

Public Document Pack



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PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE

Thursday, 14th June, 2018

The use of Welsh by participants is welcomed. If you wish to use Welsh please inform us by noon, two working days before the meeting

SUPPLEMENTARY PACK

1.	MINUTES OF THE PREVIOUS MEETING	2
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 24 May, 2018 as a correct record.

(Pages 1 - 8)

1.1. Updates

Any Updates will be added to the Agenda, as a Supplementary Pack, wherever possible, prior to the meeting.

(Pages 9 - 30)

2.	APPEAL DECISIONS	6
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To receive the Planning Inspector's decisions regarding appeals.

(Pages 31 - 36)

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MINUTES OF A MEETING OF THE PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE HELD AT COUNCIL CHAMBER - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON THURSDAY, 24 MAY 2018

PRESENT

County Councillor K Lewis (Chair)

County Councillors E M Jones, L V Corfield, H Hulme, M J Jones, K Laurie-Parry, H Lewis, I McIntosh, D R Price, G Pugh, D Selby, K S Silk, E Vaughan, G I S Williams, D H Williams, J Williams and R Williams

1.	APOLOGIES
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Apologies for absence was received from County Councillor L George, who was on other Council business. County Councillors F. Jump and J. Wilkinson were appointed to the Committee last Thursday and had not yet received the required training to enable them to participate in the Committee.

2.	MINUTES OF THE PREVIOUS MEETING
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The Chair was authorised to sign as a correct record the minutes of the meetings held on 3 and 17 May, 2018.

Rights of Way

3.	DECLARATIONS OF INTEREST
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County Councillor E. M. Jones declared a personal interest in Item 5 - Abandonment of diversion Order and Opposed diversion & extinguishment Orders: Determination by Welsh Government, as local member he was involved at one stage in order to progress the diversion of the bridleway.

County Councillors K Laurie-Parry and R Williams advised that they would leave the meeting during the morning to attend other Council business.

4.	APPLICATIONS TO CORRECT THE REGISTERS OF COMMON LAND AND TOWN OR VILLAGE GREENS – METHOD OF DETERMINING APPLICATIONS
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The Committee considered the report regarding the process for considering applications to correct the Registers of Common Land and Town and Village Greens.

The Committee was advised that Members do not have an “official role” as “local members” in such applications. Officers advised that a protocol would be

developed to advise Members how they should act in respect of such applications. This protocol would be circulated to all Councillors and training provided as appropriate.

County Councillor R Williams left the meeting to attend other Council business.

RESOLVED	Reason for decision
That the proposals detailed under points 20, 21(a) to (c), 22 and 23 in the officer's report be adopted.	To determine applications and proposals made under sections 19 and 22 and Schedule 2 of the Commons Act 2006, where they are not referred to the Planning Inspectorate.

County Councillor K Laurie-Parry left the meeting to attend other Council business.

County Councillor E. M. Jones having declared an interest left the meeting room for the next item.

5.	ABANDONMENT OF DIVERSION ORDER AND OPPOSED DIVERSION & EXTINGUISHMENT ORDERS: DETERMINATION BY WELSH GOVERNMENT
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The Committee considered the Abandonment of diversion Order and Opposed diversion & extinguishment Orders: Determination by Welsh Government in respect of Diversion Order 2016 – Part of bridleway GD1457; Diversion Order 2017- Part of bridleways GD1457 & GD1461; Extinguishment Order 2017 – Part of Footpath GD1441 at Mill Cottage and Llan-y-felin, Gladestry (Community of Gladestry).

RESOLVED	Reason for decision
1. That the file be sent, along with an officer's report in support of the Orders, to the Welsh Government, so that the diversion Order made in 2017 (as at appendix C of the officer's report) may be modified by the Planning Inspectorate on their behalf. 2. That the diversion Order made in 2016 for bridleway GD1457 (part), as shown in appendix A [of the officer's report] be formally abandoned and not confirmed.	1. To modify the diversion order. 2. To formally abandoned and not confirm the diversion order.

County Councillor E. M. Jones resumed his seat in the Committee.

Planning

6. DECLARATIONS OF INTEREST

(a) There were no declarations of interest. However, later in the meeting County Councillor K Silk declared a personal interest in application P/2017/1437 as she knew an individual who was speaking as an objector.

(b) The Committee noted that no Member requested that a record be made of their membership of a Community Council where discussion had taken place of matters for the consideration of this Committee.

(c) The Committee noted that no Member (who is a member of the Committee) would be acting as 'local representative' in respect of any application on the agenda.

(d) The Committee noted that County Councillor A Jones (who is not a member of the Committee) would be speaking as the 'local representative' in respect of application P/2017/1096.

7. PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE

The Committee considered the report of the Head of Regeneration, Property and Commissioning (copies filed with the signed minutes).

7.1 Updates

The Members confirmed that they had received and had time to read the update circulated the previous day and prior to the meeting.

7.2 P/2017/1437 Land at Dol y Garreg, Llanwrthwl, Llandrindod Wells, Powys LD1 6NW

Grid Ref: 296020.15 265782.38

Valid Date: 08/12/2017

Officer: Karen Probert

Community Council: Llanwrthwl Community Council

Applicant: Mrs N Wozencraft, N Wozencraft and Son, Swn y Glyn, Rhayader, Powys LD6 5AW

Location: Land at Dol y Garreg, Llanwrthwl, Llandrindod Wells, Powys LD1 6NW

Proposal: Full : Erection of a pullet rearing unit, feed silos and all associated works

Application Type: Application for Full Planning Permission

County Councillor K Silk sought advice from the Solicitor regarding the fact that she knew one of the objectors. The Solicitor advised that if this was a close acquaintance the member should consider public perception. County Councillor K. Silk declared a personal interest as she knew an objector but decided that this was not a prejudicial interest.

The following spoke against the application: Mr V Harris, Mrs P Knight, Mr A Fuest, Mrs H Parker and Mr R Tyler.

The following spoke in support of the application: Mrs N Wozencraft applicant, Mr G Price, Agent, Mr P Wozencraft, applicant's husband and Mr O Wozencraft, applicant's son.

In response to questions regarding an Environmental Impact Assessment [EIA], the Principal Planning Officer advised that the Planning Authority had requested an EIA and the applicant had made a screening direction to the Welsh Government. The latter directed that the development was not EIA development within the meaning of the 2017 Regulations.

The Planning Officer advised that a revised Manure Management Plan had been submitted and the manure would be removed every cycle and taken to an anaerobic digester. The Chair adjourned the meeting to enable the officers to check with the applicant the location of the anaerobic digester. On resumption the Committee was advised that this was located in Tregarron.

In response to questions regarding the water supply and drainage, officers advised that the water supply was dealt with by other regulators and could also be a civil matter.

In response to further comments about the advice of Natural Resources Wales [NRW] the Principal Planning Officer advised that NRW and Environmental Health had not objected to the proposed development. She advised that when considering the application the cumulative impact of ammonia and the impact of the proposed development on the landscape and biodiversity had been taken into consideration. The Committee was advised that COGAP guidelines would be used to manage the overspreading of manure on the land.

The Principal Planning Officer advised that the bund, landscaping and colour of the silos would lessen the impact of the proposed development.

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report which is filed with the signed	As officers recommendation as set out in the report which is filed with the signed minutes.

minutes.	
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The Committee adjourned for lunch at 1240 hrs and reconvened at 1310 hrs.

County Councillors L Corfield and J. Williams left the meeting.

County Councillor K Laurie-Parry and R Williams returned to the meeting.

7.3 P/2017/0549 Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX

Grid Ref: 296106.95 288790.36

Valid Date: 15/05/2017

Officer: Dunya Fourie

Community Council: Trefeglwys Community Council

Applicant: Mrs Fiona Jerman, CL & FE Jerman, Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX.

Location: Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX

Proposal: Full: Erection of a free range poultry unit (extension to existing unit), including feed silos and all associated works

Application Type: Application for Full Planning Permission

The Committee noted that this was an EIA development due to the cumulative number of birds in the area.

In response to a question, the Professional Lead Development Management advised that a covered manure management store had been approved in April 2018. The Planning Officer advised that NRW had considered the nitrogen levels and considered that the applicant had sufficient land to accommodate the level of manure for this proposed development and its other agricultural activities.

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	As officers recommendation as set out in the report which is filed with the signed minutes.

County Councillor D Price left the meeting.

7.4 P/2017/1096 Land at Gornal Farm, Four Crosses, Powys SY22 6RJ

Grid Ref: 327180.5 318311.55

Valid Date: 02/10/2017

Officer: Tamsin Law

Community Council: Llandysilio Community Council

Applicant: Mr P Davies P & S Davies, Gornal Farm, Four Crosses, Powys SY22 6RJ

Location: Land at Gornal Farm, Four Crosses, Powys SY22 6RJ

Proposal: Outline: Residential development for up to 20 dwellings, formation of a vehicular access, and all associated works

Application Type: Application for Outline Planning Permission

RESOLVED:	Reason for decision:
That the application be refused.	<p>1. The proposed development is considered to be unjustified development in the open countryside contrary to policies SP6 and H1 of the Powys Local Development Plan.</p> <p>2. Insufficient information has been provided to demonstrate that the development of a minerals safeguarding area is justified. The proposed development is therefore considered to be contrary to Policy DM8 and SP7 of the Powys Local Development Plan (2018), policy GP4 of the Unitary Development Plan (March 2010), Technical Advice Note 18 and Planning Policy Wales (9th Edition, 2016)</p> <p>3. Insufficient information has been provided to assess the impact of the proposed acoustic barrier on the Offa's Dyke Scheduled Ancient Monument. The proposed development is therefore contrary to Planning Policy Wales, TAN24 and LDP policy SP7.</p>

8.	DECISIONS OF THE HEAD OF REGENERATION AND REGULATORY SERVICES ON DELEGATED APPLICATIONS
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The Committee received for information a list of decisions made by the Head of Regeneration and Regulatory Services during the period between 26 April, 2018 and 16 May, 2018.

9.	APPEAL DECISION
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The Committee received a copy of the Planning Inspectorate's letter regarding the appeal in respect of application P/2017/0708 Land at Ty'n y Bryn Farm, Tregynon, Newtown. The Committee noted that the Inspector had upheld the appeal.

County Councillor K Lewis (Chair)

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Planning, Taxi Licensing and Rights of Way Committee Report

UPDATE REPORT

Application No:	P/2014/0009	Grid Ref:	300294.42 272355.33
Community Council:	St. Harmon	Valid Date:	Officer: 06/01/2014 Tamsin Law
Applicant:	Mr Carl Thomas, Beili Ddol Farm, Rhayader, Powys, LD6 5NS		
Location:	New Broiler Unit, Banc Gwyn, Llawrllan Hill, St Harmon, Rhayader, Powys, LD6 5NG		
Proposal:	Full: Erection of 2 broiler units, link control room, boiler building, feed bins, hard standing and access improvements		
Application Type:	Application for Full Planning Permission		

The reason for the update

Additional consultation response from Environmental Health has been received along with three letters of objection.

Consultation response

Environmental Health

Further to our conversation, Kevin Bray and myself have reviewed our comments in respect of this application.

We therefore wish to remove condition 17 and 19 from the suggested conditions. In relation to the noise condition the applicants noise assessment has demonstrated that noise from the fans onsite will not exceed WHO guidelines for sleep disturbance and therefore we would not object in respect of noise, also as the predictions show this by some margin then a condition is not required.

In relation to the odour condition and upon reflection we do not believe that this meets the tests in the planning circular. Odour from the units themselves does not usually cause an issue, odour problems generally result from manure management and other conditions have been set to control this. Therefore subject to the other conditions suggested we have no objection to this application.

Representations

Since the publication of the original Committee report two additional objections have been received and are summarised below;

- Concerns raised regarding the number and size of passing bays

- Increase in traffic on the highway
- Environmental concerns

CPRW

B & R CPRW commented on this application when the ES was uploaded to the website. Following publication of the Officer's Report we now wish to add further comment.

In view of the Well Being of Future Generations Act and the repeated Community Council objections and the large number of public representations objecting to this proposal we are disappointed that the Officer's Report gives little attention to public views. We are also disappointed that the Radnorshire Wildlife Trust representations is provided but not addressed in the Officer's Report.

Lesley Griffiths, Welsh Minister for Energy, Planning and Rural Affairs has written to the Chair of the Welsh Assembly Petitions Committee that LPAs must take into account views of bodies such as Wildlife Trusts (see WA Petitions website. Petition1305)

We have been unable to find the NRW assesment of cumulative impacts of ammonia emissions and nitrogen desposition mentioned in the OR (P31 para. 4) and cannot see any evidence that your authority has satisfied itself that cumulative imapcts of this development together with surrounding livestock units (given up to date background levels for ammonia emmisions and nitrogen deposition) on Gilfach Reserve are acceptable. This would be a matter for you rather than NRW. Nor is the Environment (Wales) Act mentioned in the list of Principle Planning Policies informing your decision.

We endorse Radnorshire Wildlife Trust's concerns about the risk from this site to a river system already under stress and note NRW advice to PCC Development Management about your Water Framework Directive duties.

The applicant has not been required to produce a manure management plan presumably because PCC have accepted the statement in the Design, Access and Planning Statement (DAPS) June 2014: "At the end of each flock cycle, the buildings are cleaned out and the manure removed using bobcat type machines and loaded directly into waiting vehicles, which are sheeted and the manure removed from the site. No manure will be retained on the site as this represents a disease risk to incoming flock of birds.". The recommended approval is tied to the DAPS via condition 2, it is therefore disappointing that proposed conditions nos. 20 and 22 are for poultry manure storage when a condition requiring no poultry manure storage or spreading on the holding from this site would be more appropriate. If PCC believe that manure might be stored an appropriate condition should require no development until a covered muck store had been applied for and permitted in writing. We believe that proposed conditions nos. 20 and 22 do not reflect any approval tied to the DAPS and fail to fulfil your WFD duties at such a sensitive site.

It is of great concern that PCC DM have accepted the DAPS statement that manure will be taken off site to anaerobic digesters or other biomass plants. This statement is not underpinned with evidence and we cannot understand to where the manure will be taken for these purposes. The recommended approval is tied to the DAS.

We note that condition no 14 for a tree planting scheme is tied to the DAS June 2014 and Site Layout Plan. It is unclear which plan is referred to as it is neither numbered or dated in the condition. It is of concern that this condition does not require the scheme to be

implemented within a defined time period, particularly as it serves a dual purpose of landscaping and biodiversity enhancement.

Officer Appraisal

Following review of their response Environmental Health provided a further response stating that the noise assessment demonstrated that noise from the fans on site would not exceed WHO guidelines and would not object to the development in respect of noise. As such they consider that the condition regarding noise was unnecessary.

They further comment that odour from such units do not usually cause an issue and consider that the condition regarding odour is not necessary. Environmental Health confirm that they do not object to the proposed development on odour.

An additional condition has also been attached to this report requiring adherence with the method of manure management outlined within the Design, Access and Planning Statement.

Issues surrounding highway safety and biodiversity impacts have been considered in the original officer report.

Conclusion

Having considered all statutory consultee responses and third party representations, due consideration has been given to the proposed development and its potential impact upon the amenity and character of the area in this locality.

Having visited the site, Officers are satisfied that the proposed development complies with the relevant policies within the Powys County Council Local Development Plan and the decision is one of conditional consent in line with the conditions as set out below.

The Environmental Information submitted has been considered in full in the determination of this application.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans and documents (drawing no's: IP/CT/01, IP/CT/02B and IP/DC/13 and documents; Environmental Statement, Design, Access and Planning Statement, Surface Water Management Plan dated 9th April 2014, Noise Impact Assessment dated 5th September 2014 and Surface Water Management Plan dated August 2017).
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit shall be erected without the consent of the Local Planning Authority.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 as amended or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used for any purpose other than that hereby authorised.
5. Any entrance gates shall be set back at least 15.0 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway.
6. Before any other development commences the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway and 90 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction thereafter.
7. Before any other development commences the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam binder course material for a distance of 15.0 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
8. Prior to the occupation of the broiler units the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 metres from the edge of the adjoining carriageway.
9. The centreline of any new or relocated hedge should be positioned not less than 1.0 metres to the rear of the visibility splay.
10. No storm water drainage from the site shall be allowed to discharge onto the county highway.
11. Prior to any works being commenced on the development site the applicant shall construct 5 passing bays, in locations to be agreed in writing by the Local Planning Authority. The passing bays shall be constructed up to adoptable standard before any other works commence on site.
12. The mitigation measures identified in the Baseline Ecological Site Audit Report produced by Betts Ecology dated December 2013 shall be adhered to and implemented in full and maintained thereafter.
13. The Mitigation and enhancement measures identified in Breeding Bird Survey Report produced by Betts Ecology dated June 2014 shall be adhered to and implemented in full and maintained thereafter.
14. The Native tree Landscaping Planting Specification referred to in the Design and Access Statement produced by Ian Pick dated June 2014 and shown on the Site Layout Plan

(drawing no. IP/CT/02B dated June 14) shall be adhered to and implemented in full and maintained thereafter.

15. No development shall commence until a detailed Planting Specification and Aftercare Scheme for the detention basin shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
16. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
17. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
18. No storage of manure shall be sited next to dwellings, place of work, and popular leisure areas and all stored manure shall be stored on level ground. No manure shall be stored over field drains or within 10 metres of a watercourse.
19. All vehicles used for the movement of manure off site shall be sheeted and/or fully covered.
20. All stored manure that needs to be covered shall be covered by the end of the day. The covering shall be tightly with polythene in such a manner as to leave no gaps and the edges of the polythene shall be tightly secured. All poultry manure that needs to be covered shall remain covered for a minimum period of 10 days before it is used.
21. Manure shall be managed in line with paragraph 1 page 5 of the Design, Access and Planning Statement.
22. Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays and Bank or Public Holidays.
23. No development shall commence until full engineering details and drawings for the provision and protection of all existing and proposed land drainage systems shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include arrangements for the surface water drainage of the site to be limited to 6 l/s maximum discharge, include a management and maintenance plan for the lifetime of the development or other arrangements to secure the operation of these land drainage and surface water systems throughout their lifetime. The development shall only take place in accordance with these agreed details and be fully completed before the site becomes operational.
24. No development shall commence until details of existing ground levels and proposed finished ground and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
4. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to Policy DM13 of the Powys Local Development Plan and Planning Policy Wales (2016).
5. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
6. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
7. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
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10. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
11. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
12. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
13. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
14. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.

15. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
16. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
17. To protect the local amenities of the local residents by reason of noise in accordance with DM13 of the Powys Local Development Plan 2018.
18. To avoid runoff and prevent deterioration of the local amenities in accordance with DM13 of the Powys Local Development Plan 2018.
19. To prevent spillage of manure and minimise odour dispersion and prevent population increase of insects in accordance with DM13 of the Powys Local Development Plan 2018.
20. To ensure that any flies or fly larvae are killed, prevent sudden increase of fly and other insect infestations and minimise smells and contamination of water in accordance with DM13 of the Powys Local Development Plan 2018.
21. To protect the local amenities of the local residents by reason of noise in accordance with DM13 of the Powys Local Development Plan 2018.
22. To protect the amenity of local residents from excessive noise, vibration and dust in accordance with DM13 of the Powys Local Development Plan 2018.
23. To ensure the existing land drainage systems are not compromised and, that the proposed surface water drainage systems for this development site are fully compliant with regulations and are of robust design.
24. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy DM4 of the Powys Local Development Plan (April 2018) and Planning Policy Wales (2016).

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird

- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Reptiles – Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

The maximum penalty that can be imposed - in respect of each offence - is a fine of up to 5,000 pounds, six months imprisonment or both.

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Case Officer: Tamsin Law- Principal Planning Officer
Tel: 01597 82 7230 E-mail: tamsin.law@powys.gov.uk

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0764

Grid Ref: 294795.69 274076.13

Community Council: St. Harmon

Valid Date: 17/07/2017
Officer: Holly-ann Hobbs

Applicant: Zephyr Investments Ltd, 11th Floor 200 Aldergate Street, London, EC1A 4HD.

Location: Bryn Titli Wind Farm, North of Rhayader, South of Llangurig, Powys.

Proposal: Section 73 application for variation of condition no. 6 and condition no's. 11-18 of planning permission R4297/D

Application Type: Application for Removal or Variation of a Condition

REPORT UPDATE

Further to the publication of the original Committee Reports, Members are advised that the following consultation response has been received by Development Management;

Consultee Response

County Ecologist

Thank you for consulting me with regards to Planning application P/2017/0764 which concerns a Section 73 application for variation of condition no. 6 and conditions no.s 11-18 of planning permission R4297/D at Bryn Titli Wind Farm North of Rhayader, south of Llangurig, Powys (SN947740).

The site concerned with the application is within 54m of the Elenydd-Mallaen SPA and within 600m of the River Wye SAC as such an assessment of the project to determine whether there would a Likely Significant Effect to the SPA and SAC and or their associated features has been carried out.

The applicant has submitted a HRA Screening Report produced by BSG Ecology (reference 8773.01 BTE HRA APPR 29062017) dated 29th June 2017.

I have reviewed the HRA Screening Report and the assessment of Likely Significant Effect to the SPA and SAC which concludes that:

- There would be no likely effect on the River Wye SAC as a result of the proposed life extension of Bryn-Titli Windfarm
- Assessment of collision risk for features of the Elenydd-Mallaen SPA (merlin and red kite) concluded that there would No Likely Significant Effect to merlin or red kite populations as result of the proposed life extension of Bryn-Titli Windfarm either alone or in combination with other plans or projects.

NRW have also reviewed the information submitted and have stated in their response dated 26th September 2017 that they agree with the conclusion that the proposal to extend the life of the wind farm 'would not result in any significant impact on ornithology'.

In light of the information provided in the HRA Screening Report and associated ecological assessment reports as well as the comments provided by NRW in relation to the assessments I confirm that I agree with the conclusions that there would be:

- No likely effect on the River Wye SAC as a result of the proposed life extension of Bryn-Titli Windfarm
- No Likely Significant Effect to the Elenydd-Mallaen SPA merlin or red kite populations as result of the proposed life extension of Bryn-Titli Windfarm either alone or in combination with other plans or projects.

Revised Conditions

Conditions:

1. The development hereby permitted shall cease operation 33 years after the first export of electricity from the site.
2. Not less than 12 months before the expiry of the permission, a decommissioning and site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning and site restoration scheme shall include provision for the removal of all above-ground elements; the removal of turbine bases to 0.6m below ground level; and restoration of the disturbed areas. The decommissioning and site restoration must be completed in accordance with the approved scheme within the period set out in the approved scheme.
3. A Traffic Management Decommissioning Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the decommissioning of the site. Thereafter, the development shall be undertaken strictly in accordance with the Traffic Management Decommissioning Plan as approved.
4. Not less than 6 months prior to the expiry of planning permission R4297D, an access scheme shall be submitted to and approved in writing by the Local Planning Authority. The access scheme shall include: a plan identifying the alternative waymarked route; provision for the replacement of the gate at the site entrance; and provision for the installation of a pedestrian gate on footpath 322 near T15. The access scheme shall be implemented as approved prior to the expiry of planning permission R4297D, i.e by 29th June 2019.
5. The rating level of noise emissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty and amplitude modulation (AM) penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from the table attached to these conditions and:

- A) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant and provide a written protocol to be approved by the Planning Authority. The protocol shall describe the procedure to assess the level and character of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning

Authority shall set out as far as possible the time or meteorological conditions to which the complaint relates and time or conditions relating to tonal noise or AM if applicable. Measurements to assess compliance with the noise limits shall be undertaken in accordance with the assessment protocol which shall be approved in writing by the Planning Authority.

B) Where there is more than one property at a location specified in the table attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the table attached to these conditions, the wind farm operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the table to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the qualified Acoustician. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

C) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the protocol within 2 months of the date of the approval of the protocol by the Planning Authority unless otherwise agreed by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the Planning Authority. Certificates of calibration of the equipment shall be submitted to the Planning Authority with the report.

D) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 5 of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's initial assessment unless otherwise agreed by the Planning Authority.

6. In the event of the wind turbines failing to produce electricity supplied to the local grid for a continuous period of 9 months, then it will be deemed to have ceased to be required. The wind turbines and ancillary equipment shall be dismantled and removed from the site in accordance with a decommissioning scheme to be submitted to and approved in writing by the Local Planning Authority within 3 months of the cessation date.
7. The blades of all the wind turbines hereby approved shall all turn in the same direction.

Reasons:

1. In accordance with Section 91 of the Town and Country Planning Act 1990

2. In order to secure a satisfactory decommissioning and restoration of the site in the interests of the integrity of the landscape and visual amenity and biodiversity in accordance with Planning Policy Wales (Edition 9, November 2016) and Policies DM2, DM4 and RE1 of the Local Development Plan.
3. In order to ensure the safe flow of traffic on the highway network in accordance with policies DM13 of the Local Development Plan
4. In order to maintain and enhance the Public Rights of Way system in the vicinity of the development in accordance with Policy DM13 of the Local Development Plan
5. In order to secure a satisfactory means of noise measurement in the interests of safeguarding the residential amenity of local residents and to ensure the satisfactory monitoring of acoustic impacts in accordance with Technical Advice Note 11 Noise and policies DM13 and RE1 of the Local Development Plan.
6. In the interests of the visual amenity of the area in accordance with policies SP7, DM4 DM13 and RE1 of the Local Development Plan
7. In the interests of the visual amenity of the area in accordance with policies SP7, DM4 DM13 and RE1 of the Local Development Plan

Case Officer: Holly-ann Hobbs- Principal Planning Officer
Tel: 01597 827319 E-mail:holly.hobbs@powys.gov.uk

UPDATE REPORT

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2018/0103	Grid Ref:	291873.94 251225.81
Community Council:	Treflys Co	Valid Date:	Officer: 25/01/2018 Thomas Goodman
Applicant:	Mr G Walker H & W Developments 9 Broad St Builth Wells Powys LD2 3DT		
Location:	Land Opp The Walk Beulah Llanwrtyd Wells POWYS		
Proposal:	Reserved matters in respect of approved planning permission P/2015/0039		
Application Type:	Application for Approval of Reserved Matters		

Update Report

Representations

An additional representation was received from Cllr Van-Rees as he cannot attend the Planning Committee. The Cllr's comments are as follows:

"Planning Committee meeting - 14th June

As you know I am committed on the above date to a meeting of the Regimental Trustees of the Royal Welsh and a meeting at the barracks in Brecon.

I had proposed to attend and speak at the planning committee meeting but, obviously, this will now be impossible. I have already submitted my reasons for calling in this application and I will underline them more forcibly in this e-mail. The proposed development is wholly out of proportion to the village, indeed, one might say hamlet of Beulah and would effectively swamp the existing hamlet. With housing largely of a type that would not find a market locally. The provision for low-cost housing is inadequate. In my view the planning committee was wholly wrong in removing the 106 conditions on the development at The Sidings in Garth. There is a demand locally for low cost housing but the attitude of the developer on this site was not such as to encourage young people who may be able to afford a low cost housing opportunity to come forward with an offer. As you are aware former County Councillor Tom Turner had extreme difficulty in trying to find a house in Garth and we do not seem to have a policy to ensure that a landowner provides a low cost property. Some seem to be prepared to wait indefinitely in the hope that the restriction will be in due course lifted.

It is within my knowledge that the current sewage system is totally inadequate to cope with any further development.

The site is low lying and while certain recent developments by Welsh Water have demised the flood risk I do not think that this can be wholly discounted and if consent is granted for a limited development then the houses should be raised to prevent flood waters. My recollection is that this was debated in connection with another development in recent years in Beulah.

While there are vacant places in both Ysgol Dolaon C P School and Irfon Valley C P School both schools are in need of enhanced facilities and I feel that there should be a planning decision on the effect that both these schools should be affected by receiving a contribution.

I am copying this e-mail to Mr. Mike Thomas, clerk to Treflys Community Council and have asked that a member of the community council attends to give their further objections.

Please accept this e-mail as an indication that a speaker may attend.

County Councillor Tim Van-Rees (Colonel Retired) Elected Member for Llanwrtyd Wells & District"

Officer Appraisal

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Flooding

The proposed development is not located within a C2 flood zone and therefore complies with local policies and Technical Advice Note 15.

Affordable Housing

The original application B/05/0184 was granted consent subject to the signing of a S106 agreement that secured a level of affordable housing, since then a Section 73 application (P/2015/0039) was applied for and approved without the signing of a S106 application. Further to this permission was granted for the removal of the S106 agreement from the original application under the reference number VAR/2017/0007. As this application is for reserved matters and given that the original Section 106 agreement has been removed, no affordable housing can be secured at this stage of the planning process.

Education

As this application is for reserved matters, an education contribution cannot be agreed at this stage and would have been considered during the outline planning application.

RECOMMENDATION

Whilst this report forms an update to the original report, it is considered that the recommendation remains the same as set out in the original report.

Conditions

1. The development hereby granted approval of reserved matters shall be begun before the expiration of two years from the date of this approval, or before the expiration of five years from the date of the outline planning permission whichever is the longer.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XX/XX/XX (drawing no's: 17/020/TCP04 B, JO1751/A1/001, 17/020/TCP14, 17/020/TCP15, 17/020/TCP13, 17/020/TCP12, 17/020/TCP11, 17/020/TCP10, 17/020/TCP08, 17/020/TCP02, 17/020/TCP07, 17/020/TCP06, 17/020/TCP05, 17/020/TCP01, 17/020/TCP09A & 17/020/TCP03).
3. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwelling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. Prior to commencement of development, a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long term retention.
5. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
6. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling as detailed on the approved drawing JO1751/A1/001. The parking areas shall be retained for their designated use in perpetuity.
7. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
8. No building shall be occupied before the estate road carriageway and one footway shall be constructed to binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building.
9. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.
10. The area of each private drive/parking space shall be a minimum of 6m long and shall be metalled and surfaced in bituminous macadam, concrete, or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

11. The access road shall be at right angles to the trunk road carriageway for a distance of at least 25 metres from the trunk road boundary, over which it shall not exceed a gradient of 2.5% (1 in 40).

12. The minimum visibility distances available for vehicles emerging from the proposed access/junction shall be 120 metres in each direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the carriageway of the trunk road. These visibility distances shall be available at a point 4.5 metres from the nearer running edge of the trunk road, measured along the centre line of the access road, and at all intervening points up to the running edge of the trunk road carriageway. The visibility splays so formed shall be free of any growth or obstruction which would interfere with the minimum visibility requirement.

13. The access road shall have a width of between 6.0 and 7.3 metres for the first 25 metres, with an entry and exit radii of 10.0 metres. The access shall be constructed to the requisite standards with either concrete or bituminous surfacing for at least the first 25 metres from the running edge of the trunk road carriageway.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies DM13 of the Powys Local Development Plan and the Councils Residential Design Guide.
4. In the interest of the protection and preservation of biodiversity in accordance with policy DM2 of the Powys Local Development Plan.
5. In the interest of the protection and preservation of biodiversity in accordance with policy DM2 of the Powys Local Development Plan.
6. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
7. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy DM13.
9. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
10. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
11. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
12. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
13. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.

Informative Notes

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Planning, Taxi Licensing and Rights of Way Committee Report

UPDATE REPORT

Application No: P/2018/0370 **Grid Ref:** 326056.73 320693.8

Community Council: Carreghofa **Valid Date:** 05/04/2018 **Officer:** Sara Robinson

Applicant: Powys County Council, Spa Road East, County Hall, Llandrindod Wells, Powys, LD1 5LG

Location: Carreghofa Primary School, Llanymynech, Powys, SY22 6PA

Proposal: Full: Erection of an extension, alterations and all associated works

Application Type: Application for Full Planning Permission

The reason for the update

To provide clarification with regards to conditions and response from Severn Trent Water

Consultee Response

Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

Severn Trent Water advise that there is a public sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building

Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals, including the STW ref within the email/subject.

Officer Appraisal

When considering land drainage consideration is given to LDP policy DM6 and DM13. Policy DM6 states that satisfactory provision shall be made for land drainage in all development and this should include consideration of the use of Sustainable Drainage Systems (SuDS). Policy DM13 states that adequate utility services exist or will be provided readily and timely without unacceptable adverse effect on the surrounding environment and communities.

Severn Trent has been consulted in relation to drainage and have raised no objection in relation to the proposal, however have requested two conditions to be attached to any grant of permission. The conditions request that works shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and that the scheme is then implemented in accordance with the approved details before the development is first brought into use.

It has been considered that these conditions are not necessary as there is already drainage on site. The proposal does not involve the installation of any sinks, kitchens or WC and therefore it is considered that the proposal will not detrimentally increase the foul and surface water flows and therefore the conditions are not considered necessary in this instance.

Therefore, in light of the above it is considered that the proposal fundamentally complies with policies DM6 & DM13.

RECOMMENDATION

Based on the information submitted with the application, consultation response and existing policy context, the recommendation to Members is one of conditional consent.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved (drawing no's: P6015/26/1, P6015/26/2, P6015/26/5, P6015/26/6).

Reasons

1. Required to be imposed by section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans approved by the Local Planning Authority in the interests of clarity and a satisfactory development.

Informative Notes

Building Control

A Building regulations application may be required for this development, please contact Building Regulations on 01874 612290.

Biodiversity

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- Intentionally kill, injure or take any wild bird
- Intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- Intentionally take or destroy the egg of any wild bird
- Intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.
- Under the Habitats Regulations it is an offence to:
- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk.

Case Officer: Sara Robinson- Planning Officer
Tel: 01597 827229 E-mail:sara.robinson@powys.gov.uk

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 1/05/18

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/06/2018

Appeal Decision

Site visit made on 1/05/18

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11/06/2018

Appeal Ref: APP/T6850/A/18/3196001

Site address: Wyeside Caravan Park, A470 from Wye View Terrace Rhayader to Junction with C1216 at Marteg Bridge, Rhayader LD6 5LB

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Goodyear, The Camping and Caravanning Club against the decision of Powys County Council.
 - The application Ref P/2017/0119, dated 25/01/2017, was refused by notice dated 13/12/2017.
 - The development proposed is site upgrades and improvements comprising: conversion of 42 existing grass pitches to gravel hardstandings including one site manager's pitch, replacement of internal site access road and stone car park area, provision of a service point and motorhome service point, electric site access and egress barriers, provision of a bin storage area.
-

Decision

1. The appeal is allowed and planning permission is granted for upgrade of existing pitches to gravel hardstandings, the replacement of a site access road and stone car park and other associated works at Wyeside Caravan Park, A470 from Wye View Terrace Rhayader to Junction with C1216 at Marteg Bridge, Rhayader LD6 5LB in accordance with the terms of the application, Ref P/2017/0119, dated 25/01/2017, and the revised plans submitted with it, subject to the conditions in the schedule below.

Application for costs

2. An application for costs was made by Mr Nathan Goodyear, The Camping and Caravanning Club against Powys County Council. This application will be the subject of a separate decision.

Procedural matters

3. The description of the development changed during the course of the application to "upgrade of existing pitches to gravel hardstandings, the replacement of a site access road and stone car park and other associated works". Revised plan Drawing No. WYE/000/17 Rev C: Proposed Layout was also submitted showing the conversion of 30 grass pitches to gravel hardstandings and a site manager's pitch together with internal access road, service area and motorhome point, electric site access, bin storage and landscaping. It is on the basis of these changes the appeal is considered. I consider that no prejudice would arise in dealing with the appeal this way.
-

4. Since the refusal of planning permission the Powys Local Development Plan (LDP) was adopted. The appeal is considered in relation to the LDP and the parties have been given an opportunity to comment on this change and identify the relevant policies and they have also had an opportunity to respond on each other comments in this appeal.

Main Issues

5. The Council's refusal was based on an unacceptable intensification of the use of the caravan site within an unprotected flood zone, and the development's adverse effect on visual amenity.
6. The main issues are; whether the proposal would lead to intensification of the use of the site as a caravan site and whether the proposed development would be at significant risk of flooding, and the effect of the proposal on the character and appearance of the area.

Reasons

Intensification of the use of the caravan site and risk of flooding

7. The appeal site is an established caravan and camping site on the banks of the river Wye in Rhayader. The appellant is an exempted organisation under Schedule 1(4) of the Caravan Sites and Control of Development Act 1960 (the 1960 Act). Part 5 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 as amended, provides that the use of land as a caravan site in the circumstances referred to in Schedule 1 of the 1960 Act is permitted development not requiring express planning permission for the use of land and is also exempt from the requirement of obtaining a site licence.
8. The appellant advises that there is no restriction on the number of pitches, and the mix of tents/touring caravan pitches on the site. There is also no restriction on the period when the caravan/tenting site is open during the course of the year. The exempted organisation is only restricted by the spacing and density requirements of the site in relation to the Model Standards for touring sites under the 1960 Act. The appellant leases the land on a long-term basis from the Council.
9. The Council asserts that the site improvements would lead to all-year round use of the site, and claims that there is little use of the site during winter. Notwithstanding that prevailing site conditions and inclement weather may inhibit the intensity of the use, there are seemingly no controls over the use of the land from a planning point of view and the use of the site would be down to its present management. Given that it would be for the site operator to decide the use and intensity of the site throughout different periods of the year, this fall-back situation is a weighty material consideration. The fact that the operator could fully utilise the field without the proposed hardstandings in place for the same period of the year as would be the case if the proposal for hardstandings were to be implemented would not facilitate a more intensive use of the caravan site from a planning perspective.
10. There is no compelling evidence that the physical works involved in the proposal would increase the scale of the use that would result in a materially different and definable character of use and that it would have materially different planning consequences off the site.
11. The planning application relates solely to operational development and as such it would not be construed as a new caravan site development for the purposes of applying Section 6 of the Technical Advice Note 15: Development and Flood Risk (TAN

15). The consequences of flooding have been submitted to Natural Resources Wales as part of the application and it is satisfied that approval may be given on a conditional basis. I have no reason to disagree with that assessment.

12. I consider that the development does not conflict with LDP Policy DM5 – Development and Flood Risk, and DM6 – Flood Prevention Measures and Land Drainage. I conclude that the proposal would not lead to intensification of the use of the site as a caravan site and the proposed development would not be at significant risk of flooding.

Character and appearance

13. The site adjoins the settlement of Rhayader and is an established caravan and camping site situated alongside a static caravan site managed under the same operator. The Council indicates that the site has a natural character of a field with limited infrastructure. However, this description contradicts the legitimate planning use of the land of all-year round camping and caravans which would reflect the appropriate context of the site when assessing the proposed development. The proposed development when the site is occupied would not alter or change the view as it would be seen in the context of an established caravan site. It would not be altered by the view from the south where recreational man-made facilities are in place, from the footpath, or from the adjoining sensitive landscape areas designated for their ecological importance the River Wye Special Area of Conservation (SAC) and the Site of Special Scientific Interest (SSSI).
14. The appeal site is considerably screened along its boundaries including the river and the proposal incorporates an additional 5m buffer strip, central landscaping and planting alongside the motorhome service point. I consider that the proposed development would not unacceptably or adversely affect the valued characteristics and qualities of the landscape. The proposal would not have a significant impact on the landscape or visual amenity of the area and would not conflict with LDP Policies SP7, DM4, DM13 and TD1.
15. I conclude that the proposal would not harm the character and appearance of the area.

Other matters

16. I note that concerns have been raised in relation to the possibility of a breach of the terms of the lease, however, this matter is outside the jurisdiction of this appeal, and is not a planning matter for consideration in this appeal. The public right of access that crosses the caravan site and which is registered as Common Land is protected as noted by the Commons Registration Officer as the access road surface which crosses the right of access will only be repaired. This matter is separately regulated by the Commons Act 2006 and the officer notes that no additional consent is required for these repairs under Section 38 of the Commons Act from the Welsh Government. I have no jurisdiction on these legal issues and rights of access and there is no parallel application for the proposed works before me with this planning appeal.
17. I note that other concerns have been raised on noise, habitats and ecology and traffic, but no technical evidence has been submitted to indicate that the impact of the proposed development would have adverse effects in relation to these matters, and the Council's technical advisers and statutory consultees on these matters indicate that the development is acceptable subject to suitable controls. None of these matters therefore alter my conclusions on the main determining issues.

Conclusions

18. I conclude that in relation to both main determining issues the appeal complies with the development plan and therefore the presumption in favour of sustainable development is engaged in relation to Planning Policy Wales Edition 9 paragraphs 4.2.2 and 4.2.4.
19. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.
20. I conclude that the appeal should be allowed.

Schedule of conditions

21. I have considered the Council's suggested conditions and the appellant's response to them in the light of Circular WGC 016/2014 'The Use of Planning Conditions for Development Management'. I have made some revisions to the wording of the conditions to ensure that the development is carried out in accordance with the details to be agreed with the local planning authority. I have taken out references to 'tailpiece' phrases 'unless otherwise agreed in writing by the local planning authority' in accordance with paragraph 3.37 of WGC 016/2014. The appellant's suggested revisions to conditions 8 and 11 do not now appear in the Council's draft of conditions appended to its statement of case. However, I have revised the wording of condition 8, as I consider it would be unreasonable to restore the land to its former condition upon the expiry of the temporary use of the pitch, but do consider that to ensure compliance with the cessation of the use any caravan placed there should also be removed.
22. The first two conditions are needed in the interests of defining the scope of the development. Condition 10 and 3 are necessary to clarify the level of the access road relative to surrounding grounds levels in the interests of minimising the flood risk and flow of any flood waters together with the need to ensure that all occupants are aware and informed of the measures to take prior to a possible flood event. Conditions 4, 5 and 7 are needed to protect the habitat of protected species. Condition 6 is needed in the interests of the visual appearance of the area.
23. Condition 8 is necessary to allow a temporary permission to control the occupancy of the residential caravan in the countryside and after the duration of the permission to ensure that the use ceases and the caravan is removed from the site in order to protect the countryside given the restrictions in the development plan to permit residential uses outside development boundaries. Condition 9 is needed to ensure proper control of the holiday caravans and the use of the site in the interests of protecting the countryside given the restrictions in the development plan to permit residential uses outside development boundaries.
- 1) The development shall begin not later than five years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans and documents: Amended Layout Plan Drawing No. WYE/000/17 Rev C

(received 13th October 2017), Hardstanding detail STD.15, Tarmacadam Road / Pathway Detail STAND/0009, Bin Store STAND/010, Site manager pitch STAND/016/CED, Service Area STD.04, Motorhome service point combined with service area STAND/030, Hook up bollard and plinth detail STAND/028, Construction Method Statement (May 2017), Information to support an Assessment of Likely Significant Effects under the Habitat Regulations (June 2017), Flood Procedure and Policy (as amended) received 14th March 2017, Biodiversity Enhancement Report (June 2017), Flood Risk Consequences Assessment (January 2017), Clarification Statement (received on 12th September 2017).

- 3) Prior to the development hereby permitted being brought into use a Flood Management and Evacuation Plan shall be submitted to, and approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved Flood Management and Evacuation Plan throughout the lifetime of the development.
- 4) The development shall be carried out strictly in accordance with the measures identified regarding Pollution Prevention within the Construction Method Statement produced by the Camping and Caravanning Club dated May 2017 and maintained thereafter throughout the lifetime of the development.
- 5) The development shall be carried out strictly in accordance with the measures identified in Section 4.0 - Retention and Enhancement: Habitats and Section 5.0 - Mitigation and Enhancement: Protected Species of the Biodiversity Enhancement Report dated June 2017 and shall be maintained thereafter.
- 6) Prior to the development hereby permitted being brought into use a detailed landscaping and management plan including a timetable for planting shall be submitted to, and approved in writing by the local planning authority. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management and maintenance. The landscaping plan, management plan and timetable shall be carried out as approved.
- 7) No external lighting, with the exception of electric hook-up bollards, shall be installed unless a detailed external lighting design scheme has been submitted to, and approved in writing by the local planning authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
- 8) The site manager's pitch is to be a temporary residential pitch for a time period of three years from the implementation of this planning permission. Upon the expiry of the temporary time period, the pitch shall cease to be occupied and the caravan shall be removed from the site.
- 9) The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence or by any persons exceeding a period of 28 days in any calendar year. An up to date register shall be kept at the Wyese Caravan Park as shown on site layout plan drawing No. WYE/000/17 Rev C and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the tourers, tented camping and motorhome accommodation, their main home addresses and their date of arrival and departure from the site.
- 10) Prior to the commencement of development contoured plans of the site and immediately adjoining land and cross sections through the site itself sufficient to demonstrate the existing and proposed levels including finished levels of the

proposed road shall be submitted to, and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved contour plans and cross sections.

Iwan Lloyd

INSPECTOR