

Adran yr Economi a'r Seilwaith
Department for Economy and Infrastructure



Objection Ref OBJ0270

Llywodraeth Cymru
Welsh Government

File Ref WG/REB/OBJ0270.12 – GWT/Lawton

Response to Objector's Evidence: Prof. Sir John Lawton
(Gwent Wildlife Trust)

1. GROUNDS FOR OBJECTION

1.1. Details

- 1.1.1. Professor Sir John Lawton on behalf of Gwent Wildlife Trust submitted a Statement of Evidence dated February 2017 in relation to the draft statutory Orders associated with the Welsh Government's proposals for the M4 Corridor around Newport, which has been received via the Programme Officer.
- 1.1.2. The Welsh Government understands the evidence submitted within both Statements to be based on the following:
1. Considers that the Gwent Wildlife Trust has provided the Inquiry with a very detailed description of the impacts of the proposed M4 and the consequence of these impacts includes threats to a whole range of species of conservation concern, including European protected species.
 2. Considers that the proposed M4CaN Scheme is designed to create "less, smaller, worse and fragmented"; less habitat designated as SSSI or SINC, resulting in smaller areas surviving for nature conservation; potentially deteriorating habitat conditions (through alteration of drainage patterns, or pollution for instance) in surviving habitat patches; and increased isolation of sites cut through by the road and associated infrastructure. Considers that there is bound to be a negative impact on a wide range of protected species, exactly as Gwent Wildlife Trust has stated (though without very detailed studies, which do not appear to have been done, exactly how many, and which, species, he cannot say with certainty).
 3. Wishes to express agreement with the professional assessments of colleagues (for example Professor Altringham) that the so-called 'mitigation measures' proposed by those promoting this scheme are unlikely to be effective. Considers that many of the measures proposed are of unproven viability, and in some cases even appear impossible; they will not, in my opinion, significantly reduce the detrimental impacts on wildlife that will inevitably follow if this scheme goes ahead.
 4. States that the Gwent Levels is one of the largest surviving areas of ancient grazing marshes and reed systems in the UK, and the largest in Wales. Considers that it is a jewel in the crown of Welsh wildlife

conservation. Considers that, unsurprisingly, it has a very high level of protection, both statutory and through the planning system. Absolutely baffled by the Welsh Government proposals to destroy and heavily modify parts of the area, in direct contravention of; section 6 (1) Environment (Wales) Act 2016; the Resilient Wales goal of the Well-being of Future Generations (Wales) Act 2015; and the Wildlife and Countryside Act 1981 (as amended).

2. REBUTTAL

2.1. Points Raised

2.1.1. Some of the above points have already been addressed in previous proofs of evidence. Others are dealt with by topic by the relevant witness in the following sections, in addition to their general proofs of evidence, to which readers should also make reference in their entirety for a full understanding of the Welsh Government's case. For ease of reference the places where the above points are addressed in this Rebuttal are listed in the table below:

Objector's point reference	Rebuttal paragraph reference	Objector's point reference	Rebuttal paragraph reference
1	2.2.1	3	2.2.3
2	2.2.2	4	2.2.4

2.2. Keith Jones and Jon Davies (Ecology)

2.2.1. Response to **Point 1** (Considers that the Gwent Wildlife Trust has provided the Inquiry with a very detailed description of the impacts of the proposed M4 and the consequence of these impacts includes threats to a whole range of species of conservation concern, including European protected species.):

1. We do not agree that the Gwent Wildlife Trust has provided a "very detailed description of the impacts." Please refer to the ES and the ES Supplements which provide this.
2. Gwent Wildlife Trust witnesses have submitted evidence comprising critiques rather than independent assessments of likely impacts. In addition to this response to Sir John Lawton's evidence, rebuttals have also been submitted by the Welsh Government's expert witnesses to the evidence of:
 - 1) OBJ0270 John Altringham;
 - 2) OBJ0270 Richard Bakere;
 - 3) OBJ0270 Lorraine Whitmarsh;
 - 4) OBJ0270 Kevin Anderson;
 - 5) OBJ0270 David Boyce;

- 6) OBJ0270 Geoff Liles;
- 7) OBJ0270 Terry Marsden;
- 8) OBJ0270 John Whitelegg;
- 9) OBJ0270 Calvin Jones;
- 10) OBJ0270 Iolo Williams;
- 11) OBJ0270 Michael Webb;
- 12) OBJ0270 Lindi Rich;
- 13) OBJ0270 Neil Ward;
- 14) OBJ0270 James Byrne;
- 15) OBJ0271 Richard Barnes (Woodland Trust).

3. These rebuttals answer in detail the points made by the various GWT witnesses, often with reference to the particular parts of the documentation (whether ES, AIES or mitigation strategies) where the detail is provided. In many cases, it was clear that the witnesses had not seen the mitigation measures proposed, especially where the detail has been set out in specific Mitigation Strategies. This was also apparent in cross examination.

2.2.2. Response to **Point 2** (Considers that the proposed M4CaN Scheme is designed to create “less, smaller, worse and fragmented”; less habitat designated as SSSI or SINCC, resulting in smaller areas surviving for nature conservation; potentially deteriorating habitat conditions (through alteration of drainage patterns, or pollution for instance) in surviving habitat patches; and increased isolation of sites cut through by the road and associated infrastructure. Considers that there is bound to be a negative impact on a wide range of protected species, exactly as Gwent Wildlife Trust has stated (though without very detailed studies, which do not appear to have been done, exactly how many, and which, species, he cannot say with certainty)):

1. Clearly the Scheme has not been “designed” specifically to have adverse effects on ecology. The Scheme is designed to fulfil the Scheme objectives. In so far as there would be adverse effects on ecology these have been identified and assessed, and so far as is practicable and reasonable, mitigation measures have been proposed. Whilst it is

certainly true that any new road, especially a motorway, can lead to fragmentation and the deterioration of retained habitats, the route and detailed engineering and environmental design have specifically been developed with a view to reducing these impacts. For example, numerous culverts and other safe crossings have been included to make the Scheme permeable to wildlife, whilst the drainage design and construction details have been designed specifically to ensure that water quality within the Levels is protected, not only during the construction phase but also operation. Furthermore, the Reen Mitigation Strategy and SSSI Mitigation Strategy have both been developed (in close consultation with NRW) specifically to lead to biodiversity enhancements in the medium to longer term, especially with regard to European (and UK) Protected Species, the SSSI qualifying features, and those habitats and species listed under Section 7 of the Environment (Wales) Act 2016.

2. The effect of building and operating the new section of motorway on the environment is set out in the Environmental Statement (ES) (Document 2.3.2) and its Supplements (Documents 2.4.4, 2.4.14, 2.5.1, 2.6.1). The Environmental Statement clearly identifies the magnitude and significance of effects on a wide range of environmental features and assets.
3. In particular, Chapter 10 Ecology and Nature Conservation of the March 2016 Environmental Statement addresses the effects of the Scheme on the interests referred to in the Objector's evidence, including plant species, aquatic and terrestrial invertebrates, amphibians, reptiles, mammals and birds. The March 2016 Environmental Statement and its Supplements describe the ecological surveys which have been carried out with respect to these features (with the survey reports appended), the potential effects of the Scheme, the mitigation measures which are proposed, and the significance of the potential effects of the Scheme.
4. The ecology surveys carried out to inform the ES (including supplements) have been extensive and have considered those species considered to be of most importance in the context of the Scheme, both in terms of their conservation status and susceptibility to adverse impacts as a result of the Scheme, and for which specific mitigation measures are required. In all cases, the scope of the survey work was agreed in advance with NRW. The extensive planting and habitat establishment proposed as part of the

scheme, and shown on the Environmental Management Plan (EMP), and the habitat enhancements which would be implemented across the three SSSI mitigation areas, will benefit a wide range of wildlife, not just those species specifically addressed in the ES.

5. Draft mitigation strategies for the Gwent Levels SSSIs (both the reens and the grazing marsh), dormouse, bats, water vole and great crested newt were appended to the December 2016 Environmental Statement Supplement, and revised drafts of the Gwent Levels SSSI, bats and dormouse strategies have been submitted to the Public Inquiry.
6. Detailed evidence on these matters is presented in the Proofs of Evidence of Dr Peter Ireland (WG 1.7.1), Mike Vaughan (WG 1.17.1), Dr Keith Jones (WG 1.18.1), Jonathan Davies (dormouse and water vole) (WG 1.19.1), Richard Green (bats) (WG 1.20.1) and Simon Zisman (birds) (WG 1.21.1).
7. At the time of writing, a number of Statements of Common Ground have been agreed between Welsh Government and NRW, including those covering effects on Nationally Designated Sites, Water Quality, Dormouse and Bats.
8. The duty under Section 7 of the Environment Wales Act states that, without prejudice to section 6, the Welsh Ministers must—
 - a) take all reasonable steps to maintain and enhance the living organisms and types of habitat included in any list published under this section, andThe requirement under section 6 is that:
 - (1) A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions. The evidence demonstrates that the Welsh Government has taken all steps that are reasonable with respect to maintaining and enhancing the relevant habitats and species insofar as that is consistent with the proper exercise of its functions regarding the motorway network.

- 2.2.3. Response to **Point 3** (Wishes to express agreement with the professional assessments of colleagues (for example Professor Altringham) that the so-called 'mitigation measures' proposed by those promoting this scheme are

unlikely to be effective. Considers that many of the measures proposed are of unproven viability, and in some cases even appear impossible; they will not, in my opinion, significantly reduce the detrimental impacts on wildlife that will inevitably follow if this scheme goes ahead).

1. Professor Altringham and other colleagues' evidence have separate rebuttals as outlined above, which should be referred to, as the specific concerns regarding the effectiveness of mitigation are addressed in detail. The assessment and mitigation measures take a precautionary approach as published in the ES and its Supplements. As indicated under Point 1, it is clear that many of the objectors' witnesses had not seen the mitigation measures proposed, especially where the detail has been set out in specific Mitigation Strategies.
2. With the exception of the bat mitigation, which it is agreed it will be difficult to make 100% effective owing to the constraint on the vertical alignment (hence the assessment of significant effects in the ES), most other mitigation strategies have been accepted by NRW as sufficiently likely to succeed that they have been able to remove their objections.

2.2.4. Response to **Point 4** (States that the Gwent Levels is one of the largest surviving areas of ancient grazing marshes and reed systems in the UK, and the largest in Wales. Considers that it is a jewel in the crown of Welsh wildlife conservation. Considers that, unsurprisingly, it has a very high level of protection, both statutory and through the planning system. Absolutely baffled by the Welsh Government proposals to destroy and heavily modify parts of the area, in direct contravention of; section 6 (1) Environment (Wales) Act 2016; the Resilient Wales goal of the Well-being of Future Generations (Wales) Act 2015; and the Wildlife and Countryside Act 1981 (as amended)):

1. The Scheme is not in contravention of this legislation. Keith Jones' proof (WG 1.18.1) at 7.3.20-7.3.24 responds to NRW's similar comments regarding WCA s28G and the Environment (Wales) Act 2016 s6 and refers to John Davies's proof (WG 1.23.1) and states that in testing options using WelTAG, selecting a route and making highway design choices that would minimise the effect on the SSSIs, and developing a comprehensive SSSI mitigation strategy, the Welsh Government has

sought to maintain and enhance biodiversity insofar as that is consistent with the proper exercise of its functions regarding the motorway network.

2. As indicated in the evidence of both Keith Jones and Jon Davies, the more significant threat to the Gwent Levels is from farming practices that are leading to the eutrophication of the reens across the whole area, and the resultant unfavourable status of the SSSIs. The M4CaN, which would only lead to the loss of approximately 2% of the Levels, at the very northern edge, would also lead to the creation of three SSSI Mitigation Areas designed specifically to reverse some of the losses to biodiversity experienced across the Levels in recent years.
3. John Davies explains in his proof of evidence (WG 1.23.1) that the process of selecting the M4CaN Plan and the subsequent development of the Scheme to deliver that Plan was in line with the 5 ways of working now set out in the 2015 Act, and hence in accordance with the principle of sustainable development. He also concludes, in the light of the commitment to deliver an M4 relief road in the 5-year programme for government, that the Project would contribute to the Welsh Government's well-being objectives and hence to achievement of the well-being goals defined in the 2015 Act.

2.2.5. We confirm that the statements of truth and professional obligations to the inquiry from our main proofs still apply.