, Bryn Rhedyn, Windmill, Pentre Halkyn, Holywell, Flintshire

Tim Mainland, Wigfair Fach, Wigfair Isa, Lower Denbigh Road, St Asaph

David Gartside, 34 Compton Way, Abergele

#### Summary of representations :

Impacts on the river and river environment

Concerns over effects on migratory fish river (salmon and sea trout up and downstream migratory paths, breeding) / impacts on salmonoids / questions over fish pass suitability at a low head hydro scheme/ impact on river Elwy, maintenance/blockage of fish pass, silt and build-up of debris likely to

occur/ existing schemes at Penmachno and Cefn should be monitored and negative impacts considered / concerns over decommissioning and reinstatement of weir/ changes to plans of additional concern as they involve relocation of fish pass to the north side of the turbine, which would redirect the river to the left hand bank around the weir, devastating the fishery on the upstream right hand bank and by passing the existing downstream pool; would make it impossible to monitor fish passage and respond to problems/ there would be downstream alterations to the bed of the river affecting flow and resting conditions for salmonids/ confusing and inadequate level of detail on plans to fully understand effects, including reference to 'ornamental flow', amount of water to be diverted, and impact on fishing pool upstream/ simple alternatives to modify the existing fish pass would obviate need for a new one /no mention of the state or structural integrity of the weir, heightening concerns over consequences of its disintegration/ additional concerns over construction period in dry summer months when migratory fish make their return to the river

#### Flood risk-

Potential impact on river flows/ potential for blockages through build up and release of debris and silting are not addressed, along with downstream consequences / document suggesting the limited risk from flooding and no increase in risk from the development is disingenuous given recent history, as the development will concentrate flow on the northern bank and the installation will constitute an additional obstruction to accumulate debris and increase flood risk beyond the site.

#### Impact on local economy

Significant impacts arising from degrading of fishing facility, including loss of salmon stock / would deprive local community of more money than it would return.

#### Biodiversity impacts-

Proposal will have negative biodiversity impacts / insufficient number of species surveyed/ evidence of otter holt adjacent to site, voles and badgers are a common sight, mink are understood to be present in the area / habitat survey was undertaken in June so could not establish if salmon or sea trout spawn in the area / risk of breaches of legislation in relation to a range of species must be assessed

#### Visual amenity

Concern over loss of trees in particular loss of Black Poplars / no good reason to remove trees.

#### Noise impacts .

Concern over impact of noise in relation to turbine / potential noise from Archimedean screw on migration of salmon and sea trout

#### Planning policy conflicts

Conflicts with VOE 10- proposal does not demonstrate that there will be no unacceptable impact on nature conservation and wildlife.

#### Other matters

Inadequate summary of representations / not all objectors included in original report

Ownership issues- NRW do not own the weir, title from the middle of the weir to the right hand side of the river bank is unclear/ Riparian rights exist and have not been considered.

Fishing rights affected- impact on viability of long established and well known sea trout and salmon fishery/ significant impact on Members of Rhyl & St Asaph Angling Association and permit holders.

Carbon reduction figures and efficiency figures queried / actual savings would be minor.

Consideration should be given to securing an undertaking / bond from the applicants in relation to the construction, implementation, and maintenance of the development, and to cover contingencies if something goes wrong

Concerns over the neutrality of the NRW in the process / independent advice should be obtained, including a structural survey of the weir as this has suffered from structural failure and could cause a surge in floodwater with downstream impacts/ poor communication by NRW with fishing associations

Inadequate awareness / regard by NRW to impact of hydro scheme at Cefn

**EXPIRY DATE OF APPLICATION: 17/10/2013**

**REASONS FOR DELAY IN DECISION (where applicable):**

- Additional information sought.
- Additional consultations

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

**1.1 Summary of proposals**

1.1.1 Consideration of the application was deferred at the October 2014 meeting of the Planning Committee to allow additional consultations to be carried out with neighbouring Community Councils and private individuals. Representations received at the time of completing this report are referred to in previous sections, and any received up to the day before Planning Committee will be reported in the late information sheets.

1.1.2 The proposal involves the development of an 81kW micro hydroelectric generating scheme on the River Elwy, in a location 150 metres to the south east of the property Elwy Meadows, some 2 kilometres south of the A525 bridge over the river in the centre of St Asaph.

1.1.3 The main elements of the development are –

- an intake immediately upstream of an existing weir, intercepting the original mill leat
- a new fish pass
- a debris screen and sluice gate (timber groynes, a finer bar screen, and a sluice gate)
- a 3.8m X 6.3m turbine house building with larch clad external walls and a local slate roof, containing a generator linked to an Archimedean Screw
- a tailrace, walled on the northern bank, directing flow back to the River Elwy

The plans at the front of the report give an indication of the proposed scheme.

1.1.4 The planning application is supported by a Design and Access Statement, a Flood Consequences Assessment, an Extended Phase 1 Habitat Survey, a Tree Survey, a Technical Summary, and a Construction Method Statement.

The Design and Access Statement provides an overview of the proposals, including commentary on the development of the scheme, its key elements, and general environmental and planning issues. Relevant points in the document include –

- The applicants are North Wales Hydro Power Ltd.
- The scheme has been developed taking account of a number of factors, based around causing the least environmental impact whilst generating as much renewable electricity as possible

- Relevant Wildlife and Tree surveys and a Flood Consequences Assessment have been undertaken. There is a Technical Summary and Construction Method Statement in the submission.
- It is stated that the scheme has been designed to minimise impacts on ecological interests with suitable mitigation proposals; pollution risks at construction stage would be minimised in accordance with the Construction Method Statement ; the consequences of any flooding have been managed down to a level which is acceptable for the nature of development proposed, including suitable flood protection measures, and there would be no material increased flood risk elsewhere; noise mitigation measures will be included in the design of the turbine house and there will be no operational noise impact; 11 trees will need to be removed to facilitate the development, the site area having been kept down to a minimum to limit the number of trees to be felled;
- There is a separate authorisation process in relation to the detailing of Hydro electric schemes, administered by Natural Resources Wales. This includes an Abstraction Licence for water to be removed from the stream, Flood Defence Consent for carrying out works in –river or close to it, and Fish Pass Approval. NRW are therefore responsible for control over many elements of the proposals, including flow associated with the hydro scheme.
- There are renewable energy benefits arising from hydro schemes, recognised in Planning Policy and guidance at local and Welsh Government level.

#### 1.2 Description of site and surroundings

- 1.2.1 The proposed hydro scheme would be within the River Elwy at an existing weir approximately 2 kilometers south of St Asaph, in a location to the south east of the property Elwy Meadows. The B5381 (Lower Denbigh Road) runs approximately 200 metres to the west.
- 1.2.2 It is stated in the Technical Summary that the existing weir was built to provide flow for a now defunct mill, and creates an impoundment of the River Elwy.
- 1.2.3 The area is characterised by a wide river profile with low banks, riverside and field boundary trees and hedgerows.

#### 1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside, and is within a C2 Flood Zone as shown on the Development Advice Maps produced in association with TAN 15.

#### 1.4 Relevant planning history

- 1.4.1 None.

#### 1.5 Developments / changes since the original submission

- 1.5.1 Clarification was sought from the applicant in relation to the detail of the fish pass, in relation to comments raised by objectors and NRW. Revised details were submitted in mid September 2014, and were the subject of a reconsultation exercise.
- 1.5.2 As noted above, further consultations were carried out in mid October 2014 following requests for notification to adjacent Community Councils and private properties.

#### 1.6 Other relevant background information

- 1.6.1 A Member briefing was organised in mid October to run through the detailing of the proposals and the issues arising.

## 2. **DETAILS OF PLANNING HISTORY:**

- 2.1 None.

## 3. **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

- 3.1 Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)

Policy VOE 1 – Key Areas of importance  
Policy VOE5 – Conservation of natural resources  
Policy VOE 10 – Renewable energy technologies

3.2 Supplementary Planning Guidance  
SPG 18 – Nature Conservation and Species Protection

3.3 Government Policy / Guidance  
Planning Policy Wales Edition 7, 2014  
Technical Advice Notes:  
TAN5 – Nature conservation and planning  
TAN8 – Renewable energy  
TAN15 – Development and Flood Risk  
Circular 60/96 Planning and the Historic Environment

#### 4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 7, 2014 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned, and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Landscape / visual impact
- 4.1.3 Residential Amenity including noise
- 4.1.4 Ecology
- 4.1.5 Flooding and water quality
- 4.1.6 Archaeology
- 4.1.7 Other matters

4.2 In relation to the main planning considerations:

4.2.1 Principle

Members may be aware that at national level, the UK is subject to the EU Renewable Energy Directive, which includes a target of generating 15% of the UK's total energy demand from renewable energy sources by 2020. Para 12.8.1 of Planning Policy Wales (PPW) reaffirms UK and Welsh Government commitment to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of its proposals to tackling climate change. It refers to Welsh Government's Energy Policy Statement (2010), which identifies the sustainable renewable energy potential for a variety of different technologies.

For planning purposes, Figure 12.2 of PPW defines the following renewable and low carbon energy scales, which is of relevance to the application:

<b>Scale of development</b>	<b>Threshold (Electricity and heat)</b>
Strategic	Over 25 MW for onshore wind and over 50 MW for all other technologies

Local Authority – Wide	Between 5MW and 25 MW for onshore wind and between 5 MW and 50MW for all other technologies
<b>Sub local authority</b>	<b>Between 50kW and 5MW</b>
Micro	Below 50kW

This application therefore falls within the 'sub local authority' scale of development in PPW, which in para 12.9.9 states that such projects are 'applicable in all parts of Wales'.

TAN 8 supplements PPW and provides technical advice and guidance on renewable energy projects. It refers in Section 3.12 to Hydro–Power and the development of 'run of river' schemes in Wales, that these are generally supported, although there may be occasions where account needs to be taken of potential ecological damage, and that there is need for close liaison with the NRW as licensing authority for abstraction and impoundment.

Policy VOE 10 offers general support for proposals which promote the provision of renewable energy technologies, providing they are located so as to minimise visual, noise, and amenity impacts and demonstrate no unacceptable impact on the interests of nature conservation, wildlife, natural and cultural heritage, landscape, public health and residential amenity.

Taken together, the contents of Planning Policy Wales, TAN 8, and the policy in the LDP provide support in principle for this type of renewable energy development subject to the detailed assessment of localised impacts, which includes taking into account the potential impacts on landscape, visual and residential amenity, and ecological interests.

Officers' view is that as the proposal is for a sub local authority scale Hydro project, the principle of this development is acceptable in general policy terms. The Council has consented to a number of hydro schemes in recent years. The key issues in this instance are considered to be the local impacts of the development, which are reviewed in the following sections of the report.

#### 4.2.2 Landscape/ visual impact

The general requirement to consider the impact of development on the landscape specific to a hydro scheme development is LDP policy VOE 10 which requires specific assessment / explanation of impact on the landscape, and mitigation proposals.

The site is not located in an area with statutory landscape designations. The turbine would be sited on a weir on an existing river. The powerhouse is the largest above ground element of the development and would measure 3.8 metres by 6.3 metres, with an overall height of 3.8 metres, and would comprise a larch clad building with a slate roof. Concerns have been raised that the development would have an impact on the visual amenity of the area, including the loss of trees. It is suggested that NRW have shown no awareness of the smaller hydro scheme at Cefn and that the impact of the proposed development would be more significant than that one. The Council's Tree Consultant has no objections to the proposals and has confirmed there are no Native Black Poplars affected.

In accepting that the turbine house would be visible on the river bank, considering the size and detailing of the building, it is not considered that its visual impact and that of the other elements of the scheme would be unacceptable when completed, and following the reinstatement of the surrounding land. The design of the turbine house would be in keeping with traditional buildings in the area. Whilst there are proposals to remove trees as part of the scheme, the extent of loss is limited and is of no concern to the Tree Consultant. Officers' opinion is that the proposal would not have unacceptable impact on landscape or visual amenity, and is not in conflict with national and local planning policy.

#### 4.2.3 Residential Amenity including noise

Local Development Plan Policy VOE 10 seeks to ensure development does not have an adverse impact on residential amenity, and this would include assessment of the potential noise and general amenity impacts on local residents from any renewable energy project.

The turbine equipment to be located in the turbine house has the potential to generate noise. Information submitted with the application states that this can be minimised via design, and given the nearest dwelling would be 130 metres to the north west of the site, there will be no operational noise issues.

Having regard to the location of residential properties adjacent to the field where the proposed turbine house is to be located, Officers' opinion is that the imposition of a condition to ensure sound attenuation is put in place would provide adequate safeguards for occupiers of these properties. In combination with controls over construction phase operations, this would ensure the tests in the relevant planning policy, VOE 10 are met.

#### 4.2.4 Ecology

The general requirement to consider the impact of development on biodiversity interests is set out in PPW Chapter 5, TAN 5 and LDP policy VOE 5. Specific to a hydro development is LDP policy VOE 10 which requires specific assessment / explanation of impact on biodiversity, and mitigation proposals. VOE 5 requires proposals which may have an effect on protected species or designated sites of nature conservation to be supported by a biodiversity statement having regard to the County biodiversity aspiration for conservation, enhancement, and restoration of habitats and species.

A Phase 1 Habitat Survey has been undertaken to cover amphibians, badgers, bats, birds and reptiles. The survey includes recommendations for mitigation and enhancements. A tree survey, tree constraints plan and tree protection plan has been submitted with the application. Eleven individual trees have been identified for removal to facilitate the development. The Council's Biodiversity Officer has considered the details and has advised that she is satisfied that the ecological surveys undertaken are suitable and commensurate with the development, and agrees with the conclusions, offering no objection, provided the recommended mitigation and enhancement measures are conditioned and followed. NRW have expressed a similar view. A felling licence has been obtained for the tree felling from NRW. As noted above, there are no objections from the Council's Tree Consultant. A number of concerns have been raised by private individuals over the adequacy of the ecological information with the application, and the potential impact on the fish population from the detailing of the proposals, including comments on the potential for noise from the turbine mechanism on migrating fish.

Officers' opinion, informed by the responses of consultees, is that there is adequate information on ecological interests to assess the impacts of the development. These indicate there are appropriate reasonable avoidance measures and mitigation proposed in relation to statutory protected species, which can be secured through the use of planning conditions. Providing the development works are undertaken in strict accordance with the recommendations, mitigation and avoidance measures identified in the Habitat Survey and Tree Survey, it is not considered there would be any unacceptable ecological impacts.

In relation to impacts on fishing interests, Officers understanding is that points raised by objectors in relation to salmon and sea trout movement and migration, breeding and river invertebrates, are considerations properly dealt with by NRW as part of their environmental permitting processes outside planning legislation, which include fish pass approval and abstraction licencing. Consequently, whilst respecting the concerns voiced over potential impacts on fish populations and fishing rights, in this context, it is not considered appropriate to attach significant weight to these matters as a factor in the determination of the planning application.

#### 4.2.5 Flooding and water quality

Planning Policy Wales Section 13.2 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, provides a detailed framework within which risks arising from different sources of flooding should be assessed.

The site is within a C2 flood risk zone, located within the 1 in 1000 year flood outlines on the NRW indicative Flood Map. A Flood Consequences Assessment (FCA) has been submitted



in support of the planning application. This acknowledges that the turbine house may be susceptible to flooding and indicates this will be built with flood resistant construction methods and techniques. NRW have confirmed that the contents of the FCA are generally commensurate to the type, nature and scale of the development and welcome the applicant's intention to incorporate flood proofing measures within the turbine house. NRW have also confirmed that Flood Defence Consent is required for the development as it is within 7 metres of the bank top of a main river, and an application for Flood Defence Consent has been granted for the development. NRW require that there is no adverse impact to water quality as a result of this proposal. Members will note from the summary of representations that there are considerable objections lodged at the potential implications of the proposals on the River Elwy, in particular in respect of river flow, and flooding.

In considering an application involving a range of detailed 'technical' elements, many of which are subject to controls/ licencing under legislation outside planning control, Members may understand that Officers take the view that due account has to be taken of advice from statutory consultees in concluding on the merits of a proposal. In acknowledging objectors concerns over many aspects of the development, Natural Resources Wales are a key statutory consultee with specific regulatory and legal responsibilities in relation to proposals for a hydro electric scheme, and Officers consider it is wholly reasonable for the Local Planning Authority to rely on the conclusions of NRW in respect of matters relevant to the determination of this planning application. Having regard to the background specific to this application, Officers are satisfied that the applicants submissions have been fully considered by NRW in respect of environmental permitting, flood risk, flood defence consent and pollution control, and waste management, and significantly, NRW have confirmed they accept that the details and risks associated with these elements of the development can be sufficiently managed and controlled by conditions on any planning permission and through their own licencing processes, to deem the development acceptable. They offer no objection to the planning application.

On the basis of the NRW responses, Officers believe the flooding matters relevant to the determination of the planning application have been given due consideration and that subject to imposition of suitable conditions relevant to the land use planning aspects of the proposals, there are no reasonable flood risk grounds to resist the grant of planning permission in this instance. In concluding on this matter, it has to be recognised that NRW have separate controls over the detailing of the hydro scheme, including the construction and in-river arrangements impacting on water flow, which are matters dealt with under legislation outside the control of the Local Planning Authority.

#### 4.2.6 Archaeology

The general requirement to consider the impact of development on archaeology and cultural heritage is set out in PPW Chapter 6.5, LDP policy VOE 10 and Welsh Office Circular 60/96 'Planning and the Historic Environment' which states the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether than monument is scheduled or unscheduled (para 10). Specific to a hydro scheme, policy VOE 10 requires specific assessment / explanation of impact on cultural heritage.

The scheme is proposing to utilise the existing weir associated with the former Wigfair Isaf Mill. The weir dates to at least 1874 and CPAT advise that its origin may even be earlier. CPAT have suggested a pre-commencement condition is applied to ensure a pre-development survey of the site is carried out and a watching brief undertaken during building works, in accordance with the guidance set out in Circular 60/96 regarding the use of conditions to protect archaeological monuments.

Subject to the inclusion of a pre-commencement condition requiring a pre development survey, it is not considered there would be any adverse impact on archaeological features or cultural heritage.

#### Other matters

Members will appreciate that representations received raise a number of issues. The main land use planning ones are considered above.

Concerns over the adequacy of the summary of representations and the absence of reference to individuals in the list of objectors is noted. Officers have gone through the application file to ensure the list of objectors is accurate at the time of drafting the report. Any additional representations received between the completion of the report and the Committee meeting will be noted and summarised in the late information sheets. It is adopted practice to summarise representations and not to attach letters of representation to Committee reports. Officers believe the summary of representations in the redrafted report provides a fair outline of the main points raised in relation to the proposals.

In terms of land ownership the Applicants have advised that they have served notice on the land owner and are satisfied that that no further notices are required in connection with the planning application.

In relation to the maintenance, management and long term plans for the scheme, the Agents have advised that once the project is installed then it would not be decommissioned for the foreseeable future. North Wales Hydro Power would be ultimately responsible for the on-going maintenance of the scheme. There would be a webcam located on the side of the turbine house so as to allow the monitoring of debris build up and to monitor the operation of the fish pass and the hydroelectric scheme. If debris collects on the debris screen, which is inevitable, then it will be removed as appropriate depending on the size of the debris. The debris screen is before both the fish pass and the hydro turbine and therefore should debris collect the turbine will be impacted on first as the fish pass has priority over the turbine for water flow. It is therefore considered that there is no more incentive required for removal of debris as the build-up of debris will mean the output of the turbine is reduced and the scheme is effectively losing revenue.

The potential impact of a development on fish stocks and the migration of fish, affecting the operation of the fishing rights are matters for Natural Resources Wales to consider as part of their licencing / approval processes in relation to the detailing of the fish pass and associated intake and discharge arrangements.

There will always be challenges to claims over Carbon reduction figures and efficiency figures on renewables schemes. Respectfully, this is not a determinant factor in the assessment of an application on this scale as there is general support for the contribution such schemes can make to the Government's renewables targets.

There are a number of comments on the need for safeguards such as a bond in relation to the construction, implementation, and future maintenance of the development, and a plea for a planning condition requiring approval of a maintenance programme in connection with the development from St Asaph City Council.

With due respect to the matters raised, Officers advice is that these are beyond the remit of the local planning authority. In relation to the bond issue, Officers' opinion is that in the context of controls exercisable by NRW, who impose conditions within their licencing / consents for a hydro development, it is not reasonable or necessary to impose such a requirement on the developer to cover contingencies if something goes wrong. In noting the City Council's comments, whilst accepting the County Council has the power to impose planning conditions on a development, it is understood that the NRW Abstraction Licence requires the licence holder to maintain the hydropower scheme, and the whole weir structure is integral to the hydropower scheme. Having regard to the consultation responses of NRW, it is considered that the integrity and maintenance of the weir will not have any material impact on the potential for flooding of St Asaph, and that by virtue of its size, the weir is simply not of significant enough scale to create any flooding issues whether it was present or not, or if for some reason it became degraded/damaged in the future.

There are a number of concerns over the neutrality / role of the NRW in the process, and requests that independent advice should be obtained, including a structural survey of the weir. In response, Officers have outlined in the report that due regard has to be given to the significant legal responsibilities and powers NRW have in the regulatory process involved in

the approval and operation of hydro schemes such as this. NRW are the Government's main environmental agency involved in the planning process, and a key statutory consultee for all planning authorities, with levels of expertise on highly technical matters, and it is not considered either appropriate or necessary for the Local Planning Authority to challenge their competence in respect of matters raised in relation to the current application. With regard to the current and future structural condition of the weir, this is a matter for consideration by NRW.

## **5. SUMMARY AND CONCLUSIONS:**

- 5.1 The application proposes a small hydro electric scheme on the River Elwy in a location to the south of St Asaph.
- 5.2 The proposals have given rise to considerable local reaction and a range of issues have been raised. The report attempts to address these matters to assist Members deliberations.
- 5.3 The report concludes that the principle of the development is acceptable in relation to current planning policies and guidance, and that having regard to objections and consultee responses, the impact of the scheme would not be unacceptable, subject to suitable controls through planning conditions.
- 5.4 The type of development proposed is heavily regulated by legislation outside the Council's control, administered by Natural Resources Wales. A number of detailed matters raised by objectors are considerations to be applied by NRW as part of their consenting processes.
- 5.5 Officers' conclusion, with respect to local concerns, is that the proposal meets the relevant policy requirements and that subject to controls would not have unacceptable local impacts.

## **RECOMMENDATION: GRANT-** subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Written confirmation of the date of the first generation of electricity from the development shall be provided to the Local Planning Authority no later than 1 calendar month after the event.
3. The development shall be carried out in accordance with the details set out in the Extended Phase 1 Habitat Survey and the Reasonable Avoid Measures set out in the 'Conclusions and Recommendations' section of the report shall be implemented.
4. If protected species are found to be present at the site during construction, no further development shall be carried out until appropriate protection and mitigation measures are submitted and approved in writing by the Local Planning Authority, in consultation with Nature Resources Wales.
5. If nesting birds are found to be present during construction, no further development shall be carried out during the bird breeding season until secondary surveys have been carried out, and the results of the surveys together with reasonable avoidance measures to deal with the presence of nesting birds during the construction phase have been submitted to and approved in writing by the local planning authority.
6. The development shall be implemented in accordance with the approved construction method statement and any deviation from the method referred to in this statement shall be approved in writing by the Local Planning Authority.
7. **PRE--COMMENCEMENT**  
No development shall be permitted to commence on the turbine house until the written approval of the Local Planning Authority has been obtained to the detailing of the sound attenuation measures to limit internally generated noise to an agreed level at the façade of any noise sensitive properties in the locality.

8. All electricity cables from the turbine house to the grid connection point shall be laid underground and no additional ancillary equipment such as substations or equipment cabinets shall be permitted without the prior written approval of the local planning authority.
9. If the development hereby permitted ceases to operate for a continuous period of not less than 12 months, within 6 months of that time, the turbine house and all other structures on or above the ground shall be dismantled, the materials removed from the site and the site restored to the satisfaction of the local planning authority.
10. **PRE-COMMENCEMENT CONDITION**  
No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the archaeological curator for the Local Planning Authority. The archaeological programme of work will be undertaken and completed in accordance with the standards laid down by the Institute for Archaeologists and MoRPHE (2006). On completion appropriate reports and an archive assessment will be submitted for approval to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust, 41 Broad Street, Welshpool, Powys, SY21 7RR. tel: 01938 553670.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and for monitoring purposes.
3. In the interests of protecting biodiversity and to ensure the scheme will not be detrimental to the favourable conservation status of any protected species.
4. In the interests of protecting biodiversity and to ensure the scheme will not be detrimental to the favourable conservation status of any protected species.
5. In the interests of protecting biodiversity and to ensure no active nests have been built in within the work area or that may be disturbed by undertaking the works.
6. In the interests of protecting residential amenity.
7. In the interests of protecting residential amenity.
8. In the interests of visual amenity.
9. To ensure the long term reinstatement of the site, in the interests of landscape and visual amenity.
10. In the interests of archaeological recording.

#### **NOTES TO APPLICANT:**

You are advised that the grant of planning permission does not permit the development to proceed without the relevant permits / approvals from NATURAL RESOURCES WALES, and you should ensure all consents are obtained from NRW prior to the commencement of works on site.

NATURAL RESOURCES WALES advice:

River Elwy is a Main River. Under Water Resources Act 1991 and Land Drainage Byelaws, prior written consent from NRW is required for any proposed works or structures, in, under, over or within 7m of the top of the bank of a Main River.

The works should comply with the guidance contained in NRW PPG5: Works and maintenance in or near water: <http://publications.environment-agency.gov.uk/PDF/PMHO1107BNKG-E-E.pdf>

Any excavation material or building waste generated must be disposed of in accordance with section 34 of the Environmental Protection Act 1990.

Any activity of importing waste into the site must be registered as a permitted activity under the Environmental Permitting Regulations 2007.