

# Planning, Taxi Licensing & Rights of Way Committee

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Meeting Venue  
**Council Chamber - Neuadd Maldwyn,  
Welshpool, Powys**

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Meeting Date  
**Thursday, 6 April 2017**

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Meeting Time  
**10.00 am**

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For further information please contact  
**Carol Johnson**  
01597826206  
carol.johnson@powys.gov.uk



County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

Issue Date

## AGENDA

1.	<b>APOLOGIES</b>	<b>PTLRW31 - 2017</b>
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To receive apologies for absence.

2.	<b>MINUTES OF THE PREVIOUS MEETING</b>	<b>PTLRW32 - 2017</b>
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 16<sup>th</sup> March, 2017 as a correct record.

(Pages 5 - 20)

<b>Planning</b>		
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3.	<b>DECLARATIONS OF INTEREST</b>	<b>PTLRW33 - 2017</b>
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- a) To receive any declarations of interest from Members relating to items to be considered on the agenda.
- b) To receive Members' requests that a record be made of their membership of town or community councils where discussion has taken place of matters for the consideration of this Committee.

c) To receive declarations from Members of the Committee that they will be acting as 'Local Representative' in respect of an individual application being considered by the Committee.

d) To note the details of Members of the County Council (who are not Members of the Committee) who will be acting as 'Local Representative' in respect of an individual application being considered by the Committee.

<b>4.</b>	<b>PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE</b>	<b>PTLRW34 - 2017</b>
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To consider the reports of the Head of Regeneration, Property and Commissioning and to make any necessary decisions thereon.

(Pages 21 - 24)

**4.1. Updates**

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

(To Follow)

**4.2. P/2016/0787 Domgay Hall, Llanymynech, Powys, SY22 6SW**

(Pages 25 - 72)

**4.3. P/2016/0953 Land adjacent to Heritage Green, Kingswood, Forden, Powys, SY21 8LH**

(Pages 73 - 94)

**4.4. P/2016/1077 Land North of the B49393, Coedway, Shrewsbury, SY5 9AR**

(Pages 95 - 110)

**4.5. P/2016/0047 Land at Former Cynlais School - Playing Field, Ystradgynlais, Powys**

(Pages 111 - 138)

**4.6. P/2017/0159 Land at Baskerville Hall Hotel, C Court, Clyro, Hereford, HR3 5LE**

(Pages 139 - 148)

- 4.7. **P/2017/0181 Llwyn Derw, Bwlch-y-Cibau, Llanfyllin, Powys, SY22 5LN**  
(Pages 149 - 160)
- 4.8. **P/2016/1327 Land at Llwynmelyn, Crossgates, Llandrindod Wells, Powys LD1 6RE**  
(Pages 161 - 182)
- 4.9. **P/2017/0058 Ffyrdd Vaughan, Dolfor Road, Newtown, SY16 4BQ**  
(Pages 183 - 196)
- 4.10. **TREE/2017/0010 5 Llys Derw, Tregynnon, Newtown, Powys SY16 3EY**  
(Pages 197 - 202)

<b>5.</b>	<b>DECISIONS OF THE HEAD OF REGENERATION, PROPERTY AND COMMISSIONING ON DELEGATED APPLICATIONS</b>	<b>PTLRW35 - 2017</b>
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To receive for information a list of decisions made by the Head of Regeneration, Property and Commissioning under delegated powers.

(Pages 203 - 216)

<b>6.</b>	<b>APPEAL DECISION</b>	<b>PTLRW36 - 2017</b>
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To receive the Planning Inspector's decision regarding an appeal and the decision regarding costs.

(Pages 217 - 230)

<b>Taxi and other licensing</b>
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<b>7.</b>	<b>MINUTES OF TAXI REVIEW PANELS</b>	<b>PTLRW37 - 2017</b>
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To authorise the Chair, presiding at the Taxi Review Panel meeting on 21<sup>st</sup> March, 2017, to sign the minutes as a correct record.

(Pages 231 - 232)

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# PTLRW32 - 2017

Planning, Taxi Licensing & Rights of Way Committee Thursday, 16 March 2017

## MINUTES OF A MEETING OF THE PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE HELD AT COUNCIL CHAMBER - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON THURSDAY, 16 MARCH 2017

### PRESENT

County Councillor D R Price (Chair)

County Councillors M J Jones, L V Corfield, S Davies, W J Evans, J C Holmes, D R Jones, E M Jones, G M Jones, P J Medlicott, R H Mills, K S Silk, D A Thomas, D G Thomas, G I S Williams, D H Williams and J M Williams

<b>1.</b>	<b>APOLOGIES</b>	<b>PTLRW22 - 2017</b>
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Apologies for absence were received from County Councillors Eldrydd M. Jones, F. Jump and W.D. Powell. It was noted that County Councillor J.M. Williams was on other Council business and would join the meeting later.

<b>2.</b>	<b>MINUTES OF THE PREVIOUS MEETING</b>	<b>PTLRW23 - 2017</b>
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The Chair was authorised to sign as a correct record the minutes of the meeting held on 22<sup>nd</sup> February, 2017 subject it being noted that the officer who provides support to the public at meetings in Neuadd Maldwyn left the meeting room when P/2016/0959 was discussed.

### Taxi and other licensing

<b>3.</b>	<b>DECLARATIONS OF INTEREST</b>	<b>PTLRW24 - 2017</b>
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There were no declarations of interest in respect of licensing issues.

<b>4.</b>	<b>TAXI LICENSING FEES</b>	<b>PTLRW25 - 2017</b>
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The Committee considered the report regarding the revised fees for Hackney Carriage and Private Hire Licensing, which contained details in respect of the one objection received during the consultation period.

It was moved and duly seconded that the Committee notes the one objection and approved the fees as previously proposed to come into effect on 1st April 2017.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>That the Committee notes the one objection and approved the fees as previously proposed to come into effect on 1st April 2017.</b>	<b>To enable a new compliant fee to be set for licences issued under The Local Government (Miscellaneous Provisions) Act 1976.</b>

<b>5.</b>	<b>MINUTES OF TAXI REVIEW PANELS</b>	<b>PTLRW26 - 2017</b>
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The Chair presiding at the Taxi Review Panel held on 25<sup>th</sup> January, 2017 was authorised to sign the minutes as a correct record.

**Planning**

<b>6.</b>	<b>DECLARATIONS OF INTEREST</b>	<b>PTLRW27 - 2017</b>
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(a) County Councillor P. Medicott declared an interest in application P/2009/0038 as he had attended the Knighton Town Council meeting where this was discussed.

County Councillor D.R. Price declared a prejudicial interest in P/2016/0818 as he had employed the applicant as a local builder.

County Councillor D.G. Thomas declared a personal interest in DIS/2017/0027 as a Local Education Authority appointed Governor and Chair at Cradoc School.

(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 the following Members (who are not members of the Committee) would be speaking as the 'local representative' in respect of applications:

County Councillor A Davies – P/2017/0041

County Councillor A. G Thomas – P/2016/1174

<b>7.</b>	<b>PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE</b>	<b>PTLRW28 - 2017</b>
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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.

The Chair advised that he would change the order of the Agenda to accommodate those applications with speakers.

7.2 P/2017/0041 Land at Cae Sgbor, Llanrhaeadr-ym-Mochnant, Powys

**Application No:** P/2017/0041

**Grid Ref:** 313086.55 324103.66

**Valid Date:** 12/01/2017

**Officer:** Kate Bowen

**Community Council:** Llanrhaeadr Community Council

**Applicant:** Mr. Sion Vaughan, Maes Mochnant Uchaf, Llanrhaeadr-ym-Mochnant, Powys SY10 0AF

**Location:** Land at Cae Sgbor, Llanrhaeadr-ym-Mochnant, Powys

**Proposal:** Outline: Erection of affordable dwelling, construction of vehicular access and installation of septic tank

**Application Type:** Application for Outline Planning Permission

County Councillor A. Davies spoke as the local representative.  
Mr G. Lloyd spoke as the Agent.

In response to questions the Planning Officer advised that the site and another site had been considered at pre application stage but again the other site was still detached from the settlement. The Committee discussed the issue of the settlement boundary, the rural nature of the area and the sporadic location of dwellings, which were typical of this part of Mid Wales. The Planning Officer advised that the Rural Settlement Policy in the Unitary Development Plan [UDP] did not define distances and that the information regarding distances given in the report were provided for reference purposes only. The Professional Lead for Development Management advised that the key issue was whether or not the proposed dwelling was considered part of the settlement and this was subjective but Development Management believed it was not. He also advised that the Welsh Government guidance was clear in that developments in the open countryside should normally only be approved for rural enterprise workers. This application was not for a rural enterprise worker.

It was moved and seconded that the Committee is minded to approve the application, contrary to officer recommendation, subject to suitable conditions to be imposed by the Professional Lead Development Management in consultation with the Chair and Vice Chair.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>that, contrary to officer recommendation, the application be granted consent, subject to suitable conditions to be imposed by the Professional Lead Development Management in consultation with the Chair and Vice Chair.</b>	<b>That there is no defined line around the settlement and that it is considered that the proposed development is considered within the rural settlement.</b>

7.3 P/2016/1174 Penycoedcae, Sarnau, Brecon, Powys, LD3 9PR

**Application No:** P/2016/1174  
**Grid Ref:** 303146.31 232866.78  
**Valid Date:** 28/11/2016  
**Officer:** Thomas Goodman  
**Community Council:** Honddu Isaf Community Council  
**Applicant:** Mr & Mrs D and E Tompkinson, 46 Schooner Way, Atlantic Wharf, Cardiff, CF10 4EQ  
**Location:** Penycoedcae, Sarnau, Brecon, Powys, LD3 9PR  
**Proposal:** Outline: Erection of dwelling, creation of new access and installation of a package treatment plant  
**Application Type:** Application for Full Planning Permission

County Councillor A.G. Thomas spoke as the local representative.

In response to comments the Professional Lead Development Management advised that considerable weight needed to be given to the lack of a five year housing land supply. This was supported by case law and by the recent letter from the Minister.

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

County Councillor D.R. Price having declared a prejudicial interest left the meeting room for the next application. County Councillor M.J. Jones took the Chair. The Professional Lead Development Management also declared an interest and left the meeting room for the next application.

7.4 P/2016/0818 Church Field, Cwmbach Llechrhyd, Builth Wells, Powys, LD2 3RW

**Application No:** P/2016/0818  
**Grid Ref:** 302740.01 254213.16  
**Valid Date:** 22/08/2016  
**Officer:** Thomas Goodman



**Community Council:** Disserseth and Trecoed Community Council

**Applicant:** Mr Garry Mason, 19 Troed y Bryn, Builth Wells, Powys, LD2 3FE

**Location:** Church Field, Cwmbach Llechrhyd, Builth Wells, Powys, LD2 3RW

**Proposal:** Outline application for single residential dwelling with all matters reserved

**Application Type:** Application for Outline Planning Permission

In response to questions the Built Heritage Officer advised the impact of the proposed development on a listed building was a primary material consideration whereas the need to address the five year housing land supply was a material consideration. The proposed development would be contrary to UDP policies and Planning Policy Wales 9th edition 2016 which protect listed buildings. The Principal Planning Officer advised that if the Committee was minded to approve the application the size of the development could be conditioned.

The professional opinion of the Built Heritage Officer was noted however, Development Management considered that on balance the development was acceptable. The Solicitor advised that the legal position was such that the Committee had to give significant weight to the impact on the listed building.

It was moved and seconded that the Committee approve the application, as recommended by officers. The motion was put to the vote and was lost.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>That contrary to officer recommendation, the application be refused.</b>	<b>The impact of the development on the listed building outweighed the lack of a five year housing land supply.</b>

County Councillor D.R. Price resumed the Chair and the Professional Lead Development Management returned to the meeting room.

7.5 P/2016/000875 Plots 3 & 4 The Laurels, Waterloo Road, Llandrindod Wells, Powys, LD1 6BL

**Application No:** P/2016/0875

**Grid Ref:** 306042.66 261980.68

**Valid Date:** 07/08/2016

**Officer:** Thomas Goodman

**Community Council:** Llandrindod Wells Town Council

**Applicant:** Mr Robert Wynne, Chapel Cottage, Llanfihangel Talyllyn, Brecon, Powys, LD3 7TH

**Location:** Plots 3 & 4, The Laurels, Waterloo Road, Llandrindod Wells, Powys, LD1 6BL

**Proposal:** Outline: Erection of two detached dwellings

**Application Type:** Application for Outline Planning Permission

The Committee noted that this was a resubmission of a similar application which had been refused on highway grounds and that the Highway Authority was not objecting to this new application. The Highway Authority advised that the new application included the access road and it had taken into account the emphasis being placed by the Planning Inspectorate on the guidance in Manual for Streets 2.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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.

7.6 P/2016/0067 Plots East of Severn Oaks, Garreg Bank, Trewern, Welshpool, Powys

**Application No:** P/2016/0067

**Grid Ref:** 327989.78 311511.56

**Valid Date:** 15/01/2016

**Officer:** Louise Evans

**Community Council:** Trewern Community Council

**Applicant:** Mr M Middleton, WH Holloway and Son, Halfway House, Wattlesborough Hall, Wattlesborough, Shrewsbury, SY5 9DY

**Location:** Plots East of Severn Oaks, Garreg Bank, Trewern, Welshpool, Powys

**Proposal:** Erection of 5 dwellings to include one affordable dwelling and construction of new vehicular access (outline permission with access reserved)

**Application Type:** Application for Full Planning Permission

In response to questions the Built Heritage Officer advised that the development was not considered as a significant encroachment on the Historic Gardens. The Principal Planning Officer advised that a porosity test had been submitted and the Land Drainage Officer had considered this and supported the application subject to conditions.

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

County Councillor S. Davies joined the meeting having been on other Council business.

7.7 P/2017/0091 Land adjacent to Fairview, Llangedwyn, Oswestry, Powys, SY22 6YG

**Application No:** P/2017/0091

**Grid Ref:** 319400.9 322256.11

**Valid Date:** 20/01/2017

**Officer:** Kate Bowen

**Community Council:** Llanfechain Community Council

**Applicant:** Mr & Mrs M J Morris, c/o Roger Parry and Partners LLP

**Location:** Land adjacent to Fairview, Llangedwyn, Oswestry, Powys, SY22 6YG

**Proposal:** Erection of an affordable dwelling and detached garage, construction of vehicular access, installation of septic tank and associated works (outline)

**Application Type:** Application for Outline Planning Permission

In response to questions the Professional Lead Development Management advised that Development Management had informally discussed with the Agent the possibility of having an annex at the applicant's relative's property if the development was refused. The Committee however, had to consider the application as applied for.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>that the application be refused.</b>	<b>The proposed development is detached from any settlement identified within the Powys Unitary Development Plan (2010). The</b>

	<p><b>proposed development is therefore considered to be unjustified development in the open countryside which would be harmful to the character and appearance of the area. As such, the proposed development would be contrary to the provisions of Policies HP4, HP9, GP1, and ENV2 of Powys Unitary Development Plan (2010), Technical Advice Note (TAN) 6, Planning Policy Wales (2016) and Sections 3 and 5 of the Wellbeing of Future Generations (Wales) Act 2015.</b></p>
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County Councillor B. Mills left the meeting.

7.8 P/2017/0002 Aberllynfi House, Glasbury, Hereford, HR3 5NT

**Application No:** P/2017/0002

**Grid Ref:** 317845.3 238898.83

**Valid Date:** 03/01/2017

**Officer:** Thomas Goodman

**Community Council:** Gwernyfed Community Council

**Applicant:** Mr Grimes & Miss Price, Aberllynfi House, Glasbury, Hereford, HR3 5NT

**Location:** Aberllynfi House, Glasbury, Hereford, HR3 5NT

**Proposal:** Full: Change of use from C2 (Residential Institutions) to C1 (Guesthouse)

**Application Type:** Application for Full Planning Permission

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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 G.M. Jones left the meeting.

7.9 P/2016/1062 Plot 4, Ty Seren, Nantmel, Llandrindod Wells, Powys, LD1 6EN

**Application No:** P/2016/1062  
**Grid Ref:** 303289.2 266212.85  
**Valid Date:** 15/12/2016  
**Officer:** Thomas Goodman  
**Community Council:** Nantmel Community Council  
**Applicant:** Mr Justin Cleaton, Dolberthog Lane, Holly Barn, Llandrindod Wells, Powys, LD1 5ED  
**Location:** Plot 4, Ty Seren, Nantmel, Llandrindod Wells, Powys, LD1 6EN  
**Proposal:** Erection of a detached house  
**Application Type:** Application for Full Planning Permission

The Committee noted that this was an infill site.

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

The Committee adjourned for lunch at 12.55 hrs and resumed at 13.45 hrs.

County Councillor J.M. Williams joined the meeting. County Councillors P.J. Medicott and G. Williams were not in the meeting for the following application.

7.10 P/2016/1339 The Old Stables, rear of The Cross Keys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Application No:** P/2016/1339  
**Grid Ref:** 314285.78 319479.76  
**Valid Date:** 28/12/2016  
**Officer:** Kate Bowen/Isobel Davies  
**Community Council:** Llanfyllin Community Council  
**Applicant:** Mr & Mrs Shan Mayor, 32 Maes y Dderwen, Llanfyllin, Powys, SY22 5DP

**Location:** The Old Stables, rear of The Cross Keys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Proposal:** Installation of solar panels to roof on side elevation

**Application Type:** Application for Full Planning Permission

<b>RESOLVED:</b> that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	<b>Reason for decision:</b> As officers recommendation as set out in the report which is filed with the signed minutes.
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County Councillors P.J. Medicott and G. Williams resumed their seats in the Committee.

7.11 P/2016/1340 The Old Stables, rear of The Cross Keys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Application No:** P/2016/1340

**Grid Ref:** 314285.78 319479.76

**Valid Date:** 28/12/2016

**Officer:** Kate Bowen/Isobel Davies

**Community Council:** Llanfyllin Community Council

**Applicant:** Mr & Mrs Shan Mayor, 32 Maes y Dderwen, Llanfyllin, Powys, SY22 5DP

**Location:** The Old Stables, rear of The Cross Keys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Proposal:** Listed building consent for installation of solar panels to roof on side elevation

**Application Type:** Application for Listed Building Consent

<b>RESOLVED:</b> that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	<b>Reason for decision:</b> As officers recommendation as set out in the report which is filed with the signed minutes.
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7.12 P/2016/1085 Lower Cross Keys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Application No:** P/2016/1085  
**Grid Ref:** 314285.11 319480.03  
**Valid Date:** 02/12/2016  
**Officer:** Kate Bowen  
**Community Council:** Llanfyllin Community Council  
**Applicant:** Mr & Mrs Mayor, 32 Maes Y Dderwen, Llanfyllin, Powys, SY22 5DP  
**Location:** Lower Cross Keys Inn, High Street, Llanfyllin, Powys, SY22 5AT  
**Proposal:** Full: Replacement of windows, alterations to fenestrations, installation of flues and Velux windows, erection of an external staircase and associated works  
**Application Type:** Application for Full Planning Permission

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

7.13 P/2016/1087 Lower Crosskeys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Application No:** P/2016/1087  
**Grid Ref:** 314285.35 319480.1  
**Valid Date:** 02/12/2016  
**Officer:** Kate Bowen  
**Community Council:** Llanfyllin Community Council  
**Applicant:** Mr & Mrs Mayor, 32 Maes Y Dderwen, Llanfyllin, Powys, SY22 5DP  
**Location:** Lower Crosskeys Inn, High Street, Llanfyllin, Powys, SY22 5AT

**Proposal:** LBC: Replacement of windows, alterations to fenestrations, installation of flues, a biomass boiler, and Velux windows, erection of an external staircase, internal alterations and all associated works

**Application Type:** Application for Listed Building Consent

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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 P. J. Medicott, having declared an interest left the meeting room for the next application.

7.14 P/2009/0038 Site adjacent to Shirley, Ludlow Road, Knighton, Powys, LD71HP

**Application No:** P/2009/0038

**Grid Ref:** 329190.22 272105.66

**Valid Date:** 15/01/2009

**Officer:** Steve Packer

**Community Council:** Knighton Town Council

**Applicant:** Mr D Roberts And Mrs J Roberts

**Location:** Site adjacent to Shirley, Ludlow Road, Knighton, Powys, LD71HP

**Proposal:** Outline: Residential development and creation of new vehicular access

**Application Type:** Application for Outline Planning Permission

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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 P. J. Medicott returned to the Committee.



7.16 DIS/2017/0027 Cradoc CP School, Cradoc, Brecon, Powys, LD3 9LR

**Application No:** DIS/2017/0027  
**Grid Ref:** 301535.32 230600.07  
**Valid Date:** 13/02/2017  
**Officer:** Thomas Goodman  
**Community Council:** Yscir Community Council  
**Applicant:** Simon Kendrick, Powys County Council  
**Location:** Cradoc CP School, Cradoc, Brecon, Powys, LD3 9LR  
**Proposal:** Discharge of conditions 14 and 15 of planning approval P/2015/1213  
**Application Type:** Application for Approval of Details Reserved by Condition.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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.

7.17 DIS/2017/0013 Red House, Newbridge-On-Wye, Llandrindod Wells, LD1 6HT

**Application No:** DIS/2017/0013  
**Grid Ref:** 301905.14 258437.51  
**Valid Date:** 25/01/2017  
**Officer:** Kate Bowen  
**Community Council:** Llanyre Community Council  
**Applicant:** Mr H Chance, Red House, Newbridge on Wye, Llandrindod Wells, Powys, LD1 6HT  
**Location:** Red House, Newbridge-On-Wye, Llandrindod Wells, LD1 6HT  
**Proposal:** Discharge of condition 4 of planning approval P/2016/1092

**Application Type:** Application for Approval of Details Reserved by Condition

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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.

7.19 DIS/2017/0024 Red House, Newbridge-On-Wye, Llandrindod Wells, Powys, LD1 6HT

**Application No:** DIS/2017/0024

**Grid Ref:** 301905.16 258437.62

**Valid Date:** 08/02/2017

**Officer:** Kate Bowen

**Community Council:** Llanyre Community Council

**Applicant:** Mr Huw Chance, Red House, Newbridge on Wye, Llandrindod Wells, Powys, LD1 6HT

**Location:** Red House, Newbridge-On-Wye, Llandrindod Wells, Powys, LD1 6HT

**Proposal:** Discharge of condition 5 of planning approval P/2016/1092 relating to roof tiles

**Application Type:** Application for Approval of Details Reserved by Condition

<b>RESOLVED:</b>	<b>Reason for decision:</b>
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.

7.20 DEM/2017/0004 Southfields, Spa Road East, Llandrindod Wells, Powys, LD1 5LE

**Application No:** DEM/2017/0004

**Grid Ref:** 306420.64 260956.28

**Valid Date:** 06/03/2017

**Officer:** Thomas Goodman

**Community Council:** Llandrindod Wells Town Council

**Applicant:** Mr Thomas Mills, Powys County Council, Spa Road East, County Hall, Llandrindod Wells, Powys, LD2 5LG

**Location:** Southfields, Spa Road East, Llandrindod Wells, Powys, LD1 5LE

**Proposal:** DEM: Application for prior notification of proposed demolition

**Application Type:** Application for prior Notification of Proposed Demolition

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>That it be delegated to the Lead Professional for Development Management to determine the application following the close of the consultation period.</b>	<b>As officers recommendation as set out in the report which is filed with the signed minutes.</b>

The Committee expressed concerns that another Department within the Authority had not provided the information requested within the required timescale. In response to comments, officers agreed that they would consider the applicant details contained in Committee reports, where applications were made by Powys County Council.

<b>8.</b>	<b>DECISIONS OF THE HEAD OF REGENERATION, PROPERTY AND COMMISSIONING ON DELEGATED APPLICATIONS</b>	<b>PTLRW29 - 2017</b>
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The Committee received for information a list of decisions made by the Head of Regeneration, Property and Commissioning during the period between 14<sup>th</sup> February, 2017 and 9<sup>th</sup> March, 2017.

<b>9.</b>	<b>APPEAL DECISION</b>	<b>PTLRW30 - 2017</b>
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The Committee received a copy of the Planning Inspectorate's letters regarding the appeals in respect of the following:

- P/2016/0231 - Toms Plock, Llwyn Lane, Nantmel, Rhayader. The Committee noted that the Inspector had dismissed the appeal. The Professional Lead Development Management advised he was concerned with the Planning Inspector's conclusions regarding habitats and species, given the absence of an ecological survey. As Planning Appeal decisions are taken into account when considering applications, the Professional Lead Development Management had raised the issue with Natural Resources Wales.

- P/2016/0623 - Twyn yr Onnen, Felin Fach, Llandefalle, Brecon LD3 0ND.  
The Committee noted that the Inspector had dismissed the appeal.

**County Councillor D R Price (Chair)**

# PTLRW34 - 2017

## Planning, Taxi Licensing and Rights of Way Committee 6<sup>th</sup> April 2017

For the purpose of the Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

### Applications for consideration by Committee:

Application No:	Nature of Development:
Community:	Location of Development:
O.S. Grid Reference:	Applicant:
Date Received:	Recommendation of Head of Planning:

<p><b>P/2016/0787</b></p> <p>Llandysilio</p> <p>327913.04 319288.53</p> <p>28/07/2016</p>	<p>Full: Erection of intensive poultry installation to include highway improvements, landscaping, demolition of building and all associated works</p> <p>Domgay Hall, Llanymynech, Powys, SY22 6SW</p> <p>Mr M Evans, EM Evans, Llangedwyn, Priddbwl, Oswestry, Shropshire SY10 9JZ</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2016/0953</b></p> <p>Forden with Leighton and Trelystan</p> <p>324093.02 302462.76</p> <p>10/11/2016</p>	<p>Outline with some matters reserved: Residential development and formation of new access</p> <p>Land adjacent to Heritage Green, Kingswood, Forden, Powys, SY21 8LH</p> <p>Mr Steve Jennings, Primesave Properties – c/o Agent</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2016/1077</b></p> <p>Bausley with Criggion</p>	<p>Outline, with some matters reserved: Erection of up to two dwellings, construction of vehicular access and installation of sewage treatment plants.</p> <p>Land North of the B49393, Coedway,</p>

<p>333758.07 315067.58</p> <p>28/10/2016</p>	<p>Shrewsbury, SY5 9AR</p> <p>L A Pugh, c/o Agent</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2016/0047</b></p> <p>Ystradgynlais</p> <p>279041.35 211067.57</p> <p>15/02/2016</p>	<p>Outline: Residential development, formation of vehicular access road and all associated works</p> <p>Land at Former Cynlais School – Playing Field, Ystradgynlais, Powys</p> <p>Mr Craig Hopkins, Station Road, Oak Lodge, Coelbryn, Neath, SA10 9PN</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/0159</b></p> <p><b>Clyro</b></p> <p>321114.55 243170.44</p> <p>07/03/2017</p>	<p>Full: Construction of a temporary primary school and associated works</p> <p>Land at Baskerville Hall Hotel, C Court, Clyro, Hereford, HR3 5LE</p> <p>Powys County Council, Spa Road East, County Hall, Llandrindod Wells, Powys,</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/0181</b></p> <p>Meifod</p> <p>317908.03 317349.7</p> <p>14/02/2017</p>	<p>Full: Erection of detached dwelling and installation of sewage treatment plant</p> <p>Llwyn Derw, Bwlch-y-Cibau, Llanfyllin, Powys, SY22 5LN</p> <p>Lady Linlithgow, Bryngwyn Hall, Bwlch -y- Cibau, Llanfyllin, SY22 5LF</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>

<p><b>P/2016/1327</b></p> <p>Llanbadarn</p> <p>309162.99 264899.77</p> <p>29/12/2016</p>	<p>Outline: All matters reserved: Residential development of 4 dwellings and associated works</p> <p>Land at Llwynmelyn, Crossgates, Llandrindod Wells, Powys LD1 6RE</p> <p>Mr Richard Lewis (MG &amp; ES Lewis &amp; Sons) Llwynmelyn, Crossgates, Llandrindod Wells, Powys LD1 6RE</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/0058</b></p> <p>Newtown</p> <p>310583.47 289877.27</p> <p>12/01/2017</p>	<p>Full: Engineering operations involving re-profiling of land for agricultural use</p> <p>Ffyrdd Vaughan, Dolfor Road, Newtown, SY16 4BQ</p> <p>Mr R Evans, Canal Road, Riverside Newtown, Powys SY16 2AS</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>TREE/2017/0010</b></p>	<p>Works to a tree subject to a Tree Presevation Order</p> <p>5 Lllys Derw, Tregynnon, Newtown, Powys SY16 3EY</p> <p>Mr P Jones</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>

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The Community Council discussed the above application at a meeting held on Thursday 25<sup>th</sup> August 2016.

Concerns had been raised by local residents of the increase in traffic along Domgay Lane and also where the chicken manure would be stored and spread. At our meeting we were assured by representatives of the applicant, who were present, that a lay by would be constructed as part of these proposals and that all chicken manure would be taken from the site to be disposed of in an anaerobic digester. We would be grateful for confirmation of where the extra lay-by is to be situated.

We were also assured that the development is not within the C2 Flood plain and wonder whether the Flood Consequential Assessment should be amended as this states that the development is within the flood plain – clarification is needed on this point as otherwise there were no other objections.

### Local Highway Authority

#### *First response:*

Due to the size of the proposed enterprise can you please ask for a break-down for HGV movements and if they are proposing any passing bays along Domgay road to facilitate this extra-large traffic.

#### *Second response:*

The County Council as Highway Authority for the County Class III Highway, C2038, wish the following recommendations be applied

#### Recommendations:

Any entrance gates shall be set back at least 15 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence

HC3            The centre line of the first **15.0 metres** of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4            Within 5 days from the commencement of the development 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 **15.0 metres** distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and **15.0 metres** distant in each direction measured from the centre of the access along the edge of the adjoining carriageway and **2.4 metres** distant from the edge of the adjoining carriageway and **60 metres** in each direction. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development 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 base course material and 60mm 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.

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of **0.400 metres** in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC13 Prior to the occupation of the development a radius of **6.0 metres** shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

HC21 Prior to the occupation of the **poultry unit** the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of **15.0 metres** from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC37 Prior to any works being commenced on the development site the applicant shall construct **2 passing bays**, in locations to be agreed in writing by the Local Planning Authority. The passing bays shall be constructed up to adoptable standard prior to any works being commenced on the development site.

#### PCC Building Control

Building Regulations application required.

#### Severn Trent

I can confirm that we have no comment to make as no foul sewerage or surface water is to discharge to the public sewerage system.

#### PCC Environmental Health

*First response:*

The agent/applicant has not submitted appropriate impact assessments for the potential noise and odour from the proposed development.

Noise-

I will require a noise assessment in accordance with BS 4142:2014 “*Methods for rating and assessing industrial and commercial sound*”, to include daytime and night time background noise measurements, as well as the details of any noise mitigation being relied upon.

Odour-

There are two components to any odour assessment at a poultry unit: odour from the sheds; odour from manure (spreading and storage). For the odour emanating from the sheds I will require an odour impact assessment. In terms of the manure my primary concern relates to the storage of manure prior to spreading, as this can lead to problems with odour and flies. The environmental statement suggests not storing manure ‘close to residential’ between May and September. Given the proximity of nearby residential properties I would suggest no on site storage at any time. If the applicant intends to store manure on site they will need to provide details of the odour/fly mitigation being relied upon.

*Second response:*

In response to the email below, I am satisfied that there is no need to pursue odour modelling at this distance.

However, it is still necessary for the applicant to demonstrate that there will be no adverse noise impact from the roof fans. If there is not going to be an adverse impact then this can be demonstrated by using the fan manufacturer’s published noise output and undertaking a sound attenuation calculation for the nearest sensitive property, which can then be compared to the World Health Organisation guidelines.

*Third response:*

I am satisfied that the noise impact assessment report demonstrates there should be no adverse impact on amenity from noise from the roof fans.

### PCC Built Heritage

I note the landscape that the proposed poultry units are to be located which is very attractive and contains a number of designated heritage assets namely;

- No 1 Domgay Hall cottages and outbuildings to rear, grade II Cadw ID 8518 included on the statutory list on 05/04/1993,
- No 2 Domgay Hall cottages and outbuildings to rear, grade II Cadw ID 8519 included on the statutory list on 05/04/1993,
- Rhandregynwen Farmhouse, grade II Cadw ID 8520 included on the statutory list on 31/01/1953,
- C Plan Group of farm ranges to E of Rhandregynwen grade II Cadw ID 8521 included on the statutory list on 31/01/1953,

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and paragraph 11 of Welsh Office Circular 61/96 which states

“Sections 16 and 66 of the Act require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building.

The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development.”

However, I would also refer to more recent guidance in paragraph 6.5.9 of Planning Policy Wales 8th edition 2016 which states, “Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.”

Cadw have prepared guidance on the setting of historic assets that is currently out for consultation, and whilst still out for consultation and not adopted the advice on how to assess the setting of listed buildings could be referred to, with the caveat that there may potentially be changes as a result of the consultation process. In addition to advice on how to assess the visual setting of listed buildings, advice on less tangible elements, including sensory perceptions such as noise and smell are included in the guidance.

<http://cadw.gov.wales/historicenvironment/policy/historicenvironmentbill/guidancedocuments/?lang=en>

The emerging document outlines the principles used to assess the potential impact of development or land management proposals on the settings of all heritage assets but is not intended to cover the impact on the setting of the historic environment at a landscape scale.

The document advises that “Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost”

The document provides advice on how to assess the setting

This section outlines the general principles that both assessors and decision makers should consider when assessing the impact of a proposed change or development on the setting of historic assets. There are four stages.

Stage 1: Identify the historic assets that might be affected by a proposed change or development and their significance.

Stage 2: Define and analyse the settings to understand how they contribute to the ways in which the historic assets are understood, appreciated and experienced.

Stage 3: Evaluate the potential impact of a proposed change or development on those settings.

Stage 4: Consider options to mitigate the potential impact of a proposed change or development on those settings.

The heritage assets have been identified as;

- No 1 Domgay Hall cottages and outbuildings to rear, Cadw ID 8518
- No 2 Domgay Hall cottages and outbuildings to rear Cadw ID 8519
- Rhandregynwen Farmhouse Cadw ID 8520
- C Plan Group of farm ranges to E of Rhandregynwen Cadw ID 8521

Domgay Hall cottages (1 & 2) are the older of the listed buildings dating from the late C16th and constructed as one timber framed house extended and subdivided in C19. The cottages are set back from Domgay Lane and the courtyard range of outbuildings are to the rear. The properties are best viewed from Domgay Lane looking north, and their setting is the gardens to the front, the courtyard buildings to the immediate rear and the farmland in which they sit. The principal windows to the property face south towards the garden, although there are service rooms to the north.

Rhandregynwen Farmhouse is a good quality period farmhouse with late vernacular plan, dating from the late C17 with C18 and C19 remodelling and extensions. The principal rooms face south along the private drive to the house. The barns are sited to the east of the principal house and are arranged in a courtyard.

The land at this point is flat and from the public highway Rhandregynwen is not visible from Domgay Hall cottages, however glimpses appear the closer towards Rhandregynwen one travels. Rhandregynwen is not visible from the public highway, nor at the entrance to its drive and when Rhandregynwen and its barns are visible Domgay Hall is not readily visible.

The proposal would be sited to the northeast of Domgay Hall to the rear of the existing courtyard of buildings. I note the feed bins will be sited to the east of the buildings and closer to the listed barns which is preferable to their being sited on the west in terms of setting of the farmstead as a whole.

The topography of the land would mean that the short term views of the proposal against the listed buildings at Rhandregynwen would mean that the proposal and the listed buildings are not readily viewed together. However there would be longer term views from higher ground especially Rodney's Pillar where both the proposed poultry units and the listed buildings will be viewed together.

The proposed units will be visible from Domgay Lane where Domgay Hall is also visible.

The visual aspect of setting of listed buildings is primarily addressed in Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and paragraph 11 of Welsh Office Circular 61/96 which confirms that "The setting is often an essential part of a building's character", and continues that "they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

Domgay Hall (cottages) and its barns are sited within open countryside as is the proposal. It is noted that the proposal is for large agricultural buildings which are a more recent introduction to the rural landscape where agricultural buildings have become increasingly larger as farming practises evolve and change.

There are more modern farm buildings to the east of Domgay Hall (cottages) which are in part closer to Domgay Lane than the principal dwelling and as such the setting on this elevation has been comprised in part by the buildings erected prior to the building being listed. There is a danger when constructing new agricultural buildings especially large buildings that the new buildings could engulf the listed building. In this instance the proposed buildings have been sited to the northwest of the site a little distance from the listed buildings. I also note the height of the proposed buildings of 5m to the ridge.

I note the existing tree cover to the north of the proposal, and I note the proposed landscaping to the south of the proposal to screen the buildings when viewed from Domgay Lane.

I note the information contained in the Historic Environment Assessment and the conclusion that there would be a low visual impact on the setting of Domgay Hall (cottages),

Given the flat topography and the proposed mitigation, I could not conclude that the proposal would adversely visually affect the setting of these 2 listed buildings, and would agree with the findings of the Historic Environment Assessment

However this is based on the proposed mitigation measures and if the proposal is considered acceptable within the Registered Landscape, I would request that appropriate and robust conditions be imposed in terms of landscaping and screening to alleviate the impact of the proposal when viewed from Domgay Lane and potentially also any long term views from higher ground.

I would have no objections to the proposal on heritage grounds.

#### PCC Ecologist

#### EIA Screening Requirement:

The development as a whole is consistent with Schedule 1 of the (Environmental Impact Assessment) (Wales) Regulations 2016 as it will accommodate in excess of 100,000 broiler chickens. Following a scoping report in July 2016, an Environmental Statement has been completed and submitted with the planning application. No formal Screening opinion appears to have been sought from the Planning Authority

The Scoping report July 2016 and the ES Section 2.1 proposed consultation with principal consultees. However there is no evidence of the outcome of these consultations clarifying key environmental issues and proposed methods of survey, evaluation and assessment to inform the ES. NRW is the statutory environmental body rather than the Environment Agency and Countryside Council for Wales as stipulated in the ES document.

#### European Species:

The following comments are based on a review of Chapter 10 of the submitted Environmental Statement and Arbor Vitae June 2016 Extended Phase 1 Habitat Survey.

There is no evidence or summary of consultation responses from NRW or other statutory /non statutory consultees outlining the scope of agreed ecology surveys and proposed methods of survey, evaluation and assessment as suggested in Section 1.2 of the scoping document or

section 10.2.1 of the ES and required when following CIEEM assessment guidelines. Therefore it is recommended that NRW review the Environmental Statement and Arbor Vitae June 2016 Extended Phase 1 Habitat Survey.

There is no reference made to European Protected species within 2Km of the site despite ES section 10.6.2 and reference to Appendix 17 of the Arbor Vitae Ecology report. The consultant should be reminded that protected species records are available in Powys via the Biodiversity Information Service.

Otter-

Arbor Vitae Ecologist to clarify if otter had been included within the scope of the surveys given the presence of watercourses/ ditch immediately adjacent to the application site. ES Section 10.6.2 says it was included in the desk top assessment but not included in Section 1.3 of the Arbor Vitae Ecology report. Only when there is adequate survey baseline for otters can an assessment of potential impacts be determined.

Water vole-

Arbor Vitae Ecology survey found no indication of any water vole activity within the area and no impact on this species predicted.

Great crested newt-

There are 5 BIS records for GCN within 2Km. The pond 200m away from the application site was inspected for GCN habitat and given a habitat index Suitability score of 0.543 which Arbor Vitae Ecology report describes as below average breeding habitat for GCN and no further survey work recommended.

Bats-

The desk based study in the Arbor Vitae Extended Phase 1 report, section 3.1 makes no reference to the Lesser Horseshoe bats, Soprano and Common Pipistrelle and Brown Long eared bat BIS records within 2km of the applications site. Powys Interim guidance on poultry farms, June 2010 stipulates that any hedgerows within the vicinity (5km) of the Tanat and Vyrnwy SAC (designated for LH bats) may be of importance to LH bats. This application is located outside the screening distance at 10.35km.

The Arbor Vitae Extended Phase 1 report identified no bat roosting habitat on site. The mature trees (oak and ash category 2a trees) adjacent to the proposed development may offer potential bat roosting habitat but these trees should be retained. The site survey concluded that bats may be using the boundaries of the Domgray Hall for foraging and commuting. Arbor Vitae Ecology report concludes that increased illumination of the site through inappropriate external lighting may have a negative impact on this species. Clarification is therefore required why night time, lighting during construction and decommissioning phases were scoped out of the ES and not assessed. Agent /client to clarify if this is because there will be no night-time lighting during construction and decommissioning.

The lighting plan mitigation in Section 6 of the Arbor Vitae Ecology report should be followed in full.



Root Protection Zones (RPZs) of mature trees (oak and ash category 2a trees) adjacent to the proposed development should be identified on a tree Protection Plan (TPP) and adequately protected, covered by a method statement during construction.

Section 6.3 of the Extended Phase 1 Habitat Survey details a commitment to ecological enhancement which will be included as a planning condition:

- Installation of bat boxes. In accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, Powys Ecologists suggest that for poultry farms, as a biodiversity enhancement, bat boxes should be provided in trees and recommend a minimum of five bat boxes plus an additional 3 boxes for each mature tree lost.
- Additional species rich hedge / tree planting to the west of the development as linear features for commuting bats.

There is no reference in the Arbor Vitae Extended Phase 1 Habitat Survey (June 2016) of the demolition of the building referenced in the application description. Therefore, Arbor Vitae to clarify if this building was assessed for potential bat/bird habitat.

Breeding birds:

Arbor Vitae to clarify if a ground nesting bird survey has been carried out in accordance with CIEEM survey guidelines.

UK Species:

Badgers-

An area of 50 metres of the site was surveyed for signs of badgers. There was no indication of any badger activity within the area and no impact on this species is predicted.

Reptiles-

Arbor Vitae to clarify why reptiles were not included within the scope of the surveys given the presence of rough grassland. Only when there is an adequate survey baseline for reptiles can an assessment of potential impacts be determined.

Nesting Birds-

Nesting birds may be present within any hedgerow requiring removal. No vegetation should be removed during the bird nesting season (March to end of August inclusive) unless a suitably-qualified ecologist has confirmed the absence of active nests immediately beforehand.

Section 6.3 of the Extended Phase 1 habitat survey details a commitment to ecological enhancement by providing bird boxes. In accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, Powys Ecologists suggest that for poultry farms, as a biodiversity enhancement, bird boxes should be provided in trees and recommend a minimum of five bird boxes plus an additional 3 boxes for each mature tree lost.

## Section 42

The nearest ancient woodland to the application site is 2.5 KM and outside the screening distance outlined in EA/DEFRA Feb 2016 'Environmental Management guidance, Intensive Farming Risk Assessment for Environmental Permits'.

Further design detail is required on highway access improvements to consider the loss of vegetation. If there is any hedgerow to be lost, this must be assessed via a hedgerow survey in accordance with CIEEM guidelines to see if it qualifies as an important hedge and is protected under the Hedgerow Regulations (1997). Mitigation for the loss of hedgerows should be included in a Landscaping plan outlining mitigation planting, referenced in ES section 10.8 but not provided for comment.

A planning condition would require a landscaping plan, specification and species mix for:

- Creation of woodland planting and conservation strips
- Creating of new species rich hedgerows to the west of the development.

LBAP Species & Habitat:

Broadleaf woodland habitat should be enhanced by proposed landscape woodland planting.

Linear habitats, streams and rivers are habitats included in the Powys LBAP. Rivers and streams are included on the Environment (Wales) Act's Section 7 list of habitats of principal importance for conservation of biological diversity of Wales. Numerous watercourses run through the proposed site. Water resources are assessed in Section 12 of the ES.

Given the proximity of sensitive receptors: local drainage ditches and ponds, River Vyrnwy, Montgomery Canal and potential impacts of eutrophication from manure leachate, NRW should be consulted and their response considered under Section 12.1.6.

If the intention is for the manure to be used as a fertiliser on arable land within the control of the applicant, a planning condition would require a detailed Manure Management Plan (as outlined in ES Table 48) for the location of manure dispersal indicating 10m buffer areas for watercourses, 50m buffer for springs, wells and boreholes.

ES 12.7.9 identifies that there is sufficient land available to store and dispose of manure at a rate of 194.12 Kg /ha/ year which seems to be consistent with the Code of Good Agricultural Practice (CoGAP) recommended upper limit for N of 250kg/ha/year . NRW consultation would be required regarding their acceptance of the calculation of nutrient loading.

Storage and spreading of manure should follow the DEFRA Code of Good Practice: no manure spreading on wet, water logged, frozen, snow covered or steeply sloping ground.

A planning condition will request that a detailed drainage plan is submitted for consideration showing how the applicant intends to dispose of both foul and surface water from the shed and ranging areas. These drainage details are required to ensure the risk of potential pollution impacts to streams located nearby the proposed poultry unit have been adequately addressed.

- The development should be drained by separate systems of foul and surface water. drainage with all clean roof and surface water being kept separate from foul water.
- Runoff water from the ranging area especially should not be allowed to flow directly into surface water drains or watercourses as this can contain polluting nutrients and sediments.
- Dirty water from the clean out process of the poultry units will be collected and stored in underground tanks and the water will be spread on the holding. Any effluent tank must be constructed to meet SSAFO Regulations (Wales) 2010.
- All works should also be compliant with all appropriate pollution control measures to ensure that the water environment (both groundwater and surface water) is not polluted.
- The written consent of NRW or registration for exemption by the developer will be required for any discharge e.g. foul drainage to a watercourse / ditch etc. from the site and may also be required for certain categories of discharges to land. All necessary NRW consents or exemptions must be obtained prior to works progressing.
- The details and location of SUDS / Soakaways should be located away from existing surface waters.

Pollution prevention measures set out in ES 12.5.5 should be followed in full to mitigate against the potential construction and operational contamination of surface water. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

NRW should be part of the consultation process as it is a requirement under the Environmental Permitting (England and Wales) Regulations 2010 that the site has a permit to operate.

Protected Sites -International Sites :

Montgomery Canal SAC is located 1420m from the application site and within the 10km Ammonia screening distance for European sites specified by EA/DEFRA Feb 2016 'Environmental Management guidance, Intensive Farming Risk Assessment for Environmental Permits'.

Granllyn SAC and Tanat and Vyrnwy SAC are also located within the 10km Screening distance but have not been included in the SCAIL Model. NRW to advise if these sites should be included in the ammonia modelling.

A SCAIL Ammonia modelling tool, included within the ES predicts that the maximum annual ammonia concentration from the enlargement of the poultry unit would be below the EA's lower threshold (4% critical level load) for Montgomery SAC.

NRW would need to agree the ammonia screening assessment under the Environmental Permitting (England and Wales) Regs 2010. Given the proximity of the Montgomery Canal and potential impacts of eutrophication from manure leachate, NRW should be consulted if a Habitats Regulations Assessment is required to assess if there would be a significant impact on the relevant European Site.

National Sites :

7 SSSI's are located within the 5km Ammonia screening distance for SSSI specified in EA/DEFRA Feb 2016 'Environmental Management guidance, Intensive Farming Risk Assessment for Environmental Permits'.

The Ammonia report predicts that the maximum annual ammonia concentration from the enlargement of the poultry unit at these SSSI sites would be below the EA's threshold (20 % of critical level load).

However, there are discrepancies between the SCAL modelling tables at the sites listed below which calculate 0.00ug/m<sup>3</sup> process contribution NH<sub>3</sub> at each site but the Ammonia Report summary table calculating conflicting % contributions:

- Morton Pool and pasture SSSI @ 0.33%
- Bredden Hill SSSI @ 0.33%
- Blodwen Marsh SSSI @ 0.33%
- Gweunydd Ty-Brith Meadows SSSI @0.33%

Therefore % process contribution to NH<sub>3</sub> at SSSI's needs further clarification.

Also the Critical level (CL) for sensitive habitats (ug) at each site needs to be confirmed as 3ug/m<sup>3</sup> or if sensitive plants such as lichens are present, then CL would be 1ug/m<sup>3</sup>.

Considering the potential effect of ammonia deposition on SSSI's, NRW will need to agree the ammonia screening assessment.

Local Sites:

Pont Llanymynech – Road side verge is located within the 2km Ammonia screening distance from the application site. The site is characterised for Dwarf elder/Danewort and Danish scurvy-grass (non-native) and should be included within the Ammonia assessment as a local wildlife site.

Invasive Non-Native Species:

No records of invasive species were recorded during the Phase 1 Habitat Survey by Arbor Vitae

Cumulative Effect:

The paragraph 2.6 of the ES notes that there are no poultry units erected or have recently received consent for planning within a 2Km radius of the proposed site (search conducted between 2006-2016).

Summary of recommendations / further assessment or work:

1. The Scoping report July 2016 and ES Section 2.1 proposed consultation with principal consultees and subsequent statutory consultee responses. There is no evidence or summary of consultation responses from NRW or other statutory /non-statutory consultees outlining the scope of agreed ecology surveys and proposed methods of survey, evaluation and assessment. Therefore it is recommended that NRW review the Environmental Statement and Arbor Vitae June 2016 Extended Phase 1 Habitat Survey.

2. Arbor Vitae Ecologist to clarify if otter had been included within the scope of the surveys given the presence of watercourses/ ditch immediately adjacent to the application site. ES Section 10.6.2 says it was included in the desk top survey but it's not included in Section 1.3 of the Arbor Vitae Ecology report.

3. Arbor Vitae Ecology report concludes that increased illumination of the site through inappropriate external lighting may have a negative impact on this species. Clarification is therefore required why night time lighting during construction and decommissioning phases was scoped out of the ES and not assessed. Agent /client to clarify if this is because there will be no night-time lighting during construction and decommissioning.

4. There is no reference in the Arbor Vitae June 2016 Extended Phase 1 Habitat Survey of the demolition of the building referenced in the application description. Therefore Arbor Vitae to clarify if this building was assessed for potential bat and bird habitat.

5. Arbor Vitae to clarify if a ground nesting bird survey has been carried out in accordance with CIEEM survey guidelines. BIS data would identify a number of birds of conservation concern recorded locally.

6. Arbor Vitae to clarify why reptiles were not included within the scope of the surveys especially given the presence of rough grassland.

7. Further design detail is required on the highway access to consider the loss of vegetation. Mitigation for the loss of hedgerows should be included in a Landscaping Plan outlining mitigation planting, referenced in ES section 10.8 but not provided for comment.

8. ES Chapter 6 - Air Quality considers the Montgomery Canal SAC's within 10km. Granllyn SAC and Tanat and Vyrnwy SAC are also located within the 10km Screening distance but have not been included in the SCAIL Model. NRW to advise if these sites should be included in the ammonia modelling.

9. NRW will need to agree the ammonia screening assessment under the Environmental Permitting (England and Wales) Regs 2010. There are discrepancies between the submitted SCAIL modelling tables at SSSI sites listed below which calculate 0.00ug/m<sup>3</sup> process contribution NH<sub>3</sub> at each site but the Ammonia Report summary table calculates conflicting % contributions:

- Morton Pool and pasture SSSI @ 0.33%
- Bredden Hill SSSI @ 0.33%
- Blodwen Marsh SSSI @ 0.33%
- Gweunydd Ty-Brith Meadows SSSI @0.33%

Therefore % process contribution to NH<sub>3</sub> needs further clarification.

10. Given the proximity of the Montgomery Canal and potential impacts of eutrophication from manure leachate, NRW should be consulted if a Habitats Regulations Assessment is required to assess if there would be a significant impact on the relevant European Site.

11. Given the proximity of sensitive receptors; River Vyrnwy and the Montgomery canal SAC, there should be NRW consultation regarding acceptance of the calculation of nutrient loading from manure spreading at a rate of 194.12 Kg /ha/ year.

12. Pont Llanymynech road side verge is located within the 2km Ammonia screening distance from the application site. The site is characterised for Dwarf elder/Danewort and Danish scurvy-grass (non-native) and should be included within the Ammonia assessment as a local wildlife site.

Recommended Conditions - Conditions would be made on receipt of information requested above.

### Natural Resources Wales (NRW)

*First response:*

*Natural Resources Wales brings together the work of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. Our purpose is to ensure that the natural resources of Wales are sustainably maintained, used and enhanced, now and in the future.*

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements. We would object if the scheme does not meet these requirements.

Summary of requirements:

Requirement 1- Submit an amended Flood Consequence Assessment.

Requirement 2 – Undertake an SCAIL assessment of the emissions from all of the associated manure heaps/storage in relation to all relevant protected sites and undertake an in-combination assessment of the potential impact of the ammonia emissions from the manure heaps and the unit for Montgomery Canal SAC.

Requirement 3 – Submit a plan which show the layout of the planned drainage system showing the drainage path of both clean and dirty water and also the location and details of the SUD system and the location of the dirty water tank.

Requirement 4 – Submission of a manure management plan.

Requirement 5 – Bats: submission of a lighting scheme.

Flood Risk:

Due to the nature and scale of the development, the location of it in DAM C2, requires further justification in terms of flood risk. TAN15 requires the Local Authority to justify the location of the development.

The FCA (Dated July 2016 Ref EVANS v1.0) submitted in support of the application is considered inadequate as it does not provide evidence of the level of perceived flood risk nor

how that flood risk could be managed, taking account of the attendant risk and that certain contaminants could be mobilised. We refer you to sections 5.1, 7.7 and 7.8 of TAN15 in this respect.

The FCA has not sourced available flood level information from NRW as part of a Product 4 data request. This request should be made via our Data Distribution team [datadistribution@cyfoethnaturiolcymru.gov.uk](mailto:datadistribution@cyfoethnaturiolcymru.gov.uk) in order for us to make an informed response on flood risk.

Flood level data should be used to determine the onset of flooding and depths of flooding up to the 0.1% flood event.

The FCA should demonstrate how the development will be compliant with tables A1.14 and A1.15 of TAN15.

There is nominal benefit afforded from the *argae* system in the area and the FCA would benefit from anecdotal information of flood history for the site, particularly for the 1998, 2000 and 2002 events.

An appropriate FCA should consider the loss of flood storage up to the 1% plus climate change flood level and discuss whether or how that loss should/could be compensated for (removal of any redundant buildings, say). Without any compensation beyond a reasonable threshold volume, it could be considered as setting an undesirable precedent.

The Planning Authority is advised to consider its position with regards to cumulative impact of similar proposals in flood risk areas and whether an undesirable precedent is being set, irrespective of less vulnerable nature of the proposals.

We emphasise that each proposal in DAM C2 will and should be considered in isolation. Whilst NRW has no evidence base with regards to adverse impact as a result of loss of flood storage, we acknowledge for the confluence floodplain in this area, any impacts are difficult to quantify (Ref Trewern Hall inquiry, even a quantifiable loss of flood storage could, in some situations, be considered as insignificant). However, a similar building in a DAM C2 zone of a smaller and more constrained floodplain could have an impact on both flood storage and flood flow conveyance.

With regards to surface water control and impacts on local drains and ditches, the site is within the Powysland Internal Drainage District. DP is advised to liaise directly with James West (Technical Senior Advisor – Internal Drainage Districts, Flood Risk Strategy).

The proposed plans infer that the proposed buildings are very close to the local drains which may be considered inappropriate with regards to impact on water quality and adverse impact on the watercourse corridor.

Requirement 1- Submit an amended Flood Consequence Assessment.

Protected Sites: Air Quality

NRW's current air quality screening criteria consider the impact that a unit may have on any SSSI within 5km of the development unit and any SAC within 10km of a unit. NRW are unable

to comment on the impact of the development on any protected sites located within England and it will be necessary for you to consult Natural England in relation to the potential impact of the unit on these SSSIs.

The ES explains that the applicant intends on storing manure from the development (1800 tonnes) in field heaps as the application is subject to EIA it is necessary to assess both the emissions from the shed and also from the storage of manure.

This can be done by undertaking a SCAIL assessment which has an option to assess manure storage. If the applicants intends on storing manure in more than one location it will be necessary to undertake an assessment for each manure heap separately using the different grid references and then add these together to identify the contribution that the manure heaps will make to each protected sites.

The only SAC within 10km of the development which is sensitive to ammonia emissions is the Montgomery Canal SAC, an in-combination assessment of the potential impact of the manure heaps and the emissions from the sheds will need to be undertaken for this site. This can be done by adding the contributions modelled by SCAIL from the manure heap(s) to the emissions from the installation which are presented in the air quality report submitted in support of this application.

NRW recommend that all applications include the SCAIL results and the SCAIL input data this can be done by taking a screen shot of the input page or by presenting the input data separately. When this additional information has been submitted NRW will be able to comment in more detail in relation to the potential contribution that this development could make to the ammonia critical levels and nitrogen deposition critical loads of relevant protected sites.

It is noted that Breidden Hill SSSI was assessed using the ammonia critical level  $3\mu\text{g}/\text{m}^3$ , this site supports notable mosses and lichens and therefore the ammonia critical level  $1\mu\text{g}/\text{m}^3$  should be used, the assessment of the contribution from the development to Breidden Hills SSSI needs to be undertaken again using the ammonia critical level  $1\mu\text{g}/\text{m}^3$  and the air quality report and ES should be amended to reflect the results.

Requirement 2 – Undertake an SCAIL assessment of the emissions from all of the associated manure heaps/storage in relation to all relevant protected sites and undertake an in-combination assessment of the potential impact of the ammonia emissions from the manure heaps and the unit (sheds) for Montgomery Canal SAC.

#### Drainage and Water Quality

It is noted that the applicant has not submitted a plan showing the drainage from the unit although the ES does explain a number of measures which the applicant will use to prevent the unit from adversely affecting water quality. Due to the proximity of the development to the adjacent water course it is necessary for the applicant to provide a plan which show the foul and clean water drainage from the site, the location of the dirty water tank and also provide more information about the SUD system.



Requirement 3 – Submit a plan which show the layout of the planned drainage system showing the drainage path of both clean and dirty water and also the location and details of the SUD system and the location of the dirty water tank.

Clean, uncontaminated surface waters should be disposed of by means of sustainable drainage principles. Any soakaways should be directed away from existing surface waters. The ES suggests that the scheme will be drained by a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul water which is in line with NRW advice.

The applicant has explained that they will operate a switch system which enables all dirty water from the yard area to be directed to a dirty water tank during clean out and that all dirty water from the shed will be directed to the dirty water tank. It is important that the applicant maintain and operate this system effectively, provided this is done then dirty water from the shed and yard should not cause any water quality issues.

The proposal plans suggest that a dirty water effluent tank will be installed. No detail is given as to where this will be located. We advise the applicant need to ensure that any effluent tank be constructed to meet SSAFO Regulations (Wales) 2010 and should be located at least 10m away from the adjacent water course.

The work should also be compliant with all appropriate pollution control measures to ensure that the water environment (both groundwater and surface water) is not polluted.

The written consent of NRW or registration for exemption by the developer will be required for any discharge (e.g. foul drainage to a watercourse/ditch etc.), from the site and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

<https://naturalresources.wales/apply-and-buy/waste/waste-permitting/do-you-need-to-apply-for-a-permit-or-register-an-exemption/?lang=en>

### Manure Management Plan

A manure management plan does not appear to have been submitted in support of this application. Appendix 21 includes a map of the available land for litter spreading however the area appears to be small and it does not appear to include any information about where it is not possible to spread (i.e. the buffers along water courses). The ES includes summary information about the manure plan however it is not clear how the information was derived.

Requirement 4 – Submission of a manure management plan.

It is understood that the applicant intends on spreading manure on land within their ownership/control and therefore the application should be supported by a Manure Management Plan that confirms that the applicant has sufficient land to spread the manures produced by the proposed development in combination with manure generated on the farm from other stock at a rate that is consistent with the Code of Good Agricultural Practice (CoGAP). The ES explains that the applicant has adequate land to spread the manure however it is not clear how this has been determined as the calculations do not include any information about the extent of the land within applicants control (including their neighbours

land) or information about the area of land within their control which the applicant cannot spread manure on due to the land being unsuitable (i.e. buffer areas along water courses etc.).

Consideration must also be given to the phosphate contained with the manures and residual amounts in the soils to ensure that crop requirement is not exceeded. It is recommended that routine soil sampling is undertaken for pH, phosphate and magnesium, and that manure and fertiliser application rates be adjusted as required to meet the requirement of the crop.

The plan maps should identify areas where manure spreading should not take place including around ditches and watercourses to help minimise the risk of pollution. A 10m buffer should be maintained around watercourses and any other sensitive areas. No spreading should take place within 50m of springs, wells and boreholes (CoGAP).

Spreading of manure should be carried out in accordance with the CoGAP (i.e. not on wet, waterlogged, frozen, snow covered or steeply sloping ground).

Please note that CoGAP advises that the location of temporary field heaps should be located in the same position for up to 12 months with no return for 2 years. Field heaps should be located to avoid run off to any watercourse or ground waters being located at least 10m from any watercourses (including land drains), and 50m from any well, spring or borehole. It would be helpful if the applicant could identify the locations of the manure heaps.

#### Environmental Permitting Regulations

This proposal will increase the number of birds within the holding to over 40,000 birds and therefore the applicant will need to apply for an Environmental Permit under the Environmental Permitting Regulations 2010 from Natural Resources Wales. It is recommended that the applicant discuss this matter with NRW at the earliest opportunity.

The grant of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

#### Protected Species

The planning application states that there are no hedges or trees within the development site. Aerial photographs in appendix 4 for the site show a number of trees and a shed with a metal roof however there is no mention of the trees or the shed within the Phase 1 assessment. It is assumed that they were removed prior to the application being submitted, the applicant should confirm whether this is the case and whether the shed was assessed for potential use by protected species.

NRW have reviewed the extended phase 1 survey undertaken by Arbor Vitae Environment in support of this application. NRW consider it to be adequate to determine whether the development will impact protected species. NRW agree with the conclusions and recommendations of the report. In our view the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of dormouse or great crested newts.

## Bats

NRW agree with the conclusions and recommendations of the report and would not have significant concerns about this scheme provided that an adequate lighting scheme is drawn up and submitted in line with the recommendations of the report, it is recommended that the implementation of the recommendations in the ecological report be made a condition of planning which will include a lighting plan.

Requirement 5 – Bats: submission of a lighting scheme.

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>).

We have not considered potential effects on other matters and do not *rule out the potential for the proposed development to affect other interests, including environmental interests of local importance*. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

To conclude, we have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the requirements listed above. We would object if the scheme does not meet these requirements. Please do not hesitate to contact us if you require further information or clarification on any of the above.

*Second response:*

Thank you for your consultation received on 14<sup>th</sup> December 2017. We previously commented on this proposal on 31<sup>st</sup> August 2016 CAS-21308-C7V4.

Following review of the further information we confirm that Requirement 1, 2 and 5 have been met. Information has been submitted that is relevant to Requirements 3 and 4 although this does not provide sufficient clarity. Full explanation is given under the relevant sections in this letter. We have further requirements and conditions as detailed below.

### Summary of Conditions

Condition 1: An 8m wide access corridor should be maintained between the development and Domgay Brook to allow maintenance of the watercourse.

### Environmental Permit

We note that the assessment is based on 100,000 broiler birds and will require a permit under the Environmental Permitting (England & Wales) Regulations 2010 (as amended) to operate. We strongly recommend that the applicant begin discussions with the NRW Permitting Service to determine what exactly needs to be assessed to fulfil the permit application requirements.

The granting of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

## Flood Risk

### CAS-21308-C7V4 Requirement 1- Submit an amended Flood Consequence Assessment. ✓

Roger Parry and Partners submitted a Flood Consequential Assessment (FCA) dated December 2016 that has addressed most of the flood risk issues raised in our previous response although some details must be shown on plans that are agreed prior to planning consent.

The FCA states in point 5 that the floor levels will be above 64.3m AOD to allow for the 1% plus climate change flood level. In their associated document ATI-11090a, detailing the modelling, Table 1 shows the defended 1 in 100cc mean elevation as 64.30m AOD and maximum elevation of 64.45m AOD which is at least 600mm above adjacent ground level.

The plans to be agreed NRW and Powysland IDD prior to granting of planning consent must show that all plant, machinery and any polluting aspects of the development will be set above the 1% plus climate change flood level of 64.3m AOD, as stated in the Flood Consequence Assessment.

Based on predicted flood levels and historic aerial photos, the proposed building is predominantly outside the flood risk area with any part of the building that is affected, theoretically only flooding to depths not exceeding 300mm.

The owner's / operators are aware of the flood risk and receive automated flood warnings from Natural Resources Wales. The applicant could consider re-siting the units further south.

The opportunity should be taken to maintain the flood storage available by re-contouring immediate adjacent ground levels as mentioned in point 6 of the FCA, for examples high spots within the floodplain should be lowered and excavated material removed out of the recognised floodplain. To ensure no net loss in storage area on the flood plain details of re-contouring should be provided.

Details of flood plain re-contouring should be provided on plans for review by NRW and Powysland IDD prior to the granting of planning consent.

## Surface Water

With regards to surface water control and impacts on local drains and ditches, the site is within the Powysland Internal Drainage District and there will be flows in Domgay Brook on the northern boundary of the proposed development.

The surface water from the development will need to be attenuated from the balancing pool so that it is not greater than greenfield runoff rates for flows entering Domgay Brook. Initial calculations provided show this can be achieved using a Hydrobrake and storage pool as specified.

Powysland Internal Drainage District require a 8m wide corridor to allow machine access for the maintenance of Domgay Brook.

We require confirmation that surface water attenuation is to be achieved with the 166m<sup>3</sup> balancing pool referred to in point 6 of the FCA.

Condition 1: An 8m wide access corridor should be maintained between the development and Domgay Brook to allow maintenance of the watercourse.

Surface water entering Domgay Brook must be free from contaminants as advised under the Pollution Prevention Management section below.

Air Quality: Protected Sites: SACs and SSSIs within 10km

Requirement 2 – Undertake an SCAIL assessment of the emissions from all of the associated manure heaps/storage in relation to all relevant protected sites and undertake an in-combination assessment of the potential impact of the ammonia emissions from the manure heaps and the unit for Montgomery Canal SAC. ✓

We have reviewed the Ammonia Report – Erection of an intensive poultry unit and all associated works, dated October 2016 by Roger Parry and Partners. We note that the incorrect ammonia critical levels were used for some protected sites and we have used the correct values in our analysis.

Without prejudice to any other regulatory or statutory consultation that may be required for this development. Based on the information provided the ammonia and nitrogen seem to be within our current limits

Natural England should provide advice regarding Blodwel Marsh SSSI and Morton Pool and Pasture SSSI.

#### 1. Montgomery Canal SSSI & SAC

The background ammonia is 3.13 µg/m<sup>3</sup> and background nitrogen deposition is 23.80 kgN/ha/yr.

The ammonia critical level is 3µg/m<sup>3</sup> and the nitrogen deposition assessment is not required because the floating water plantain roots are submerged and within the sediment.

The farm contribution to ammonia is 0.22 µg/m<sup>3</sup>, which is 7.3 % of the critical level

In conclusion, we are satisfied that the process contributions of ammonia and nitrogen deposition from this proposed unit are below the thresholds that we apply in our assessment of potential impacts on SSSIs.

#### 2. Llanymynech and Llyncllys Hills SSSI

The background ammonia is 2.84 µg/m<sup>3</sup> and background nitrogen deposition is 39.62 kgN/ha/yr.

The ammonia critical level is  $1\mu\text{g}/\text{m}^3$  and the nitrogen critical load is 8 kgN/ha/yr for the site.

The farm contribution to ammonia is  $0.09\mu\text{g}/\text{m}^3$ , which is 9% of the critical level and to nitrogen is 0.70 kgN/ha/yr (8.75% of the critical load)

In conclusion, we are satisfied that the process contributions of ammonia and nitrogen deposition from this proposed unit are below the thresholds that we apply in our assessment of potential impacts on SSSIs.

### 3. Gweunydd Ty Brith

The background ammonia is  $2.85\mu\text{g}/\text{m}^3$  and background nitrogen deposition is 23.24 kgN/ha/yr.

The ammonia critical level is  $3\mu\text{g}/\text{m}^3$  and the nitrogen critical load is 20 kgN/ha/yr for the site.

The farm contribution to ammonia is  $0.06\mu\text{g}/\text{m}^3$ , which is 2% of the critical level and to nitrogen is 0.31kgN/ha/yr (0.016 % of the critical load)

In conclusion, we are satisfied that the process contributions of ammonia and nitrogen deposition from this proposed unit are below the thresholds that we apply in our assessment of potential impacts on SSSIs.

### 4. Breidden Hill

The background ammonia is  $2.46\mu\text{g}/\text{m}^3$  and background nitrogen deposition is 20.02 kgN/ha/yr.

The ammonia critical level is  $1\mu\text{g}/\text{m}^3$  and the nitrogen critical load is 8 kgN/ha/yr for the site.

The farm contribution to ammonia is  $0.04\mu\text{g}/\text{m}^3$ , which is 4% of the critical level and to nitrogen is 0.21kgN/ha/yr (2.63% of the critical load)

In conclusion, we are satisfied that the process contributions of ammonia and nitrogen deposition from this proposed unit are below the thresholds that we apply in our assessment of potential impacts on SSSIs.

### 5. In - Combination Assessment

Based on the October 2016 Ammonia Report, the in combination assessment requested under Requirement 2 of the NRW letter dated 31<sup>st</sup> August 2016 ref CAS-21308-C7V4 appears to have addressed the cumulative impacts on the designated sites assessed.

We recommend that section 6.3.6 in the Environmental Statement needs to assimilate the information provided in Appendix 16 Ammonia Report to address the cumulative assessment for the Environmental Statement.

Drainage and Water Quality

CAS-21308-C7V4 Requirement 3 - Submit a plan which shows the layout of the planned drainage system showing the drainage path of both clean and dirty water and also the location and details of the SUD system and the location of the dirty water tank. – further clarification required

We note that the plans submitted with the application infer that the proposed buildings are immediately adjacent to the local drains and we consider that insufficient information has been provided for Requirement 3 (of our response dated 31<sup>st</sup> August 2016 CAS-21308-C7V4) to be met.

Therefore we re-iterate the requirement, we acknowledge that drainage is shown on Drawing no RJC-MZ57-Evans-01A but we consider that this does not show sufficient details to demonstrate that pollution can be prevented. A pollution prevention plan should be created and implemented to prevent pollution of the water environment during construction and operation.

We advise that your Authority includes a suitably worded planning condition on any planning consent requiring full details of the means for pollution prevention during construction and operation.

Guidance for Pollution Prevention GPP5 “Works and maintenance in or near water” has recently been updated (January 2017) and will be found at

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

All wash water and manures arising from poultry units must be collected and stored in accordance with The Water Resources (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil)(Wales) Regulations 2010 and Welsh Governments Code of Good Agricultural Practice

Clean, uncontaminated surface waters should be disposed of by means of sustainable drainage principles. Any soakaways should be directed away from existing surface waters.

Roof water from units with low velocity roof extraction should be treated as lightly polluted and directed to soakaway, swale, pond or reed bed.

We advise the applicant need to ensure that any effluent tank be constructed to meet SSAFO Regulations (Wales) 2010 and should be located at least 10m away from the adjacent water course. The drainage plan must show where the SSAFO compliant effluent tank is to be located.

The work should also be compliant with all appropriate pollution control measures to ensure that the water environment (both groundwater and surface water) is not polluted.

The written consent of NRW or registration for exemption by the developer will be required for any discharge (e.g. foul drainage to a watercourse/ditch etc.), from the site and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

<https://naturalresources.wales/apply-and-buy/waste/waste-permitting/do-you-need-to-apply-for-a-permit-or-register-an-exemption/?lang=en>

The grant of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

## Manure Management

### CAS-21308-C7V4 Requirement 4 - Submission of a manure management plan. – further clarification required

We have reviewed the submitted manure management plan (MMP) by Roger Parry and Partners dated September 2016. The plan states that *'the owner occupied land has been calculated to be 188.19 acres (76 hectares) that is available for manure to be spread'* and includes a letter from RJ Eyres and Sons which states that will collect up to 2000 tons of poultry manure annually. The Manure Management Plan is deficient in the following areas;

- I. The MMP does not say how much manure will be produced.
- II. The MMP does not detail the requirements for compliance with the Code of Good Agricultural Practice (CoGAP).
- III. The MMP does not confirm how much manure will be spread on the land or how much will be taken off site.
- IV. The MMP does not confirm that manure can be spread on the farm at a rate that is consistent with the CoGAP recommended upper limit for N of 250kg/ha/year.
- V. There is no manure map to show no spread buffers along watercourses and other sensitive no spread areas.

We consider that insufficient information has been provided for Requirement 4 (of our response dated 31<sup>st</sup> August 2016 CAS-21308-C7V4) to be met. Therefore we re-iterate the requirement.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of banded compound should be 110% of the capacity of the tank, all filling points, gauges, vents and sight glasses must be located within the bund. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund. Refuelling should be supervised at all times – and preferably done on an impermeable surface.

The activity of importing waste onto the site for use as, for example hardcore, must be registered by the Natural Resources Wales as an exempt activity under the Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit for any material imported to and exported from site.



Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on immediately on Tel: 03000 65 3000.

## European Protected Species

### CAS-21308-C7V4 Requirement 5 - Bats: submission of a lighting scheme. ✓

We have reviewed the Lighting Design Scheme submitted by Roger Parry and Partners dated October 2016. We are satisfied that this requirement can be met and appropriate conditions should be attached to any planning permission to ensure that it is implemented. We recommend that timers / motions sensors should be fitted to avoid the unintentional use of exterior lighting outside working hours.

## Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website:

<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>.

We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

### *Third response:*

Thank you for your consultation received on 14<sup>th</sup> December 2017. We previously commented on this proposal on 31<sup>st</sup> August 2016 CAS-21308-C7V4 and again on 31<sup>st</sup> January 2017 CAS-27317-C9S7 when we said that further clarification was needed to satisfy requirements 3 and 4.

On 10<sup>th</sup> February 2017 we received drainage calculations, a method and pollution prevention statement, a manure management plan v2 and a Drainage Plan. On 21<sup>st</sup> February we received a cut and fill plan that was discussed with Powysland Internal Drainage District on 8<sup>th</sup> March.

Following receipt of further information we consider that our requirements have been met.

## Summary of Conditions

Condition 1: An 8m wide access corridor should be maintained between the development and Domgay Brook to allow maintenance of the watercourse.

## Flood Risk

The cut and fill plan that was received on 21<sup>st</sup> February was discussed with Powysland Internal Drainage District on 8<sup>th</sup> March. The outcome of the discussion was a consensus that the flood storage compensation in green on drawing RJC-MZ57-Evans-07 is sufficient. There will be no reduction in the storage capacity of the flood plain and there will be no more water in Domgay brook. This satisfies Requirement 1 of CAS-21308-C7V4, *“Requirement 1- Submit an amended Flood Consequence Assessment”* and our advice on 31<sup>st</sup> January which stated that *“Plans must demonstrate the statements in the FCA and be agreed with NRW and Powysland IDD prior to permission.”*

Following further discussion with the agent on 9<sup>th</sup> March we received a method a pollution prevention statement, a manure management plan v3 and an amended Drainage Plan.

#### Drainage and Water Quality

Requirement 3 of CAS-21308-C7V4 - *“Submit a plan which show the layout of the planned drainage system showing the drainage path of both clean and dirty water and also the location and details of the SUD system and the location of the dirty water tank”* - has now been met as the plan shows that the clean surface water will be discharged via an attenuation pond with a hydrobrake to limit the outfall of the attenuation pond to 5 litres per second.

#### Manure Management

Requirement 4 of CAS-21308-C7V4 – *“Submission of a manure management plan.”* - has been met as the third iteration of the document confirms that RK Eyres and Sons are able to accept all of the manure produced by Domgay Hall farm as a contingency plan if it should not be possible to spread manure on the maize crop at Domgay Hall in the spring. The Manure Management plan acknowledges that the spreading area is in the C2 flood zone.

#### Environmental Permit

We note that the assessment is based on 100,000 broiler birds and will require a permit under the Environmental Permitting (England & Wales) Regulations 2010 (as amended) to operate. We strongly recommend that the applicant begin discussions with the NRW Permitting Service to determine what exactly needs to be assessed to fulfil the permit application requirements.

The granting of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant’s responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

#### Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website:

<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>.

We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local

importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

### Clwyd Powys Archaeological Trust (CPAT)

#### *First response:*

Please note that we are currently awaiting an archaeological assessment report for this application from the Trysor consultants. We will need to see this report and comment on any mitigation that may be necessary before the application can be determined.

I will comment further when we receive the report.

#### *Second response:*

Thank you for the additional information relating to the above proposals.

The archaeological assessment concludes that there would be a moderate visual impact for Domgay Hall Farm and a low setting impact. The impacts could be reduced further with effective tree screening. Overall the visual impact is partial and not significant.

The potential for direct impact remains to be answered and further pre-determination evaluation will be required as a result. The geophysical survey clearly indicates an anomaly that is very similar to the prehistoric pit alignments found elsewhere across the floodplain around Four Crosses. These are thought to represent early field boundaries, but their true function is unclear and they may date to either the Bronze Age or the Iron Age i.e. anywhere between 2000 BC and 43AD. The pit alignments consist typically consist of 1.5 metre deep and 1 metre wide pits which may have been open or were possibly backfilled with large tree trunk timbers. There are other anomalies which clearly represent a medieval or later ridge and furrow field system and there are linear ditch features which remain undated, but probably represent early field boundaries.

All of these features would be impacted by the proposed development and require further investigation to test their function, date, importance and level of preservation. As archaeology is a material consideration here I would advise that this application is not determined until this resource has been properly evaluated.

Welsh Government Planning Policy Wales (Edition 8, Jan 2016), Circular 60/96 - Archaeology and Planning (Dec 96) and Powys UDP Policies ENV 17 and 18 suggest that planning authorities should require applicants to supply a suitable archaeological assessment in support of an application where a potential impact to archaeological remains is identified.

The developer will need to engage an archaeological contractor to complete this work in accordance with a brief written by this office on request. In response the archaeological contractor will need to supply a written scheme of investigation along with their cost estimate. The written scheme of investigation will need to be approved by me before work can commence on site. On receipt of the archaeological contractors approved final report we will be able to advise further on appropriate mitigation for the proposed development.

I have attached advisory information on archaeological contractors that the developer may wish to consider engaging to complete the evaluation work. Please forward these documents to the applicant so that they are fully informed of the requirements

*Third response:*

Thank you for forwarding the archaeological evaluation report for our comments.

It is quite clear that the features which looked like prehistoric pits on the geophysics have turned out to be the previously unrecorded locations of some animal disposal pits, perhaps associated with a past outbreak of foot and mouth disease on the farm.

As there are now no identified sub-surface archaeological impacts within the proposed development area we would have no objection to the proposed development.

The recommended screening measures to protect the setting of the listed buildings should be carried forward.

### Rights of Way

A Public Right of Way (Footpath 20) passes through the site of the proposed development, but does not appear to be directly affected by the proposed buildings. However, any associated works – such as landscaping, fencing and other works – must not obstruct or impinge upon Footpath 20. This is important because the right of way passes within the curtilage of the development.

The right of way must remain open and available for safe unimpeded public access at all times – both during development and following completion. It must not be obstructed.

### Ramblers Association

The Explorer OS map shows a right of way very close to the proposed poultry installation but I could not spot any reference to it in the design and access statement. As the ROW is so close we would expect to have seen some information on how users of the footpath will be affected by the development and what steps are being proposed to mitigate any adverse effects on users. As things stand it looks as though users enjoyment of the stretch of footpath close to the proposed development will be adversely effected. Until such time as further information is provided on this matter, we cannot support this application.

### **Representations**

70 representations of objection have been received in relation to the proposed development the grounds of objection are summarised below.

Impact on health:

The development will create dust particles that are harmful to health and the development is in close proximity to a village and school. Avian Flu is well documented to be dangerous for human health and other wildlife. Dust particles produced by such facilities can cause respiratory ailments. The noise from the fan will affect residents sleep.

#### Impact on amenity:

The development is in close proximity to residential properties and a school. The proposal will have a significant detrimental impact upon existing residents with regards to noise, smell, dust, vermin, flies and should not be permitted in such a location. Children will not be able to play outside due to the impact.

#### Traffic generation:

The development will lead to significantly more traffic along Domgay Lane which is a single track highway that already serves a number of businesses and properties. The increased use will be harmful to highway safety and to other users including walkers and cyclists. The road is already poorly maintained and the increased use will exacerbate the issue.

#### Environmental impact:

Waste and by products from the development will be harmful to the environment including local biodiversity. Location of development and the proposed spreading of manure are within a floodplain. Will the development prevent the spread of harmful substances in a flood event?

#### Cruelty to animals:

The industrialised process of rearing animals is inhumane and should not be supported by the Council.

#### Other matters:

The application submission contains a number of errors and omissions. This does not allow for full consideration to be given to matters or create a full impression of the impact of the development.

The development will be harmful to many and benefit only the applicant.

### **Planning History**

7920 – Alterations to dwellings at Domgay and Maesderwen. Consent. 1966

8057 – Agricultural building. Consent 1966

M14047 – Extension at Maesderwen. Consent. 1986

M14048 – Listed building consent for extension at Maesderwen. Consent 1986

M15000 – silage pit. Consent 1987

M/2005/0812 - Erection of an agricultural livestock building. Conditional Consent

P/2017/0065 Erection of an agricultural building to be used as a biomass store and associated works (part retrospective) – Pending

## **Principal Planning Constraints**

The following Listed Buildings

- No 1 Domgay Hall cottages and outbuildings to rear, Cadw ID 8518
- No 2 Domgay Hall cottages and outbuildings to rear Cadw ID 8519
- Rhandregynwen Farmhouse Cadw ID 8520
- C Plan Group farm ranges to E of Rhandregynwen Cadw ID 8521

Public right of way Footpath 20

C2038 – Domgay Lane

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 8, 2016)

Technical Advice Note 5 – Nature Conservation and Planning (2009)

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 12 – Design (2016)

Technical Advice Note 13 – Tourism (1997)

Technical Advice Note 15 – Development and Flood Risk (2004)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Welsh Office Circular 11/99 – Environmental Impact Assessment

Welsh Office Circular 61/96 – Planning and Historic Environment: Historic Buildings and Conservation Areas

### Local Planning Policy

*Powys Unitary Development Plan (2010)*

SP3 – Natural, Historic and Built Heritage

SP4 – Economic and Employment Developments

SP14 - Development in Flood Risk Areas

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV4 – Internationally Important Sites

ENV5 – Nationally Important Sites

ENV6 – Sites of Regional and Local Importance

ENV7 – Protected Species

ENV14 – Listed Buildings

ENV16 – Landscapes, Parks and Gardens of Special Historic Interest

ENV17 – Ancient Monuments and Archaeological Sites  
ENV18 – Development Proposals Affecting Archaeological Sites  
EC1 – Business, Industrial and Commercial Developments  
EC7 – Farm/Forestry Diversification for Employment purposes in the Open Countryside  
EC9 – Agricultural Development  
EC10 – Intensive Livestock Units  
RL6 - Rights of Way and Access to the Countryside  
DC9 – Protection of Water Resources  
DC13 – Surface Water Drainage  
TR2 – Tourist Attractions and Development Areas

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **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.

### Introduction

Having considered the details submitted in respect of the proposed broiler unit, the principal matters considered relevant to determination are as follows;

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on heritage assets;
- The effect of the proposed development on the local amenity;
- The effect of the proposal on nature conservation interests;
- The effect of the proposal upon highway safety; and
- The effect of other considerations on the overall planning balance.

### Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016

The application was validated by Development Management on the 28<sup>th</sup> July 2016 and as such the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 are applicable to this development. Part 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 lists types of development and thresholds defining where a development proposal is EIA development. These are contained in Schedule 1 and 2 of the Regulations; Schedule 1 of the regulations lists where EIA is mandatory and Schedule 2 where development must be screened to determine if it is EIA development.

Paragraph 17 of Schedule 1 of the 2016 Regulations states that the threshold for the “*intensive rearing of poultry is 85,000 places for broilers or 60,000 for hens*”. Therefore, the application was required to be accompanied by an Environmental Statement.

Given that the proposal exceeds the threshold set out within Schedule 1, an Environmental Statement (ES) has been prepared by the developer, in accordance with the Environmental Impact Assessment (Wales) Regulations 2016.

### Environmental Permitting Regulations

The operations at the site will require an environmental permit issued by Natural Resources Wales under the Environmental Permitting (England & Wales) Regulations 2010 (as amended). This is required on the basis that the amount of broilers to be reared on site passes the threshold for an environmental permit. It is Natural Resources Wales’ role to determine if the operation can be managed on an ongoing basis to prevent or minimise pollution.

Planning Policy Wales states that Local Planning Authorities and Natural Resources Wales should work closely to ensure that conditions attached to planning consents and those attached to Environmental Permits are complementary however should not duplicate one another. Planning Authorities need to be satisfied that proposals are capable of effective regulations and Natural Resources Wales should assist in establishing this position. Good practice suggests that the parallel tracking of planning and environmental permitting and a planning application should be encouraged.

On the basis of the comments received from NRW, it would appear that a permit has not yet been pursued by the developer. NRW have confirmed that the granting of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant’s responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

### Principle of Development

Development Management is satisfied that the principle of the proposed development complies with the referenced policies and as such, the principle of the proposed development at this location is considered to be acceptable.

### Economic Development:

Rural enterprises play a vital role in promoting economic activity within rural areas. Planning Policy Wales (2016) and Technical Advice Note 23 (2014) emphasises the need to support diversification and sustainability in such areas, recognising that new businesses are key to this objective and essential to sustain rural communities. Local Authorities should therefore look to facilitate appropriate rural developments. This support should be balanced against other material considerations, such as impact of proposals on the quality of the landscape, the environment and amenity.

The agent has provided a statement giving details of the agricultural enterprise they are currently engaged in and also details of the proposed broiler unit. The agent has given some indication of how the enterprise will operate and it is considered that the proposal has the



potential to be viable and contribute significantly to farm income. It will also allow for the diversification of agricultural activity at the farm into a new area, which may be seen as further aiding the sustainability of the farming enterprise as a whole.

Poultry unit developments raise a number of planning issues such as smell, noise, dust, pollution and traffic generation. Whilst the County Council wishes to sustain an efficient, viable and diverse farming community, a balance must be struck against maintaining the well-being of the wider community and the high quality of the Powys landscape as detailed within policies EC1, EC9 and EC10 of the Powys Unitary Development.

### Landscape Impact

UDP policy ENV2 (Safeguarding the Landscape) states that proposals for the development and use of land should take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character of the surrounding landscape. Further guidance within policy EC9 suggests that, where possible, agricultural buildings should be grouped with existing units in an effort to minimise potential landscape and visual impact.

The proposal involves the construction of two poultry sheds, feed bins, hardstanding and access works and would clearly represent a significant change to the application site. The development would result in the loss of part of a field and the encroachment of built development into the open countryside. The application site comprises of agricultural land located immediately to the north west of the existing Domgay Hall farm complex. It is proposed to site the poultry units on the northern side of Domgay Lane, running parallel with the county highway. The topography of the application site is generally flat and the land is scattered with broken hedgerows and trees. The proposed application indicates the implementation of additional tree planting and hedgerow retention although no plan has been provided. This can be controlled via a planning condition if it were resolved to approve.

The application site is located within the River Severn Flood Plain aspect area (MNTGMVS650) as defined by Landmap and is characterised by *'a significant open valley / vale with a patchwork of medium to large field parcels many displaying established field boundaries of managed and overgrown hedgerows with numerous hedgerow trees. Predominantly arable farming with some lowland dairy farming. Settlements of varying sizes are prevalent from farmsteads to significant urban areas such as Welshpool and Newtown. Open skies dominate with wooded valley sides fringing the valley bottom'*. The visual and sensory landscape value is recorded as moderate.

The proposed poultry buildings are of a large scale, they are grouped within the context of the existing building complex, albeit to the west, but as such, potential landscape and visual impact is considered to be minimised. Furthermore, given the relatively low height of the proposed buildings and flat topography of the land, their profile is reduced and thus further reduces potential landscape impact. Proposed landscaping together with the use of appropriate colours and materials are considered to help the proposal integrate into the landscape. There would be a loss of part of the field, but, taking account of the mitigation measures, the location close to the existing farm complex and the character and sensitivity of the landscape it is considered that the development would not have an unacceptable adverse effect on the site and the landscape character of the area. Given that the plans do not indicate the exact tree species and numbers, it is recommended that conditions are attached to any consent to require further details and implementation of the planting.

The proposed development is considered to be in accordance with policies ENV2, EC1 and EC9 of the Powys Unitary Development Plan and Planning Policy Wales.

### Visual Impact

The main public vantage point for the development would be from Domgay Lane for which there will be short sections of visibility between gaps in the hedgerows. The road runs at a similar height to the proposed application site and the low profile nature of the development combined with its grouping with existing buildings will result in a low impact on landscape character for receptors utilising the route. Other highways within the vicinity of the development are unlikely to provide sustained views of the development and in any case users would be travelling between destinations and would not be highly sensitive to the limited visual impacts identified.

There are a number of dispersed residential properties in the locality that are not financially involved with the proposal including The Oaks, The Acorns, The Berwyns, Westholme, Rickwendale, Elmsfield Elms and Rhandregynwen Hall, all within approximately 500 metres of the application site. Given the orientation of the dwellings, the distance between the proposal and nearby properties, the existence of trees and hedgerows on intervening land and the close relationship to the existing farm, it is not considered that there would be an unacceptable visual impact on residential receptors from the development.

There are also a number of dwellings and existing farmsteads within proximity of the site which are financially involved with the scheme or owned by the applicant including Domgay Hall, Maesderwen, Oakendale and Carnbwl. The impact of the proposal on these receptors has been considered and is considered acceptable.

The proposal will not be visible from the local settlements of Four Crosses, Llandysilio or Llanymynech.

There are public rights of way in the locality; in particular footpath 20 crosses the application site in its southern corner. Whilst the proposal will not impact the line of the route, which runs from Domgay Lane to the U4908 (the former trunk road that ran through the village of Four Crosses prior to the bypass), consideration is given to the environmental setting of the public right of way. The agent has correctly identified that certain public rights of way are historical remnants of practical access routes rather than a means used for the enjoyment of the countryside and this footpath would appear to be one such route. Nonetheless, although it is acknowledged that the proposal will be visible and prominent from the route, the development is not considered to be unduly out of character with the open countryside setting which does have a number of dispersed clusters of agricultural buildings in the locality. Mitigation through the use of appropriately coloured cladding and additional landscaping of the proposal will reduce the impact to an acceptable level. From other public rights of way in the locality which are more distant, it is considered that the effect on visual amenity would be of minor significance.

Whilst the proposed development will be visible from sensitive receptors including highways (drivers and passengers), public rights of way (walkers) and residential properties (residents and occupiers) in the locality, given the agricultural grouping, proposed landscaping together

with observed distances, it is not considered that the proposed poultry development will have an unacceptable adverse visual impact.

The buildings are in proximity to the existing farm complex and considered to be in compliance with the requirement of EC9 that proposes buildings to be grouped where possible. Overall the proposal is considered to be acceptable in terms of its grouping with buildings, its landscape impact and its visual impact and its compliance with relevant development plan policies ENV2, GP1 and EC9.

### Impact on Heritage Assets

#### *Listed Buildings*

The authority is required have special regard to the desirability of preserving the listed buildings or their settings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. UDP Policy ENV14 states that proposals unacceptably adversely affecting a listed building or its setting will be refused taking into account the desirability of preserving the listed building and its setting, the importance of the building, the effects of the proposal on any particular features and the contributions of the buildings to the local scene.

There are 4 listed buildings in close proximity of the proposed poultry unit, all of which are grade II listed.

- No 1 Domgay Hall cottages and outbuildings to rear, grade II Cadw ID 8518 included on the statutory list on 05/04/1993,
- No 2 Domgay Hall cottages and outbuildings to rear, grade II Cadw ID 8519 included on the statutory list on 05/04/1993,
- Rhandregynwen Farmhouse, grade II Cadw ID 8520 included on the statutory list on 31/01/1953,
- C Plan Group farm ranges to east of Rhandregynwen grade II Cadw ID 8521 included on the statutory list on 31/01/1953,

Domgay Hall cottages were constructed as one property and later subdivided. To the north of the properties lies a courtyard and outbuildings that are also listed. Further to the north and east are modern agricultural buildings. The proposal would be sat to the north west of the existing range of buildings. The Conservation Officer has established that the setting of the listed buildings is the gardens to the front, the courtyard buildings to the immediate rear and the farmland in which they sit. Whilst the proposal will be seen from Domgay Lane in the same eyeshot as the listed structures, the separation distance, the low profile nature of the proposal, its siting to the north west, together with the form and nature of agricultural buildings not being out of character in an open countryside setting, it is considered that the proposal will not have and unacceptable adverse impact on the setting of the listed buildings and this view is supported by the Conservation Officer.

Rhandregynwen farmhouse and farm buildings are at a distance of approximately 400 meters from the application site. The Conservation Officer has commented that 'The topography of the land would mean that that the short term views of the proposal against the listed buildings at Rhandregynwen would mean that the proposal and the listed buildings are not readily

viewed together. However there would be longer term views from higher ground especially Rodney's Pillar where both the proposed poultry units and the listed buildings will be viewed together'. It should be noted that Rodney's Pillar is a monument at the top of the Breidden Hills that is located approximately 3.2 miles from the application site. At such a distance, it is considered that the proposal would be seen grouped with existing building at Domgay Hall and would have limited impact on the setting of Rhandregynwen Hall and its courtyard.

Overall, the wider setting of these listed buildings is of a rural agricultural landscape with dispersed farms and other individual widely dispersed buildings. On this basis and in regard to the comments received from the Built Heritage Officer, it is not considered that proposed development would have an unacceptable adverse impact on the identified listed buildings together with their wider setting. The proposed development is therefore considered to be in accordance with UDP policy ENV14, Planning Policy Wales and Welsh Office Circular 61/96.

#### *Scheduled Ancient Monument*

There is a policy presumption in favour of safeguarding Scheduled Ancient Monuments and their settings, however, there are no scheduled ancient monuments located within a 1km radius of the application or other monuments likely to be affected by the development.

#### *Other Archaeological Interest*

The application has been accompanied by an historic environment impact assessment which did not reveal any evidence of buried archaeological features at the site. Clwyd Powys Archaeological Trust (CPAT) has also advised that no currently recorded archaeological sites will be impacted by the proposed development.

#### *Conclusion*

Having considered the potential impact of the proposed development on built heritage assets, it is not considered that the proposed will have an unacceptable adverse impact on the setting of listed buildings, scheduled ancient monument or upon archaeology. In light of the above, Development Management considers the proposed development to be in accordance with policies ENV14, ENV16 and ENV17 of the Powys Unitary Development Plan, Welsh Office Circular 61/96, Welsh Office Circular 60/96 and Planning Policy Wales.

#### Impact on Amenity, Living Conditions and health of Local Residents

Broiler units have the potential to impact on the living conditions of residents living nearby through a number of factors in particular emissions of noise, odour and dust. The application is supported by an Environmental Statement, this contains chapters assessing the significant likely impacts on amenity and the living conditions of local residents. The statement contains a noise and vibration assessment and an assessment of the impacts upon amenity in terms of odour, dust, flies and vermin. In addition, a noise impact assessment been included. Other elements of the submission including the Ammonia Assessment, and chapters within the Environmental Statement consider air quality, health and climate, water resources, traffic also contain information on the proposal relevant to assessing its impact on those who will have to live nearest to the development.

## *Noise*

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Intensive livestock units have potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

The submission is accompanied by a Noise Impact Assessment and the Environmental Statement includes information on noise and vibration. The noise and vibration assessment considers the operation of the fans on the poultry houses and the potential for noise from their operation to harm amenity.

It is noted that properties not associated with the development are located more than 368 metres distant. The assessment suggests that the estimated noise levels from the ventilation fans would be low at the nearest sensitive noise receptor. The submitted noise information has been assessed by the Environmental Health Department and is found to be acceptable within current guidelines.

Lorry movements to and from the site (in association with construction and operation) have the potential to impact on residential amenity. The supporting highways Information submitted indicates that the operational development would generate an estimated 662.8 vehicle movement per annum. Whilst acknowledging this figure, access roads are currently used by large amount of vehicles of varying types and it is not considered that the increase from the additional movements would result in an unacceptable impact on residential amenity.

Given that the Environmental Health Department has not raised any objection to the proposal, it is considered unlikely that the proposed development will have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of noise. Therefore, Development Management considers the proposal to be in accordance with UDP policy GP1.

## *Odour*

UDP policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of odour.

The application is supported by an Odour Management Plan and the submission identifies that there are no non associated properties within 300 metres of the application site. The submission also identifies the most likely source of odour are those arising from manure disposal as well as other potential sources such as manufacture and selection of feed, feed storage, inadequate ventilation, litter management, carcass disposal, cleaning out and dirty water management.

A Manure Management Plan has been submitted in support of the application. The spreading of litter is an agricultural operation and the local planning authority has limited control over this operation. Manure is also exempted from control by Natural Resources Wales. The activity is subject to the Code of Good Agricultural Practice and other measures but there are limited options to control. That being said, the Manure Management Plan indicates that the manure

will be spread in accordance with best practice and that a separate business will accept the by-product as a contingency plan should conditions not be suitable for the spreading of manure at Domgay Hall. The Manure Management Plan acknowledges that the spreading area at Domgay Hall is in a floodzone and accounts for this.

Given that the Council's Environmental Health department have not objected to the proposal and that the proposal is supported by an appropriate Odour Management Plan and a Manure Management Plan, Development Management considers the proposal to be in accordance with UDP Policy GP1.

### *Dust*

It is acknowledged that the process of rearing broiler chickens has the potential to affect air quality through the generation of dust (including fine particles known as PM10s). The applicant has included an assessment of dust impacts which notes that the proposal will be sufficiently distant from sensitive residential properties to prevent significant impact. Dust would form an emission from the site which would be controlled by the Environmental Permit.

### *Other impacts on living conditions*

Risks from vermin and flies are also assessed within the submission and measures put forward to deal with such issues have been included which are considered adequate.

### *Conclusion*

The proposal has not as yet been granted an environmental permit, however it is considered that the environmental permitting regime provides reassurance that the poultry development should not be incompatible with a good standard of living conditions in the surrounding area. It is concluded that the proposed development would not unacceptably impact on the amenities of local residents or visitors to the area, and that it would not conflict with the objectives of Policy GP1 of the Unitary Development Plan.

### Transport impacts

Policy GP4 of the Powys Unitary Development Plan indicates that development proposals will only be permitted where appropriate highway provision is incorporated in terms of a safe access, adequate visibility, turning and parking.

The proposed development includes the upgrading of an existing access onto Domgay Lane with an access track to the proposed buildings running to the east of the existing farm complex. Information submitted indicates that the proposed development would generate approximately 662.8 movements per annum. It is proposed to improve an existing passing bay along Domgay Lane as well as the creation of a new passing bay.

The Highway Authority has not objected to the proposed access improvements or the scheme as a whole subject to the use of conditions which are considered reasonable.

Given the comments received from the Highways Authority, it is not considered that the proposed development will have an unacceptable adverse impact on highway safety and movement subject to the use of conditions. Development Management is therefore satisfied

that the proposed development is in accordance with policies GP4 and EC1 of the Powys Unitary Development Plan, Technical Advice Note 18 – Transport and Planning Policy Wales.

### Flood risk and surface water drainage

The application site is located within the floodplain, designated as zone C2 by the Development Advice Maps.

Unitary Development Plan policy SP14 (Development in Flood Risk Areas) reinforces national guidance on flood risk which is set out in Technical Advice Note 15 (Development and Flood Risk) and which states that highly vulnerable development will not be permitted in Zone C2. In this instance, the scheme is considered to be less vulnerable development which can be acceptable in such locations providing that the development is of strategic importance; the consequences of flooding are acceptable and the development would not give rise to any unacceptable flooding impacts elsewhere.

The planning application has been accompanied by a flood consequence assessment which has undergone consultation with NRW. The conclusions reached indicate that the building will theoretically only flood to a maximum depth of 300mm, that the development will be set above the 1% plus climate change level and there are emergency plans in place in the event of a flood. Furthermore, the proposed development proposes compensation for the loss of storage capacity within the floodplain from the proposed development to ensure that the development does not give rise to flooding impacts elsewhere.

Impact on surface water drainage has also been taken into account and the scheme proposes to discharge clean water via an attenuation pool with a hydro brake to limit outfall to 5 litres per second. Land drainage in this area is managed by the Internal Drainage District which now comes under the remit of NRW. No objection has been raised regarding the proposed scheme.

Although it is acknowledged that new development should be directed away from zone C to areas not a risk from flooding, Development Management considers that the development is justified in this location as it is necessary to contribute to employment objectives supported by the development plan. Furthermore, the potential consequences of flooding for the scheme have been considered and are found to be acceptable as is the proposed means of surface water disposal.

### Pollution Prevention

In respect of water quality, the submission indicates that the development would be drained by a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul water which will be directed to an effluent tank. These proposed methods of drainage are considered appropriate ensuring that the water environment is not polluted in accordance with UDP Policies DC9, DC11 and DC13.

### Ecological Impact

Guidance contained within UDP policies ENV3, ENV4, ENV5, ENV6 and ENV7 indicates that development proposals should preserve and enhance biodiversity and features of ecological interest. An ecological assessment has been included within the submission.

In terms of protected sites, NRW have reviewed the submitted information with regards to impact on SACs and SSSIs within 10 km of the application site and in conclusion are satisfied that the process contributions of ammonia and nitrogen deposition from the proposed units are below the thresholds applied in their assessments of potential impact on protected sites.

In terms of protected species, NRW has advised that in respect of great crested newts and dormouse, they are satisfied that the proposal would not have a detrimental impact on the maintenance of the favourable conservation status of these species. In addition, they are satisfied that the proposal will not have a detrimental impact on bats providing that the proposed lighting scheme is implemented which can form a condition of consent.

Consideration has also been given to the comments received from the Council's Ecologist. In particular, it is identified that the proposal has a lack of information on otter, reptiles and the habitat of buildings that are proposed to be removed. With regards to Otter, this is a European Protected Species for which the Planning Authority's statutory consultee is NRW. No objection has been received and no further survey work or clarity has been requested from NRW in respect of this species. In respect of reptiles, no survey has been requested as although the ecological report does indicate that there is rough grassland within the vicinity, the development is taking place on intensively farmed agricultural land with the access track travelling through an existing farmyard, it is therefore considered unlikely that reptile habitat would be affected by the proposed development. Finally, it is confirmed that the buildings to be removed are of modern construction with limited ecological value for protected species. Therefore, it is not considered reasonable to request additional information regarding these matters.

Subject to the use of a condition to ensure the implementation of the mitigation and enhancement measures set out within the ecological assessment, NRW have not objected to the proposal in respect of the impact upon protected sites and species and it is considered that the additional information received, combined with the use of planning conditions will allow for an appropriate development to proceed in accordance with the provisions of policies ENV3, ENV4, ENV5, ENV6 and ENV7 of the Powys Unitary Development Plan, Technical Advice Note 5 and Planning Policy Wales.

#### Impact upon established tourist attractions

Policy TR2 states that development proposals which would have an unacceptable adverse effect upon the environmental setting of established tourist attractions will be opposed. The high quality landscapes of Powys, public rights of ways and scheduled ancient monuments are noted to be of interest to tourists and a wide interpretation should be given to what can legitimately be considered a tourist asset.

It is noted that there is guest accommodation located within the surrounding area, however there are no known facilities within close proximity to the site. The impact upon public rights of way in the locality has been considered above. As discussed above, the visual and landscape impacts are considered acceptable subject to landscaping measures and as such it is considered that the environmental setting of established tourist attractions would not be unacceptably adversely affected by the proposal in accordance with UDP Policy TR2.



### Matters raised within objections

The appraisal above addresses the majority of the matters raised within the representations received.

With regards to animal welfare, there is separate legislation in place to safeguard animals from a situation where their living conditions would be harmful.

It is noted that the development would be located close to a local school as well as number of residential properties and concern has been raised about the health impacts of such a large scale intensive farming can have. Fear of health risks has been established as a valid planning concern and is a material planning consideration. In this instance, it is considered that there is insufficient evidence to justify a refusal based on the fear of health risks. It must also be noted that the proposal will the subject to an environmental permit and planning policy wales states

'The planning system should determine whether a development is an acceptable use of land and should control other development in proximity to potential sources of pollution rather than seeking to control the processes or substances used in any particular development. Planning authorities should operate on the basis that the relevant pollutant control regimes will be properly applied and enforced by other agencies. They should not seek to control through planning measures, matters that are the proper concern of the pollution control authority. These regimes are set out in the Environment Act 1995, the Environmental Protection Act 1990, the Water Resources Act 1991 and the regulatory regimes introduced by the Pollution Prevention and Control Act 1999. Each of these may have a bearing on the environmental controls imposed on the development in respect of environmental and health concerns and planning authorities will need to ensure that planning conditions do not duplicate or contradict measures more appropriately controlled under these regimes'.

In this instance, the proposed scheme has been subject to consultation with the Environmental Health Department and NRW and there are no outstanding objections.

There were also comments made regarding the devaluation of property in the area. Members are advised that this planning consideration should be given little to no weight and is insufficient to justify refusal.

### Other legislative requirements

#### *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

*Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

*Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **RECOMMENDATION**

For the reasons outlined above it is considered that the proposal development fundamentally complies with planning policy. The recommendation is one of conditional consent.

The Environmental Information has been taken into account in reaching the above recommendation.

### **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, Environmental Statement and documents stamped as approved on xxxxx (drawing numbers RJC-MZ57-Evans-01, RJC-MZ57-Evans-02B, RJC-MZ57-Evans-03, RJC-MZ57-Evans-04, RJC-MZ57-

Evans-05, RJC-MZ57-Evans-07 dated 20/02/2017, RJC-MZ57-Evans-07 dated 09/03/2017, Environmental Statement received 28/07/2016, Odour management Plan received 28/07/2016, Noise Management Plan received 28/07/2016, Lighting Design Scheme received 13/12/2016, Manure Management Plan received 10/03/2017, Method Statement Pollution Prevention Plan received 10/03/2017 and Flood Consequential Assessment received 10/03/2017.

3. Notwithstanding the details submitted, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed. Drawings must include accurate details of all existing trees and hedgerows to be retained with their location, species, size and condition.

4. A landscape phasing scheme (implementation scheme) for the landscaping scheme as approved (condition 3) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The landscaping scheme shall thereafter be fully implemented in accordance with the phasing scheme (implementation scheme) so approved.

5. The approved landscaping scheme as implemented by the landscape phasing scheme (condition 4) shall thereafter be maintained for a period of five years. Such maintenance is to include the replacement of any plant/tree/shrub/hedge that is removed, significantly damaged, diseased or dying, with plants/trees/shrubs/hedges of the same species and size within the next planting season.

6. The external cladding of the building and the feed silos shall be juniper green in colour for the lifetime of the development. The external elements of the mechanical fans shall also be juniper green or black in colour for the lifetime of the development.

7. 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.

8. 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.

9. The poultry units hereby approved shall be limited to occupation by 100,000 broilers.

10. The finished floor levels of the buildings hereby permitted together with any hardstanding and access area must be set at a level 64.3 AOD before the development is brought into operational use and retained as such over the lifetime of the development.

11. Prior to the occupation of the buildings hereby permitted the surface and foul water disposal proposals and flood compensation measures detailed on plans RJC-MZ57-Evans-07 dated 20/02/2017 and RJC-MZ57-Evans-07 dated 09/03/2017 shall be operational.

12. An 8 metre wide access corridor must be maintained between the development and Domgay Brook to allow for maintenance of the watercourse.

13. Any entrance gates shall be set back at least 15 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence

14. The centre line of the first 15.0 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

15. Within 5 days from the commencement of the development 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 15.0 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 15.0 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway and 2.4 metres distant from the edge of the adjoining carriageway and 60 metres in each direction. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

16. Within 5 days from the commencement of the development 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 base course material and 60mm 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.

17. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.400 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

18. Prior to the occupation of the development a radius of 6.0 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

19. Prior to the occupation of the poultry unit the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15.0 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

20. Upon formation of the visibility splays as detailed in condition 15 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

21. Prior to the commencement of development, a scheme for the provision of two passing bays along Domgay Lane shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a detailed specification of the passing bays together with their locations. The passing bays shall be provided in accordance with the approved details prior to any works being commenced on the development site

22. Prior to commencement of development, a detailed Ecological Enhancement Plan and Tree Protection Plan shall be submitted to and approved by the Local Planning Authority which shall include details of the timing for implementation. The development must be implemented in accordance with the agreed 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 ensure that the application site is adequately landscaped in the interests of the amenity of the area, in accordance with policies GP1, ENV2, ENV3, EC9 and EC10 of the Powys Unitary Development Plan (2010), Technical Advice Note 5 – Nature Conservation and Planning (2009) and Planning Policy Wales (2016).
4. To ensure that the application site is adequately landscaped in the interests of the amenity of the area, in accordance with policies GP1, ENV2, ENV3, EC9 and EC10 of the Powys Unitary Development Plan (2010), Technical Advice Note 5 – Nature Conservation and Planning (2009) and Planning Policy Wales (2016).
5. To ensure that the application site is adequately landscaped in the interests of the amenity of the area, in accordance with policies GP1, ENV2, ENV3 and EC9 of the Powys Unitary Development Plan (2010), Technical Advice Note 5 – Nature Conservation and Planning (2009) and Planning Policy Wales (2016).
6. To safeguard the character and appearance of the area in accordance with policy GP1 of the Powys Unitary Development Plan (March 2010).
7. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy GP1 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
8. In order that the Local Planning Authority may control the use of the premises in the interests of the protection and preservation of the amenity of the area in accordance with policies GP1, EC1, EC9 and EC10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
9. In order to control the number of broilers accommodated within the buildings in the interest of the local amenity. This condition is imposed in accordance with policies GP1, EC1 and EC10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).

10. To ensure that the vulnerable elements of the development are set above the floodplain plus climate change allowance in accordance with policy DC14 of the Powys Unitary Development Plan and Technical Advice Note 15 (2004).

11. To ensure that these elements of the development are adequately provided and to ensure that foul and surface water drainage is adequately catered for at the site in accordance with Powys Unitary Development Plan (2010) Policies DC9, DC11 and DC13.

12. To ensure that access to Domgay Brook is catered for to allow for maintenance in accordance with policy DC13 of the Powys Unitary Development Plan (2010).

13 to 21. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

22. To ensure that ecological enhancement measures are implemented in accordance with Planning Policy Wales (2016), Technical Advice Note 5: Nature Conservation and Planning (2009) and Policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010).

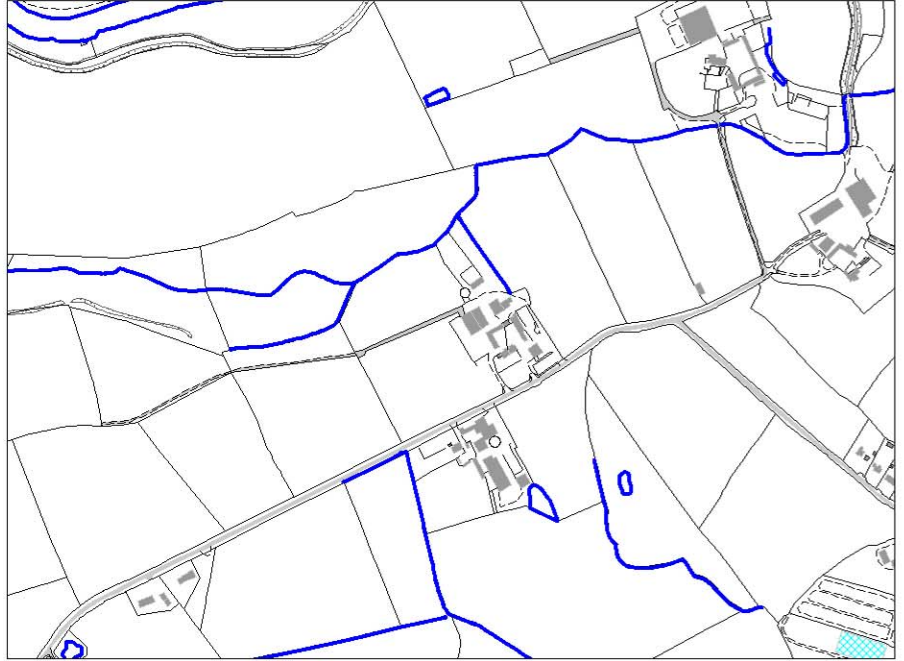
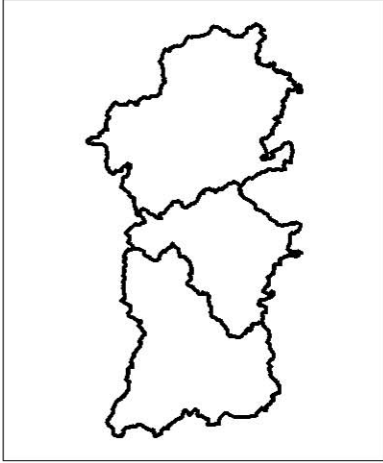
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Case Officer: Louise Evans- Planning Officer  
Tel: 01938 551127 E-mail:louise.evans1@powys.gov.uk

Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: E M Evans

Location: Domgay Hall, Llanymynech



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# PTLRW34 - 20173

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2016/0953	<b>Grid Ref:</b>	324093.02 302462.76
<b>Community Council:</b>	Forden with Leighton and Trelystan	<b>Valid Date:</b>	<b>Officer:</b> 10/11/2016 Louise Evans
<b>Applicant:</b>	Mr Steve Jennings, Primesave Properties, C/O Agent		
<b>Location:</b>	Land adjacent to Heritage Green, Kingswood, Forden, Powys, SY218LH		
<b>Proposal:</b>	Application for outline planning permission for a residential development and formation of new access with some matters reserved.		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application is recommended for approval and is a departure from the development plan.

### Site Location and Description

The site is approximately 0.83Ha in size and is located within the centre of the settlement of Kingswood, Forden, approximately 4 miles to the south of Welshpool.

The site itself is currently agricultural/horticultural land made up of two fields separated by an outgrown hedge line. The site is bordered on three sides by existing residential development and to the south east by the Offa's Dyke scheduled ancient monument which is also a national trail. Further to the south east is additional residential development.

The application is an outline application, with access and layout to be considered at this stage, for the development for 23 new dwellings. The applicant proposes that 20% of the new dwellings will be affordable. The proposed mix of housing is made up of 6 x 2 bedroom properties, 12 x 3 bedroom properties and 5 x 4 bedroom properties. The indicative scales indicate that the properties will have floor areas ranging from 62 sq.m to 141.75 sq.m.

### Consultee Response

#### Forden with Leighton and Trelystan Community Council

The councillors have no objection to an outline application in principle for the proposed site however to support any development it would be prudent to have had sight of a full application.

There would be concerns relating to the density of the number of dwellings due to access limitations onto the Leighton Road and a need for traffic calming measures to be implemented to serve additional traffic through Heritage Green. The current play area in Heritage Green would not be suitable to serve additional housing stock and additional

facilities along with a community benefit for the village would also be advantageous. There would also be concerns relating to infrastructure as current services appear to be at capacity.

A need for affordable housing should also be considered in any proposed development.

#### Powys Highways

I have no objection in principle to the development, however in order to comply with Section 38 requirements then I will require modifications to the layout. For example, visibility splays to the side roads, footways, communal turning heads at the termination of the adoptable roads, traffic calming within the new estate road and off street parking spaces.

Please advise whether we ask for revised drawings now to take into account the above points.

#### Powys Building Control

Building Regulations application required.

#### Wales & West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GIs and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to persons (either direct labour or contractors) working for you on or near geeg apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent Water

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

#### Powys Environmental Health

I have no objection to the application, but due to the proximity of existing residential properties I would recommend the following conditions to apply to the construction-phase of development in order for the protection of amenity:

#### Noise

*All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:*

- 0800-1800 hrs Monday to Friday
- 0800-1300 hrs Saturday
- At no time on Sundays and Bank Holidays

*Deliveries to and removal of plant, equipment, machinery and waste from the site must also only take place within the permitted hours detailed above.*

#### Dust

*A dust management plan must be submitted to and approved by the local planning authority prior to the commencement of development.*

#### NRW

*First response:*

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

#### Summary of Conditions

Condition 1 – Bats: The operational phase of the development complies with the bat conservation management measures described in the bat report.

#### European Protected Species - Bats

We note that the bat report submitted in support of the above application (Phase 1 Environmental Appraisal and Phase 2 surveys for bats, dated August 2016 by Greenscape Environmental Ltd) has identified that bats are present at the application site. From the information contained in the bat report, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document '*Natural Resources Wales Approach to Bats and Planning (2015)*'.

Bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Any development that would contravene the protection afforded to bats under the Regulations would require a derogation licence from Natural Resources Wales. A licence may only be authorised if:

- i. There is no satisfactory alternative and
- ii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. In addition,

- iii. The development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In this case, the bat report concludes that the proposed development is not likely to harm or disturb the bats or their breeding sites and resting places at this site, provided that avoidance measures described in the report are implemented. Also, because the development represents a lower risk to bats in this case, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

We recommend all avoidance measures described in the bat report are set out in a method statement and secured through the inclusion of suitable planning conditions and/or a Section 106 agreement.

Condition 1 – Bats: The operational phase of the development complies with the bat conservation management measures described in the bat report.

This advice applies to the proposal in its present form. If the plans are changed in ways that may harm or disturb the bats or their breeding sites and resting places at this site, you would need a revised bat report that takes account of such changes. Please consult us again if a revised bat report concluded that this is no longer a lower risk case. Otherwise, our advice for lower risk cases would still apply and we would recommend that you secured the avoidance measures described in the revised bat report. If, in light of modifications, it was no longer possible to avoid harming or disturbing the bats or their breeding sites and resting places at this site, the applicant would also need a licence from Natural Resources Wales and probably additional mitigation measures to reduce adverse effects.

#### Flood Risk

The proposal is located outside of DAM C2 of the Development Advice Maps referred to under TAN15 Development and Flood Risk (2004).

The proposal should be subject to further consideration by the LLFA and the applicant's consultant to establish that if any surface water drainage from this site is to be discharged to a watercourse, ditch or culvert (excluding statutory main rivers) then that such discharge will not cause or exacerbate any flooding in this catchment. We advise that a Flood Consequence Assessment should be undertaken as the proposal is for more than 10 dwellings.

According to risk maps there is a perceived risk of surface water flooding in the area so ensuring drainage is controlled at source thus improving the local drainage situation should

be given appropriate consideration. Potential for above ground options need to be considered prior to finalisation of the proposed layout

Wherever practicable, Sustainable Urban Drainage Systems (SUDS) should be incorporated into the design.

#### Vale of Montgomeryshire Historic Landscape Area

The proposal is located very near to the edge of the Vale of Montgomery Landscape of Outstanding Historic Interest. The site is part of an existing settlement and contained visually by mature trees, the majority of which are to be retained. It would be good practice for the design of the buildings to reflect the character of the locality and take account of local design guidance.

#### Foul Drainage

The Design and Access Statement states that foul and surface water drainage can be provided. When connecting to the public sewerage system, Severn Trent Water should be consulted on the proposals and be requested to confirm that the sewerage and sewage disposal system serving the development has sufficient capacity to accommodate the additional flows generated as a result of the development. This is to ensure that the development does not cause pollution of the water environment or potential deterioration in the Water Framework Directive classification.

#### Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website:

<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>.

We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

#### *Second response:*

Following a conversation from the development flood risk team I now need to clarify the advice given for the above proposal.

The proposal site is not at flood risk from a main river, the lead local flood authority need to consider surface water drainage in more detail. NRW does not require an FCA, the LLFA would find an FCA that considers surface water strategy/drainage to be useful in making their assessment.

## Cadw Ancient Monuments

Thank you for your letter of 22 November 2016 inviting our comments on the planning application for the proposed development as described above.

The statutory role of Historic Environment Service (Cadw) in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. It is a matter for the local planning authority to then weigh our assessment against all the other material considerations in determining whether to approve planning permission, including any issues concerned with listed buildings and conservation areas.

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance. PPW explains that the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or not. Furthermore, it explains that where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60196, Planning and the Historic Environment: Archaeology, elaborates by explaining that this means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains.

The proposed development is located within the vicinity of the scheduled monuments known as Offa's Dyke: Section W of Court House Farm (MG 138).

This application is for a residential development of 23 dwellings of various plans and sizes occupying a pair of pasture fields surrounded on three sides (south, west and north) by modern housing developments and to the south east bounded by scheduled monument MG138, a denuded but otherwise well-preserved section of the famous early medieval boundary monument Offa's Dyke. This comprises a broad upstanding bank and intermittent traces of its silted but still substantial north-western ditch within the field in which the dwellings are to be constructed.

The submitted plans show five houses ranged along the access road along the southern boundary of the development site, their gardens backing onto the scheduled area of MG138 where there is currently a dilapidated fence line separating the monument from the rest of the field. This extrapolates the layout and relationship to the Dyke of the existing estate to the south-west, access to the proposed development being via an extension of the present Heritage Green road. The applicants have submitted a heritage assessment which addresses potential impacts on MG138; this issue is also addressed in the Design and Access Statement (DAS). Cadw's regional inspector also met with the applicants on site in January 2016. The following advice is based on the above listed documents, the Inspector's assessment of the site during this visit and our own mapping and records.

The proposed development will have no direct physical impact on MG13S, the applicants proposing a buffer zone between the development and the scheduled area to ensure that this

is the case. However potential impacts on the setting of the monument should also be taken into consideration.

This stretch of Offa's Dyke faces across rising ground to the north-west, the proposed development site presenting a gap of approximately 50m in almost 200m of modern development in this direction. Further individual dwellings and their rear boundaries run parallel with the Dyke to the south-east, the monument effectively being enclosed in most directions. To this end, we consider that the statement on p16 of the DAS that it was agreed on site that the development of this open space would have 'no adverse impact' on the monument is incorrect. It was instead agreed that whilst there would clearly be an adverse impact on the setting of the monument, the setting of the Dyke in this particular location has already been heavily compromised and in our view is of less significance than the archaeological amenity of the monument. To conclude, the proposed development is, in our opinion, likely to have a moderate adverse impact on the setting of this section of Offa's Dyke but this impact could be reduced by simple adjustments to the layout of this part of the development, one of which was raised in the application:

The 'buffer' between the north-western edge of the scheduled area of MG13B and the rear boundary of the proposed properties was raised in the application and discussed at the pre-application site meeting and is noted in the DAS, but needs to be more clearly defined by the applicant. We understand that this buffer will be from the edge of the scheduled area and not the present fence line which falls several metres within it. We would require confirmation of this and will on request provide accurate mapping to the applicant showing the scheduled area. We would also need to approve details of rear boundaries to the houses, which the DAS suggests will be hedges, which will create a softer edge to the development when viewed from the monument.

In addition, we note that a proposed open space is included in the Development Plan at the north-eastern end of the site; this was not raised at the pre-application meeting. The re-allocation of some of this space to the rear of the proposed properties running parallel with the Dyke would enable a buffer of 5m from the edge of the scheduled area, which would avoid future encroachment, as has been the case elsewhere in Kingswood. Also suggested at the pre-application meeting but not included in this application was the possibility of removing the existing boundary fence running along the North West edge of the Dyke, leaving the monument as an open space to be maintained by grazing, as is the case to the south-west. Consequently we suggest that your council put these adjustments to the applicant and re-consult us accordingly.

## CPAT

Thank you for the consultation on this application.

Subsequent to our pre-planning involvement with this application I was pleased to see that the applicants have moved the application boundary on the SE side to avoid direct impacts with the scheduled monument. This was also agreed with Cadw at a prior meeting. If the applicants have not already done so it would be worth them contacting Cadw again with the new plans to confirm that the agreed buffer with the scheduled monument on the south east side is adequate. There will inevitably be a setting impact, but Cadw agreed that the setting is already locally and heavily compromised here with development surrounding the monument on all sides.

Subject to Cadw's agreement with the layout of the site we would have no objection to this development. The applicants will need to agree the marking out of the buffer zone boundary with Cadw as this lies on the boundary of the scheduled monument, which extends slightly into the field at this location. No vehicle access, materials dumping or ground disturbance should take place within this buffer zone.

#### Ancient Monuments Society

Thank you for consulting us on this application. We do not wish to offer comment.

Despite its name, the Ancient Monuments Society (AMS) does not concern itself with archaeology, but rather with historic buildings of all types and ages.

#### Offas Dyke Association

No response received.

#### Cllr Corfield – Local Member

There are several concerns which I would like to make in respect of application P/2016/0953, the first one being the number of additional traffic movements which will be generated from an additional 23 dwellings, all of which will travel through the existing Heritage Green development, this will have an impact on the amenity of the existing residents not only in terms of noise, but most importantly the safety of children in Heritage Green.

Residents also have concerns regarding highway safety at the junction of Heritage Green where it joins the Leighton Road. Great care needs to be taken at this point when egressing from Heritage Green. Looking to the left towards The Cock Hotel, visibility distance is not very far to the brow. Looking to the right visibility can be obscured by parked vehicles. The BT telephone exchange is nearby and personnel are often in attendance at the exchange and there is nowhere but the road to park on. There have been a number of accidents in this area over the years.

The current play area servicing Heritage Green is sufficient for existing houses, but would not be sufficient for additional. There is a history of the existing play area attracting young people from elsewhere in the village, which has resulted in older youngsters congregating and kicking footballs etc., which has caused damage in some gardens and cars being hit by balls. This has resulted in numerous complaints to the Community Council and two site visits by Community Councillors to Heritage Green to meet with residents to try and resolve the issue for and between residents.

### **Representations**

11 representations have been received in objection to the scheme.  
The grounds of objection are summarised below:

Highway safety



- Additional traffic along heritage green will impact highway safety and numbers estimated within the application have been underestimated
- The additional traffic will make road conditions worse along Heritage Green.
- Impact on safety for the play area which is adjacent to the highway
- Parking of construction vehicles should be within the development
- Visibility to the right out of heritage green is restricted
- Difficult turn at A490/B4388 junction

#### Design

- Not in keeping with existing development
- High density – too many semi-detached not enough detached properties
- Affordable housing will affect values of other dwellings in the vicinity

#### Concerns over amenity

- Construction working should be limited so that amenity is not unduly affected.
- Privacy
- Daylight
- Noise
- Maintenance of boundaries
- Control over extensions/maintenance

#### Other matters raised

- Owls and bats seen in the hedges
- Concerns over the capacity of the local school
- Existing facilities will not be adequate
- Content of application queried
- Houses not selling, is there a need for more?
- Concerns over the proposed contractor who has a poor record.

### **Planning History**

No history

### **Principal Planning Constraints**

Airport

### **Principal Planning policies**

*National Planning Policy*

Planning Policy Wales (9<sup>th</sup> Edition, 2016)

Technical Advice Note 1 - Joint Housing Land Availability Study (2015)

Technical Advice Note 2 - Planning and Affordable Housing (2006)

Technical Advice Note 5 - Nature Conservation and Planning (2009)

Technical Advice Note 12 - Design (2016)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 - Economic Development (2014)

Welsh Office Circular 60/96: Planning and the Historic Environment: Archaeology

## *Local Planning Policy*

### *Unitary Development Plan for Powys (2010)*

UDP SP2 - Strategic Settlement Hierarchy  
UDP SP3 - Natural, Historic and Built Environment  
UDP SP4 - Economic Development and  
UDP SP5 - Housing Development  
UDP SP6 - Development and Transport  
UDP SP9 – Local Community Services and Facilities  
UDP GP1 - Development Control  
UDP GP2 – Planning Obligations  
UDP GP3 - Design and Energy Conservation  
UDP GP4 - Highway and Parking Requirements  
UDP ENV1 - Agricultural Land  
UDP ENV2 - Safeguarding the Landscape  
UDP ENV3 - Safeguarding Biodiversity and Natural Habitats  
UDP ENV7 – Protected Species  
UDP ENV17 – Ancient Monuments and Archaeological Sites  
UDP ENV18 – Development Proposals Affecting Archaeological Sites  
UDP HP3 - Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP5 - Residential Development  
UDP HP6 - Dwellings in the Open Countryside  
UDP HP7 - Affordable Housing within Settlements  
UDP HP8 - Affordable Housing Adjoining Settlements with Development Boundaries  
UDP CS3 – Additional Demand for Community Facilities  
UDP T2 - Traffic Management  
UDP TR2 - Tourist Attractions and Development Areas  
UDP DC8 – Public Water Supply  
UDP DC9 – Protection of Water Resources  
UDP DC10 - Mains Sewerage Treatment  
UDP DC13 - Surface Water Drainage

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011)

Powys Residential Design Guide (2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

### **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. For the avoidance of doubt, the development plan in this instance is the Powys Unitary Development Plan 2001-2016.

### Outline Application

The application is for outline consent with access and layout to be considered at this stage. Should permission be granted, reserved matters (appearance, landscaping and scale) will form separate applications for consideration at a later date. The plans to be considered in relation to this application are:

Location Plan  
Indicative site layout plan SK01  
General Arrangements Plan HG-GA-200  
Proposed Levels and Kerbing Plan HG-PL-201  
Longitudinal Sections HG-LS-202  
Drainage Details HG-DD-203  
Road Construction Details HG-RC-204

### Principle of Development

The proposed development lies wholly outside the settlement boundary of Kingswood, as detailed on inset map M143, and would result in up to 23 dwellings being constructed outside the settlement boundary.

Outside of settlement boundaries, UDP Policy HP4 applies and this states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9.*' Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policies HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*“The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.*

The JHLAS identified a significant undersupply of housing land within Powys. As mentioned above, TAN 1 confirms that the need to increase supply should be given considerable weight but only where the development would otherwise comply with development plan and national planning policies.

In light of the above, whilst acknowledging that the proposal does constitute a departure from the development plan, Members are advised that the lack of a five year housing supply in Powys does need to be given considerable weight in the determination of this application. However, before reaching a decision, the scheme will need to be considered against other policies contained within the UDP as well as national policy, in order for a balanced view to be made on the acceptability of the development overall.

### Sustainable Location

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Kingswood is considered a large village in the UDP. Whilst large villages do not have as wide a range of services and facilities as the area centres or key settlements, they normally have a number of local services to serve the local community. Furthermore, the settlement of Kingswood is closely related to Forden which is allocated as a small village within the UDP (inset map 131) and the settlements are linked by a pavement.

It is noted that the settlements contain the following services: primary school, public house, church, two chapels, garage, play area and tennis courts. It is also noted that they are served by two bus routes with regards to public transport.

In light of the above, the site is considered to be a sustainable due to the amenities and services provided locally and additional residential development in this location would accord with the provisions of Planning Policy Wales in so far as it is a sustainable location.

Consideration has also been given to the scale of the development and the provision of an additional 23 dwellings within Kingswood is not believed to unacceptably exceed the capacity of the settlement.

### Affordable housing provision

The Viability Assessment forming part of the evidence base for the Local Development Plan identifies a guideline of 20% affordable provision in this area of Powys. It is contended that the CIL Viability Assessment provides an up to date and robust basis for determining the

affordable housing contribution than the now historic “guideline” figure contained within the UDP. The applicant is prepared to accommodate a 20% provision of affordable housing. In light of this, the proposal is considered compliant with the principle of policy HP7.

### Impact on historic environment

#### *Listed buildings:*

The general duty with regards to listed buildings in exercising planning functions is set out within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It states that the local planning authority shall have special regards to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses when considering whether to grant planning permission for a development. This duty is echoed in UDP policy ENV14.

There are no listed structures immediately adjoining the development site, the closest listed structures to the site are a mile marker located to the north of the village on the road to Leighton and Edderton Hall located approximately 1 km to the west of the application site and village. Although the presence of these historic assets is acknowledged, the development is not considered to impact the listed structures either directly or indirectly.

#### *Ancient monuments:*

The desirability of preserving a scheduled ancient monument and its setting is a material consideration in determining a planning application whether the monument is scheduled or not. This is set out in Planning Policy Wales and Circular 60/96. UDP policies ENV17 and ENV18 also set out this consideration at a local level. Paragraph 17 of Circular 60/96 further states that where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by the proposed development there should be a presumption in favour of the physical preservation in situ i.e. a presumption against proposals which would involve significant alteration, or cause damage, or which would have a significant impact on the setting of visible remains.

Scheduled ancient monument MG138, which is a section west of Court House Farm of Offa’s Dyke, is located to the immediate east of the application site. Offa’s Dyke is a frontier earthwork (a bank with a west facing ditch) built by Offa, King of Mercia, from 757 to 796AD. It runs, discontinuously, from the Severn to the Dee.

Cadw have confirmed in their response that the proposed development will have no direct physical impact on the scheduled ancient monument as the applicant is proposing a buffer zone between the development and scheduled area to ensure that this is the case. However, with regards to setting, CADW have commented that there would be an adverse impact on the setting of the monument but that the setting of the dyke in this particular location has already been heavily compromised and is of less significance than the archaeological amenity of the monument. Cadw conclude that the development is likely to have a moderate adverse impact on setting and this could be further reduced with adjustments to the layout.

Layout is not a reserved matter and must be considered at this stage. One of the suggestions is that boundaries of the proposed dwellings, where they abut the monument, to be natural

hedges to create a softer edge to the development when viewed from the monument. This is something to be considered in further detail with the landscaping reserved matter, however, it is recommended that a condition be applied to secure this at the outline stage as a matter of clarity.

CADW propose a further amendment to the layout so that open space proposed within the development is relocated to provide an additional buffer between the development and the dwellings. This suggestion is considered to be of less benefit and would involve the loss of additional existing vegetation within the application site in order to accommodate the change. As currently submitted, the rear boundaries and line of dwellings proposed will replicate those on Heritage Green, immediately to the south. On balance, whilst the suggestion is noted, the change in the layout is not being proposed within the scheme and is considered to have limited benefit to the setting of the monument.

Overall, a moderate adverse impact on the setting of the scheduled ancient monument has been identified and this must be given weight in the determination of the planning application.

### Design and layout

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Whilst design is reserved and will be dealt with at a later point in time, it is relevant to consider whether the layout is acceptable and that the number of dwellings proposed could be appropriately developed on the site.

The layout resembles a modern residential layout which is broadly comparable to the existing modern development seen in the settlement. More importantly it shows that up to 23 dwellings can be accommodated on the site at a density of 29 dwellings per hectare. The application submission indicates that the adjacent housing development known as Heritage Green has a density of 22 dwellings per hectare whereas Waterloo Fields, located to the north west of the development site, has a density of 32.8 dwellings per hectare. Overall, the proposal is considered to be of an appropriate density that will not appear out of character with the remainder of the settlement.

Detailed design will follow at a later date, if this application is permitted, and this will give the opportunity to ensure the dwellings are designed in an appropriate manner to accord with the character of the settlement. Overall a mix of two, three and four bedroom properties mainly over two storeys are detailed within the scheme and this is considered to be appropriate for the settlement.

### Impact on residential amenity

UDP policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected.

More specific guidance is set out in the Powys Residential Design Guide and consideration has been given to the potential separation distances between properties, as well as their siting and orientation in accordance with the guide.

The proposed development will be bordered on three sides by existing residential development and the submission has indicated that a layout could be achieved which would ensure separation distances in accordance with the residential design guide.

The closest of the proposed dwellings with an existing property would be plot 6 shown on plan HG-GA-200 with the rear elevation of a property known as Wizard's Roost. There will be a separation distance of 16 metres between these dwellings but this will be between a rear elevation and flank wall and thus is considered to be acceptable. A condition is suggested at the end of the report for there to be no windows located in the north eastern elevation of plot 6 over the lifetime of the development to protect the privacy of Wizard's Roost. The application also indicates the use of additional hedgerow planting to reinforce boundaries and provide screening between dwellings.

Overall, the layout is considered to be acceptable and it is believed that the proposal is capable of complying with UDP policy GP1 and the guidance set out in the Powys Residential Design Guide so far as it relates to residential amenity.

#### Landscape and visual impacts

UDP Policy ENV2 states that proposals should *'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'*. It goes on to state that proposals which are acceptable in principle should *'contain appropriate measures to ensure satisfactory Integration into the landscape'*.

The site is currently two paddocks separated by a hedgerow. It is surrounded on all sides by existing housing and thus provides an opportunity for logical infilling without detriment to the wider landscape setting.

Whilst the site would be visible from public vantage points and the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location adjacent to existing residential properties, the development is considered to be acceptable.

Furthermore, taking into account the character of existing development in the locality and that landscaping measures would further reduce the visual impact of the scheme, it is considered that a satisfactory detailed design could come forward to reflect the vernacular character and appearance of the settlement and surrounding area.

#### Impact on highway network and parking arrangements

UDP policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking. Access is shown to be provided via the continuation of an existing estate road that serves Heritage Green.

The principal of the proposal has been accepted by the Local Highway Authority although an indication has been provided that additional details will be necessary to secure a section 38 agreement (road adoption). This is not material to the determination of the planning application.

It is noted that a number of objectors have raised concern regarding the increased use of Heritage Green but such concerns have not been reinforced by the Local Highway Authority.

Overall, access via the existing estate road that currently serves Heritage Green is considered to be appropriate to serve the proposed development in accordance with policy GP4 of the Powys Unitary Development Plan.

### Sewage disposal

The application details that the site will be served by mains systems in respect of the disposal of foul waters. The proposed use of mains sewerage disposal is compliant with UDP policy DC10.

Severn Trent Water have confirmed that they do not object to the proposed development subject to conditions relating to the agreement of surface and foul water drainage plans and have not raised concerns about the capacity of the system.

It is therefore considered that proposal in this regard is acceptable subject to conditions which have been attached at the end of this report.

### Surface water drainage and flood risk

The application site is within Zone A of the TAN15 Development Advice Maps (areas not at risk of flooding) and NRW mapping does not indicate the site as being at risk of surface water flooding.

The agent has undertaken a development enquiry with Severn Trent who has indicated that there is a surface water sewer located to the south of the development and along Heritage Green. Soakaways are the preferable method of dealing with surface water drainage but where these are not feasible, connections to the public sewer can be made at a rate of 5 litres/second/hectare. Additional information has been received from the agent to indicate that there are means for appropriately attenuating the site to comply with the above requirements. Unfortunately no consultation response has been received from the Land Drainage Engineer to confirm acceptance of these plans. It is therefore suggested that a condition is attached to any consent granted to ensure that the details are agreed before development commences and that an appropriate scheme is in place prior to the occupation of the dwellings.

### Impact on Ecology

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore the nature conservation policies in the UDP seek to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).



The application is supported by a phase 1 environmental survey and a phase 2 survey for bats. The report concludes that the notable features of the site are the species poor semi improved grassland, the outgrown hedgerow between the fields, the mature oak at the northern end of the hedgerow, the species rich hedgerow along the southwestern boundary and the north western boundaries containing leylandii, willow and blackthorn. The site is used by a small number of bats.

NRW have confirmed that the site is a lower risk for bats and they do not consider that the development is likely to be detrimental to the maintenance and favourable conservation status of bats in its current form providing that the recommendations set out in the ecology report are adhered to. A condition to ensure that the development is carried out in accordance with the submitted details is suggested at the end of this report.

The plans indicate that part of the existing internal hedgerow will be removed to provide access but that the majority of features can be maintained, along with the mature Oak tree, in the current design. Furthermore, there will be the opportunity for additional tree and hedgerow planting within the development. Full consideration of this matter will also take place at the reserved matters stage and it is not considered that any individual trees need to be the subject of tree preservation orders at this time but a condition requiring work to be undertaken in accordance with the findings of the Arboricultural Report ref OOTC/PC16/99 dated 25<sup>th</sup> May 2016 are adhered to is recommended to be attached to any permission granted.

Subject to the use of the conditions suggested above, the development is considered to be acceptable in accordance with the ecological policies of the UDP and national guidance.

#### Impact upon established tourist attractions

It is noted that the Offa's Dyke long distance national trail is located to the east of the application site. Given that the proposal would be a residential housing development within an area where such is not unusual, it is not considered that the proposal would unacceptably adversely affect the environmental setting of the identified tourist attraction or any others in the locality in accordance with UDP Policy TR2.

#### Planning obligations

In respect of recreation provision, it is noted that the plans detail areas of open space and that there is existing play equipped area on heritage green. It is considered sensible therefore, in the absence of information from the Recreation Officer, to require a condition for a scheme to be submitted and implemented. This may involve the provision of funds towards the management of the existing play area on Heritage Green or the provision of additional equipment at this location as an alternative to onsite provision.

In the absence of information from the Education Department, Development Management has no evidence to pursue a contribution. It is suggested therefore, that it be delegated to the Lead Professional for Development Management in consultation with the Chair and Vice Chair to secure a response and a contribution that is appropriate to the development proposed, if members are minded to approve this development.

## Other legislative requirements

### *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### *Wellbeing of Future Generations (Wales) Act 2015*

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## Recommendation

Although it is noted that the proposed development is a departure from the adopted development plan, considerable weight must be given to the need to increasing housing land supply. It is acknowledged that the development will have an impact on the setting of a scheduled ancient monument however the impact is not considered to be significant in this instance. For this reason, this material consideration is not considered to outweigh the need to increase housing land supply in the county. It is recommended that the application be delegated to the Professional Lead for Development Management for conditional approval subject to an appropriate education contribution being secured, if considered justified.

If an education contribution is considered justified by the Professional Lead for Development Management, it is also recommended that a time limit of two months is given for the legal agreement to be completed and in the event that it is not concluded within such time period, delegation is given to the Professional Lead for Development Management to refuse the application, unless satisfied that the delay is unavoidable and that there is sufficient evidence to conclude that the matter will be concluded within a further reasonable time period.

### Conditions:

1. Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The access and layout shall accord with the details of drawing number HG-GA-200.
5. No windows shall be located in the north eastern elevation of the dwelling within plot number 6 shown on plan HG-GA-200 over the lifetime of the development.
6. The proposed development, where it borders scheduled ancient monument MG138, shall be demarcated by a native hedgerow to be mix of species made up of those detailed within section 6.1.2 of the Environmental Appraisal reference 1609 001R. The hedgerow must be provided by the first planting season following the occupation of plots 1 to 6 detailed on plan HG-GA-200 and the existing fence line removed.
7. The development hereby permitted must be served by the public foul sewerage system (mains) prior to the occupation of any of the units.
8. No development shall commence until a scheme for the surface water and land drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

9. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

10. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

11. The recommendations in Section 6 of the Ecological Report by Greenscape Environmental Ltd reference 1609 001R and dated August 2016 shall be adhered to and implemented in full prior to the occupation of the dwellings hereby approved.

12. The trees detailed within the Tree Protection Plan (Appendix B) within the Arboricultural Report reference OOTC/PC16/99 shall be retained and protected in accordance with the details in the report over the construction phase of the development.

13. Prior to the commencement of development, a scheme for the provision of on-site recreational facilities or the provision of a contribution to an existing facility shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall accord with the Fields in Trust Standards and shall also involve arrangements for the long term management of the area together with the timing of construction and completion in relation to the housing units hereby permitted. The scheme shall be implemented in accordance with the agreed details.

14. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 cars per bedroom (maximum 3) excluding any garage space provided. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

15. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.45 metres in crusher run or sub-base and maintained free from obstruction at all times such that

all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

#### Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure the amenity of existing residential development is not compromised by the proposed development in accordance with policy GP1 of the Powys Unitary Development Plan (2010).
6. To mitigate against the impact on the proposal on the scheduled ancient monument MG138 in accordance with policy ENV18 of the Powys Unitary Development Plan (2010).
7. To ensure that development is served by the public system in accordance with policy DC10 of the Powys Unitary Development Plan.
8. To ensure that the proposed surface water drainage system for the site are fully compliant with regulations and are of robust design in accordance with policy DC13 of the Powys Unitary Development Plan.
- 9 and 10. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
11. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
12. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
13. In order to ensure the provision and maintenance of public amenity space in accordance with policy RL2 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
- 14 and 15. In the interests of highway safety and the free flow of traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010).





Issues were raised on highways, use of greenfield site and flooding/drainage all of which have also been expressed directly to you. Reference was also made to the comments made regarding this site in the LDP submissions.

*Correspondence received 14<sup>th</sup> January 2017*

Further to the Council comments made to the previous planning application P/2016/1077 I would like to clarify that the Council will not support any further development on any part of the site. Please would you record this in the appropriate places.

#### PCC - Highways

*Correspondence received 10<sup>th</sup> January 2016*

In view of the access being upgraded for the previous application then we have no objection. However, it needs to be noted that Advance Payment Code Notices may be served on the development and the applicant needs to be made aware of this.

#### PCC - Building Control

*Correspondence received 8<sup>th</sup> November 2016*

Building Regulations application required

#### Wales & West Utilities

*Correspondence received 11<sup>th</sup> Novemebr 2016*

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent

*Correspondence received 22<sup>nd</sup> November 2016*

As the proposal has no impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

#### PCC - Land Drainage

*Correspondence received 22<sup>nd</sup> March 2016*



In response, the LLFA would make the following observations/comments/recommendation.

#### Land Drainage / Flood Risk.

Comment: The Authority holds no historical flooding information relating to this greenfield site.

#### Surface Water Run-off

Observation: Reference is made under 3.2.2 *Environmental Sustainability - Planning Application Supporting Statement (Inc Design & Access)* to surface water being “attenuated prior to soaking away and porous surfacing will be used where appropriate”.

Further reference to the management of surface water run-off is indicated in *Item 13 – ‘Assessment of Flood Risk’* on the planning application form, where it states surface water is to be disposed to soakaway.

No proposed surface water drainage details or layout drawing(s) have been submitted.

Comments: The site is classed as Greenfield. Therefore, proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – *Development and Flood Risk* and good practice drainage design.

The general soil type for the site location is described as being ‘slowly permeable seasonally wet acid loamy and clayey soils’. Soakage in this type of soil structure may be difficult to achieve and therefore winter waterlogging will more than likely result in very wet ground conditions across the site. By using the percolation test results provided, an indication on the soil infiltration it can be determined (Para 3.28 - Document H3, Building Regulations 2010). The resultant value tends to indicate the soil type in this location as having a low permeability.

It is suggested the Applicant refers to the Welsh Government’s document: ‘Recommended non-statutory standards for sustainable drainage (SuDS) in Wales – designing, constructing, operating and maintaining surface water drainage systems’ Jan 2016. A copy of this standard and guidance can be downloaded from The Welsh Government’s website at <http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>. This document sets out the hierarchy standard and minimum design criteria on the design, construction, operation and maintenance of SuDS serving new developments in both urban or rural areas. Links to additional supporting information relating to SuDS can also be found.

The LLFA recommends that the proposed surface water drainage design for this development follow and incorporate the above mentioned Welsh Government’s SuDS design standards.

Recommendation: No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

Reason: To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

I hope this is of assistance.

PCC – Ecologist

*Correspondence received 22/03/17*

Thank you for consulting me with regards to planning application P/2016/1077 which concerns an outline application for the erection of up to two dwellings, construction of vehicular access and installation of sewage treatment plants, with some matters reserved at Land North of the B4393, Coedway.

I have reviewed the proposed plans, site visit photos, aerial photographs and streetview images of the site and surrounding habitats as well as local records of protected and priority species and designated sites within 1km of the proposed development. The data search identified 17 records of protected and priority species within 1km of the proposed development – no records were for the site itself.

No statutory or non-statutory designated sites are present within 1km of the proposed development.

Having reviewed the site visit photos of the areas affected by the proposed development it is noted that the site comprises an area of semi-improved grassland currently used for sheep grazing, the site is bordered by areas of mature hedgerows and I note that there is semi-mature tree in the hedgerow to the east of the existing access. It is understood from the submitted information that access to the proposed development would be via the existing access therefore it is understood that there would be no requirement for improvements to the access that would result in the loss of any hedgerow.

Whilst the plans do not indicate the loss of any hedgerow or trees as a result of the proposed development given the proximity of the potential development to surrounding trees and hedgerows, it is recommended that details as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. UDP Policy ENV2 states that:

‘Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows’

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – ‘Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value’. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

It is therefore recommended that a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 is secured through an appropriately worded condition.

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

The submitted Design and Access Statement has identified that the proposed development will include the provision of native landscape planting – it is recommended that the details of any landscaping scheme including proposed species mixes, planting details and aftercare schedules are secured through an appropriately worded condition.

Whilst it is considered that subject to the inclusion of the identified planning conditions the proposed development would not result in negative impacts to, or a loss of biodiversity, Part 1 Section 6 of the Environment (Wales) Act 2016 requires Local Authorities to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommended that a biodiversity enhancement plan is secured through an appropriately worded condition to ensure net biodiversity benefits (biodiversity enhancements) through the proposed development. These measures could include:

- provision of bird and bat boxes including the details of the number, type and location of these boxes;
- a wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Location, type and quantity of any enhancement features proposed will need to be detailed in the report.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

*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 LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 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 Section 6 of the Environment (Wales) Act 2016.

*Prior to commencement of development a detailed lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

*Prior to commencement of development, a detailed landscaping scheme including details of species mix, planting specification and appropriate aftercare measures shall be submitted to and approved in writing by the Local Planning Authority and implemented as approved and maintained thereafter*

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

*Prior to commencement of development a detailed Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

#### PCC – Environmental Health

*Correspondence received 10<sup>th</sup> February 2016*

Regarding the foul drainage arrangements for this development, there is a slight error on the block plan which states that the Vp value for the third percolation test is 26 when in fact it should be 43. However, this mistake does not affect the overall conclusion that the tests demonstrate the land is suitable for a drainage field. The plan does not state the size of drainage field area required, but as this is an outline application I would be satisfied on this occasion if the details of this aspect are provided at a later date, either through condition or as part of the reserved matters application, whichever is appropriate.

*Correspondence received 1<sup>st</sup> March 2016*

Thanks for this further information. I am satisfied with the foul drainage plans, therefore I have no objection to the application.

#### **Representations**

At the time of writing this report seven objectors have provided their comments on the application. Concerns raised are summarised below:

- Lack of street lighting in the area
- Traffic issues
- Green field site
- Access

- Loss of identity of rural settlement
- Speeding in locality
- Surface Water Drainage/flooding
- LDP site selection candidate site rejection
- Noise
- Wildlife
- Foul drainage issues in Coedway
- Layout and density of site
- Overlooking and loss of privacy

At the time of writing this report 2 letters of support have been received providing comments on the application. Comments include:

- Good public transport links
- Lack of family houses in the area
- Benefit to the school
- Services and facilities available in the area

## **Planning History**

No history

## **Principal Planning Policies**

### National planning policy

Planning Policy Wales (9<sup>th</sup> Edition, 2016)

Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015)

Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)

Technical Advice Note (TAN) 12: Design (2016)

Technical Advice Note (TAN) 23: Economic Development (2014)

### Local planning policies

Powys County Council Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy

SP5 – Housing Developments

SP12 – Energy Conservation and Generation

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV2 – Safeguarding the Landscape

ENV7 – Protected Species

HP3 – Housing Land Availability

HP4 - Settlement Development Boundaries and Capacities

HP5 – Residential Developments

HP6 – Dwellings in the Open Countryside

DC1 – Access by Disabled Persons

DC3 – External Lighting  
DC11 – Non mains Sewage Treatment  
DC13 – Surface Water Drainage

Powys Residential Design Guide (2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **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.

### Principle of Development

This application site lies outside the settlement boundary limits of Coedway and is approximately 100 metres from the boundary itself. Between the site and the settlement boundary there are three dwellings. Two of which are affordable dwellings permitted under application number P/2013/0394. The proposal is for two open market dwellings and therefore cannot be considered under policy HP8. Two open market dwellings in the proposed location represents a departure from the adopted Unitary Development Plan.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

*‘The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies’.*

### Sustainability

In considering a departure from the Powys Unitary Development policies officers must consider the location of the proposed development in terms of the wider sustainability of the development. We must take into account the range of services and facilities available within close proximity to the site and within a short travelling distance.

Coedway is defined in the UDP as a small village with no allocated sites designated within the plan. The village itself has a chapel and a public house within close proximity to the proposed site. The site is located approximately 1.8 km to the south east of Crewgreen. Crewgreen is defined within the Powys Unitary Development Plan as a large village which offers a further range of services and facilities to include a primary school, community centre/village hall, football pitch, bus stops, village shop, café, hair salon and other retail and employment premises.

In this case it is important to consider the wider sustainability of the proposed location of development. There are a range of services and facilities located within a short travelling distance of 2km from the site itself and therefore this should be considered in the wider sustainability context.

In light of the range of services located within 2km of the rural site, officers consider that there is an argument to support the principle of residential development on the proposed site given the siting close to an existing small village. Therefore, it is considered that the proposed site is considered to be a sustainable location for residential development.

#### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the dwellings proposed are to be 4 bedroomed with a floor space of 180m<sup>2</sup>. The dwellings are to measure 8.7 metres in width, 11 metres in length, with a height to the eaves of approximately 4.8 metres and height to the ridge of approximately 9 metres. Each dwelling is to have a separate detached garage to measure approximately 6 metres in width, 6 metres in length, a height to the eaves of 2.2 metres and height to the ridge of 5.35 metres. The indicative materials are to be construction using facing brickwork with slate or tile roof and painted timberwork.

The indicative scale, layout and materials are considered to be appropriate for the site location and surrounding area, however are to be confirmed at any reserved matters stage and not as part of this application process.

#### Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

As part of this application process layout of the site is not to be determined at this stage, however the indicative site layout plan indicates that the first dwelling would be approximately 15 metres from the neighbouring property known as Tan Y Bryn. The indicative layout shows that the dwelling is slightly off set on the site and it is considered that there is sufficient

distance between the existing property and the proposed dwellings as to not have a significant adverse impact upon the amenities enjoyed by the occupants of neighbouring properties. This layout is for indicative purposes only and the layout of the site could be altered to increase the distances between the properties if deemed necessary at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

This site is located within the Crewgreen to Forden Hill and Scarp aspect area which is characterised as a topographical transition between the upland peaks of Breidden Hill and Long Mountain and the floodplain of the River Severn. Largely west facing and typified by a patchwork of grazed and some low intensity arable farming with managed hedgerows, occasional patches of woodland lie along stream courses and in lower lying areas. Whilst LANDMAP recognises the rarity of the landscape as low, the scenic quality is evaluated to be high, it's overall sensory and visual value is defined as moderate.

The proposed siting of the dwellings is considered to be within close proximity of the existing settlement boundary and would be well related to other dwellings in the built settlement. Although there is a distance between the site and the settlement boundary, other dwellings have been permitted outside but adjacent to the settlement boundary as affordable dwellings and it is therefore considered that the proposed siting would integrate into the existing settlement well. It is therefore considered that the indicative siting of the proposed dwellings is acceptable.

Further to the location of the site, landscaping is not to be considered as part of this application. It is considered that further landscaping features could help to integrate the proposed site into the settlement whilst reducing any visual impact from the wider landscape. Although landscaping is not considered as part of this application process it is considered that the proposed site is well integrated within the existing small village and would not have a significant adverse visual impact upon the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

As part of this application process the highways authority have been consulted and they have responded raising no objections to the proposed scheme. The proposed development is to be accessed from an existing access used by the three existing dwellings. The highways



officer is satisfied that the existing access onto the B4393 is suitable to accommodate the additional two dwellings.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Ecology

No ecological information has been submitted in support of this application. As part of this application process the county ecologist has been consulted and has provided comments on the application. No objections have been raised to the scheme subject to the inclusion of a number of suggested conditions upon any grant of consent.

It is considered that subject to the inclusion of the suggested conditions that the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan 2010 and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

### Foul Drainage

This application is accompanied by the proposed details for foul drainage. The site is to be served by two septic tanks each connected to a single soakaway system to be located on another part of the site as indicated on the block plan. Percolation test results have also been supplied by the applicant for the drainage field in accordance with the relevant calculation methodology.

As part of this application process the council's environmental health officers have been consulted. Following amended plans and test information no objections have been raised by the environmental health officer to the proposed foul drainage system. They are satisfied that the proposed system is acceptable.

In light of the above, it is considered that the proposed development fundamentally complies with DC11 of the Powys Unitary Development Plan 2010.

### Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

No proposed surface water drainage details or layout drawing(s) have been submitted in support of this application. As part of this application process the county's land drainage officers has been consulted. We have received comments in response which consider flood risk and surface water run off potential arising from the proposed development. No historic flooding information relating to this site is held by the authority and no further concerns have been raised by the land drainage officer in this respect.

The land drainage officer has also considered in his response the percolation test results as submitted with the application for the foul drainage system which indicates that the soil type in this location as having a low permeability. Despite this no objections to the scheme have

been raised by the officer subject to the inclusion of a suggested condition to be attached to any grant of outline consent.

Officers consider that subject to the suggested condition that the proposed development fundamentally complies with policy DC13 of the Powys Unitary Development Plan 2010 in respect of surface water drainage.

### Other Legislative Considerations

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **Recommendation**

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

### **Conditions:**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as received on 28th October 2016 (drawing no's: SA24099 01 REV A) and revised plan received 15th February 2016 (drawing no. SA24088 02 REV A).
5. No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before any dwellings are occupied.
6. 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.
7. Prior to commencement of development a detailed lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
8. Prior to commencement of development, a detailed landscaping scheme including details of species mix, planting specification and appropriate aftercare measures shall be submitted to and approved in writing by the Local Planning Authority and implemented as approved and maintained thereafter.
9. Prior to commencement of development a detailed Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.
6. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 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 Section 6 of the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.
8. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.
9. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

## **Informative Notes**

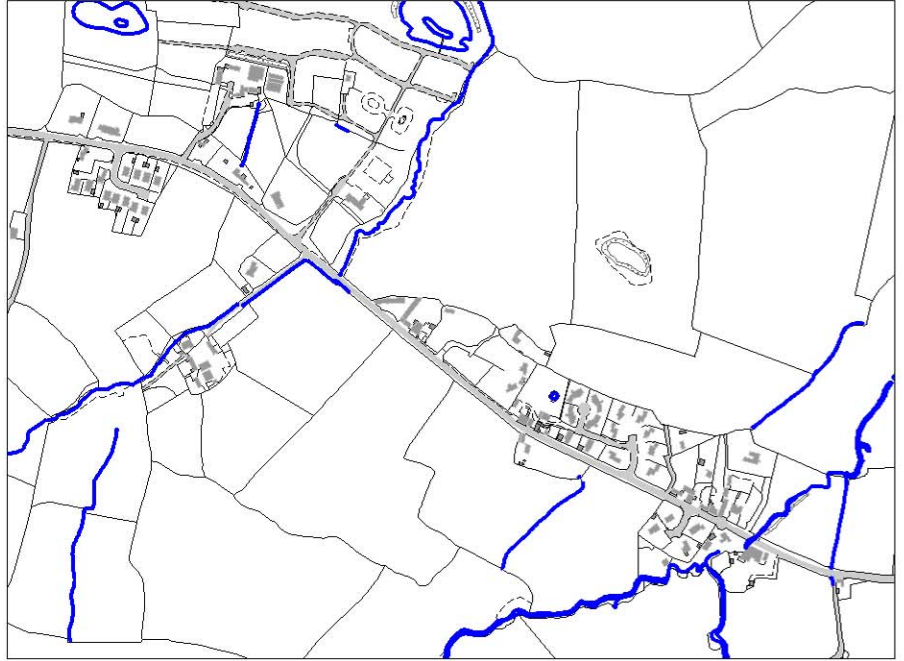
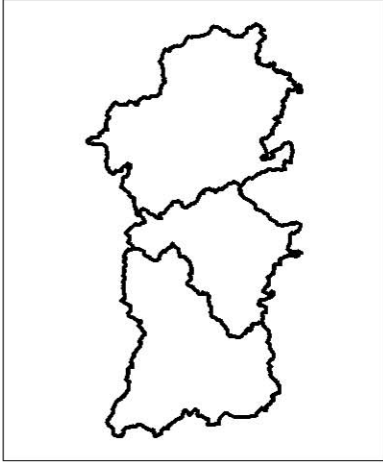
### Wales & West Utilities

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

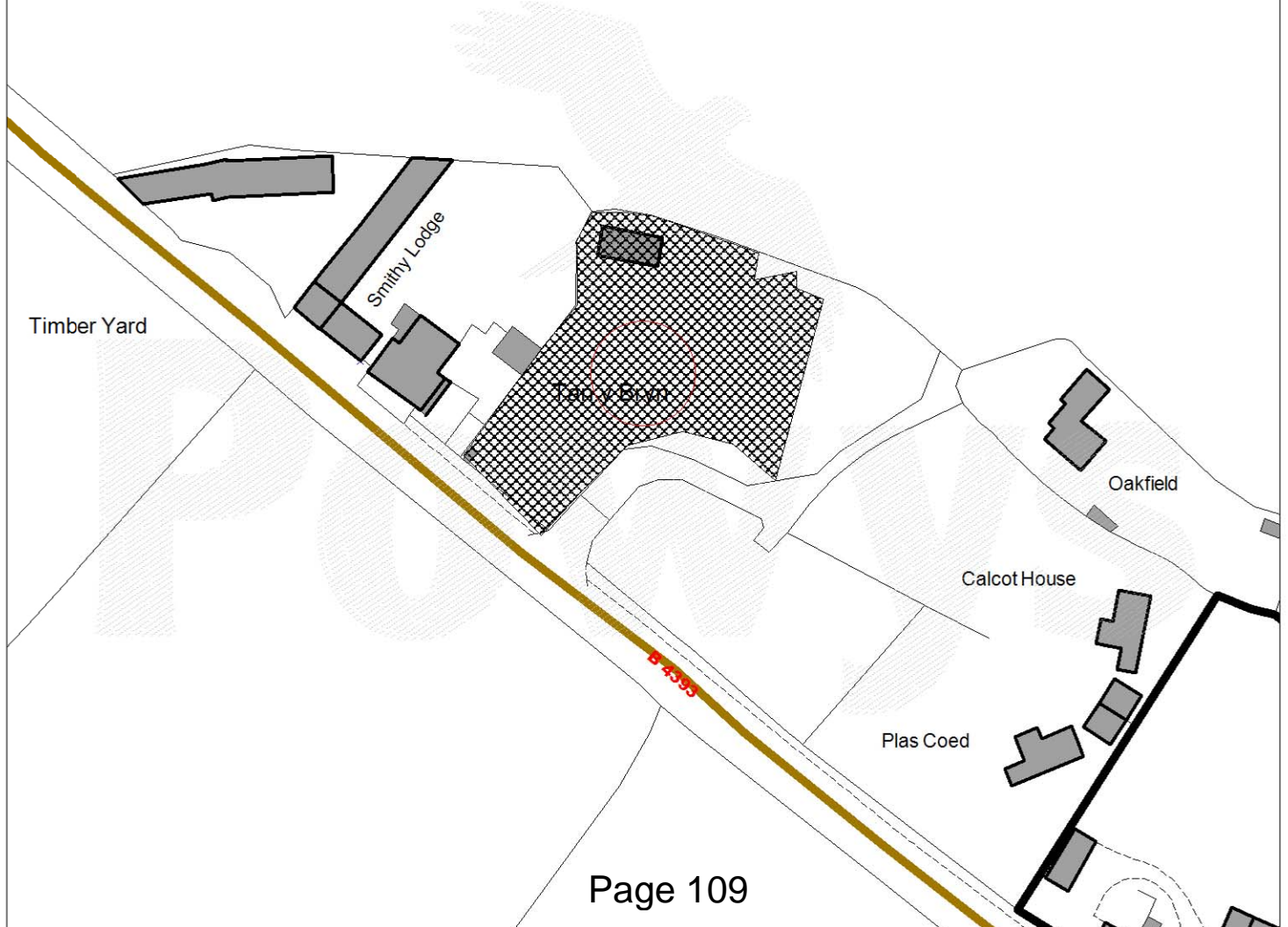
Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: L A Pugh

Location: Land north of B4393, Coedway



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# PTLRW34 - 20175

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2016/0047	<b>Grid Ref:</b>	279041.35 211067.57		
<b>Community Council:</b>	Ystradgynlais	<b>Valid Date:</b>	15/02/2016	<b>Officer:</b>	Gemma Bufton
<b>Applicant:</b>	Mr Craig Hopkins, Station Road, Oak Lodge, Coelbryn, Neath, SA10 9PN.				
<b>Location:</b>	Land at Former Cynlais School - Playing Field, Ystradgynlais, Powys.				
<b>Proposal:</b>	Residential development, formation of vehicular access road and all associated works (outline)				
<b>Application Type:</b>	Application for Outline Planning Permission				

### The reason for Committee determination

The proposed development constitutes a departure from the adopted Powys Unitary Development Plan.

### Site Location and Description

The application site is located on land outside the settlement development limits for Ystradgynlais and is therefore defined being located within the open countryside.

The site was formerly used in connection with the former Cynlais School. The application site is located with neighbouring residential properties located to the north and south of the application site. To the west of the application site runs the County Class I Highway, A4067 and to the east runs the River Tawe.

Consent is sought in outline with all matters reserved for residential development. An indicative plan has been submitted for 10 dwellings.

### Consultee Response

#### Ystradgynlais Community Council-

At its meeting held on Thursday 3<sup>rd</sup> March 2016 I wish to advise that the Ystradgynlais Town Council resolved to offer the following observations to the above application on the following grounds:-

Resolved: Whilst minded in principle to approve of the development it is subject to the site being eventually included in the revised LDP (focussed change process) and the highway aspects (subject also to BBNP approval) being acceptable in terms of design , visibility spays and turning movements onto the A4067.

## Highways Dept South-

The County Council as Highway Authority for the County Class I Highway, A4067 wish the following recommendations/observations be applied.

### Recommendations/Observations

The Highways Authority have no objection in principle to this proposal but note the estate road is fundamentally level over part of its length. This is not acceptable and will need to be amended to provide a minimum gradient of 1 in 100. Visibility splays at the access should be 120 metres as the site access is within a 40mph area.

I therefore recommend that the following conditions are included on any permission granted:-

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 20 for the first 10.0 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development 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, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 120 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 the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development 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 base course material and 60mm of bituminous macadam binder course material for a distance of 20.0 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.

HC9 Prior to the occupation of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom in accordance with CSS Wales Parking standards excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

HC10 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.

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.3 metres in crusher run or sub-base and maintained free from obstruction at all times such that



all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC19 No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including 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 and to the junction with the county highway.

HC20 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.

HC21 Prior to the occupation of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20.0 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC31 The area of each private drive and any turning area is to 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.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway

I also wish to recommend that a traffic regulation order be financed as part of this scheme to restrict the use of the layby/access loop linked to this proposal to "Access Only". This would deter articulated vehicles from attempting to utilise the layby in a southerly direction and then not be able to exit due to the change of alignment.

Reasons

To ensure the safety and free flow of traffic using the adjoining County Class I road.

Building Control-

Building regulation approval will be required.

Wales & West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical

plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Rights of Way-

No comments received at the time of writing this report.

#### Contaminated land Officer-

In relation to Planning Application P/2016/0047 the following advice is provided for the consideration of Development Control.

#### Advice

1. Historic ordnance survey (OS) maps identify that the Eastern boundary of the application site adjoined and was part occupied by an area of former mining and quarrying (coal, sand, clay, gravel), which is currently identified as unknown filled ground. Furthermore, the Western boundary of the application site historically adjoined a canal and the Southern area was occupied by a 'cement, lime and plaster' manufacturer i.e. lime kilns. The areas of unknown filled ground and locations of historic, quarrying, mining and manufacturing (cement, lime and plaster) could be a potential risk to the proposed development.

2. Given the land use history of the application site and surrounding area it is recommended that The Coal Authority is consulted concerning records of mining and the potential risks to the proposed development associated with historic mining activities in the area (Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk), Web: [www.coal.gov.uk/services/planning](http://www.coal.gov.uk/services/planning)).

3. Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2014) advises: "responsibility for determining the extent and effects of instability or other risks remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners".

In consideration of the development proposal, the land use history of the application site and current Planning Policy guidance it is recommended that the following Condition and Note are attached to any Planning Permission granted for Planning Application P/2016/0047:

#### Condition A

##### Condition 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (a contaminated land specialist with proven experience within the contaminated land industry)

and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of land affected by contamination: a guide for developers' 2012 .

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

#### Condition 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the Local Planning Authority.

#### Condition 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme

#### Condition 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to

the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

#### Condition 5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy \_\_\_\_ of the adopted Local Plan (date)].

Note to Applicant

#### Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

#### PCC Ecologist-

##### *European Species*

A comprehensive ecology report (Acer Ecology, August 2015) has been provided with the application. The ecology surveys and report have been conducted and produced in line with good practice guidelines, including CIEEM guidance, JNCC guidance and BCT guidance. The survey and report assesses the impact of the proposed development on the following European protected species:

- Bats
- Otters
- Dormice
- Great Crested Newts

Bats: Only small numbers of semi-mature broadleaved trees are to be removed to create the access to the site, and these trees are assessed as having negligible potential for roosting bats, therefore there will be no impact on roosting bats. There may be an indirect impact on bats that may be using the tree lined river adjacent to the site for foraging and commuting, due to light disturbance (i.e. external lighting on new dwellings). Therefore, it is recommended that a lighting plan is provided, according to the recommendations in the Ecological Report (Acer Ecology, August 2015). Also, the report recommends enhancement measures for bats to be incorporated into the development. See recommended conditions.

Otters: The report assesses the impact to otters as low/negligible and no recommendations are provided. Due to the BIS records of otters in the Afon Tawe upstream of the proposed development and likely use of the adjacent section of this river by otters, precautionary measures to avoid disturbance of this species are recommended. These include no night time working, no artificial lighting directed towards riparian habitat during construction or operation and construction noise to be kept to a minimum (see Informatives below).

Dormice: The report assesses the impact on Dormice and concludes that there would be no increased adverse impact on this species as a result of the development and no further recommendations are made. Due to lack of BIS records of this species within 2km and considering that no Dormouse habitat would be impacted, I agree with the conclusion in the report.

Great Crested Newts: There are no BIS records of this species and there are no ponds within 500m of the proposed development. Due to the lack of suitable habitat, this species is not likely to be affected by the proposed development.

I consider that no other European protected species would be affected by the proposed development.

### *UK Species*

Further to the species mentioned above, the ecology report by Acer Ecology (August 2015) assesses the impact of the development on the following UK protected species:

- Birds
- Reptiles
- Badgers

Birds: Nesting habitat will be affected by the proposal, therefore, clearance works should take place outside of the bird nesting season (March to August inclusive), or otherwise a check for nesting birds should be made by a suitably experienced ecologist immediately prior to clearance. Should nest be found, the clearance work should avoid that area until all broods have fledged the nest (usually 4-6 weeks, depending on development stage of eggs/chicks) and must be confirmed by a subsequent survey carried out by an experienced ecologist. The report recommends measures to compensate the loss of nesting habitat, and these measures should be implemented and adhered to. See recommended conditions below.

Reptiles: Areas of the sites are confirmed suitable for reptiles, predominantly around the south western corner of the site and along the north-eastern boundary, and recommendations to avoid adverse impacts to reptiles are provided in the report which

includes the provision of a 2m buffer strip of habitat around the perimeter of the of the site. These measures outlined in section 5 of the report (Acer Ecology, August 2015) should be implemented and adhered to during the course of the construction.

Badgers: No evidence of badgers was recorded. The report notes that badgers may potentially cross the site when foraging or commuting and therefore recommendations are being made in section 5 of the ecology report (Acer Ecology, August 2015), which should be implemented and adhered to during the course of the construction.

#### *Sect. 42 Species & Habitat*

See above for species.

Rivers and streams are section 42 habitat and the site is within close proximity to both the River Tawe and River Giedd, as such, a pollution prevention plan will be required detailing measures to prevent pollution or siltation of these rivers will be required.

An area of lowland mixed deciduous woodland is present immediately adjacent to and partially within the proposed development site, adjacent to the river corridor. This is a Section 42 Priority Habitat and therefore a tree protection plan and method statement according to BS5837: 2012 should be provided to prevent any damage to retained trees (see the Arboricultural Report included with the application (ArbTS, August 2015) for details of what this should include.

#### *LBAP Species & Habitat*

See above for both species and habitats

#### *International Sites (within 2km)<sup>1</sup>*

None within 2km

#### *National Sites (within 500m)<sup>2</sup>*

None within 500m

#### *Local Sites (within 500m)*

Glyn yr Hebog SINC is located within 450m of the proposed development - I agree with the assessment in the ecology report (Acer Ecology, August 2015) that the proposed development would not result in any direct or indirect impacts to this site due to the distance and the fact that it is located upstream from the development site.

#### *Invasive Non-Native Species*

The ecology report (Acer Ecology, August 2015) provided with the application notes that areas of Japanese Knotweed are present around the proposed development site and for this

reason a Japanese Knotweed Management Plan will be required and be implemented to prevent the spread of this plant. See recommended conditions below.

*Summary of recommendations / further assessment or work*

1. An EIA Screening Opinion is required from the Local Planning Authority as the proposals represent Schedule 2 development.
2. Vegetation clearance works should take place outside of the bird nesting season (March to August inclusive), or otherwise a check for nesting birds should be made by a suitably experienced ecologist immediately prior to clearance. Should a nest be found, the clearance work should avoid that area until all broods have fledged the nest (usually 4-6 weeks, depending on development stage of eggs/chicks), which must be confirmed by a subsequent survey carried out by an experienced ecologist.
3. No night time working or direct lighting of riparian habitat.
4. Tree protection measures according to BS5837:2012 must be undertaken to prevent damage to retained trees.
5. A detailed lighting plan will be required to prevent indirect impacts on nocturnal species, in particular bats – see section 5 of the ecological report by Acer Ecology (August 2015) for guidance.
6. Bat and bird boxes as detailed in section 5 of the ecological report by Acer Ecology (August 2015) should be incorporated into the development.
7. The method of working for reptiles as outlined in section 5 of the ecological report by Acer Ecology (August 2015) should be implemented and adhered to.
8. A detailed pollution prevention plan is required, see section 42 habitat above.
9. Japanese knotweed Management plan is required, see invasive non-native species above.

*Recommended Conditions*

Should you be minded to approve this application, I recommend the inclusion of the following conditions:

1. The recommendations for mitigation and enhancement measures regarding bats, birds, reptiles and badgers identified in section 5 of the Ecological Report by Acer Ecology dated August 2015 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

2. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

3. A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV 7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

4. A Japanese knotweed management plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the LPA

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

5. Prior to commencement of development a Tree 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 LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

#### Informatives

#### 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.

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



Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

#### Coal Authority-

##### *First Response*

Thank you for your consultation letter of 18 February 2016 seeking the views of The Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Energy and Climate Change. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

##### The Coal Authority Response: Fundamental Concern

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area.

The Coal Authority information indicates that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically both historic recorded underground coal mining at shallow depth and likely historic unrecorded underground coal mining at shallow depth. Our records also indicate that the presence of two mine entries (shafts) within, or within 20m of the planning boundary.

The Coal Authority objects to this planning application, as the required Coal Mining Risk Assessment Report, or evidence that ground conditions has not been submitted as part of the application.

It is a requirement of Planning Policy Wales, paragraph 13.9 that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development

The Coal Authority Recommendation to the LPA

In accordance with the agreed risk-based approach to development management in Development High Risk Areas, the applicant should be informed that they need to submit a Coal Mining Risk Assessment Report, or evidence that coal mining issues have been taken into consideration, as part of this application.

Without such an assessment and / or evidence of any risks to the development proposal posed by past coal mining activity, based on up-to-date coal mining information, The Coal Authority does not consider that the LPA has sufficient information to determine this planning application and therefore objects to this proposal.

If the applicant ultimately fails to demonstrate to the LPA that the application site is safe and stable to accommodate the proposed development then the LPA may refuse planning permission, in accordance with the paragraph 13.9 of Planning Policy Wales.

The Coal Authority would be very pleased to receive for further consultation and comment any subsequent Coal Mining Risk Assessment Report which is submitted in support of this planning application.

### *Second Response*

Thank you for your consultation letter of 2 March 2017 seeking the views of The Coal Authority on the additional information submitted in support of the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department for Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

The Coal Authority Response: Material Consideration

The application site falls within the defined Development High Risk Area. The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application; specifically mine entries, recorded shallow coal mine workings and likely unrecorded shallow coal mine workings.

The Coal Authority previously objected to this planning application in a letter to the LPA dated 2 March 2017. The objection was raised on the grounds that a Coal Mining Risk Assessment had not been submitted as part of the application.

The Coal Authority is therefore pleased to note that appropriate mining and geological information for the proposed development site has now been obtained on behalf of the applicant and has been used to inform the Desk Based Coal Mining Risk Assessment Report (September 2016, prepared by Ground Investigation Ltd). Based on a review of these

sources of geological and mining information the Report identifies both the shafts located within the site and confirms the potential risks to ground stability also posed by both recorded and unrecorded shallow mine workings.

Accordingly, and whilst the Report goes on to confirm that the mine entries will require investigation, this will need to be examined in relation to any layout, which at this present time is indicative, but which shows the residential layout conflicting with the conjectured locations of the mine shafts. This appears contrary to the commentary within the Desk Based Coal Mining Risk Assessment Report, which suggests that both shafts would not be located within the residential curtilage areas of any of the properties. Consequently, should the same layout be proposed as part of any subsequent future application, The Coal Authority would more than likely raise an objection.

The Coal Authority would therefore expect any subsequent reserved matters submission relating to the site layout to avoid the siting of buildings within influencing distance of any recorded mine entries on or off site, to which there appears scope to do. The shafts may also require full remediation (i.e. grouting and capping), which would appear to go beyond the suggestions within the Report, that low cost mitigation in the form of fencing or a geotextile would be sufficient. Despite this, The Coal Authority welcomes the fact that due consideration has been afforded to the potential risk posed by mine gas to the proposed development.

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

The applicant should ensure that the exact form of any intrusive site investigations, including those relating to the recorded mine entries, are agreed with The Coal Authority's Licensing and Permitting Department as part of their permit application. The findings of these intrusive site investigations should inform any mitigation measures which may be required in order to ensure the safety and stability of the proposed development.

The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of the Desk Based Coal Mining Risk Assessment Report (September 2016, prepared by Ground Investigation Ltd); that coal mining legacy potentially poses a risk to the proposed development and that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development. In the event that the site investigations confirm that remedial works would be needed to treat any recorded mine entry beneath any part of the site where built development is proposed, this should be conditioned to ensure that the site layout is amended to avoid it. The condition should also ensure that any remedial works identified by the site investigation to consolidate any shallow mine workings are undertaken prior to commencement of the development.

A condition should therefore require prior to the submission of the reserved matters:

- \* The submission of a scheme of intrusive site investigations for the mine entries for approval;
- \* The submission of a scheme of intrusive site investigations for the shallow coal workings for approval; and
- \* The undertaking of both of those schemes of intrusive site investigations.

A condition should require as part of the reserved matters application:

- \* The submission of a report of findings arising from both of the intrusive site investigations, including the results of the gas monitoring undertaken;
- \* The submission of a layout plan which identifies the recorded mine entries on the site, and the definition of suitable 'no-build' zones;
- \* The submission of a scheme of treatment for the recorded mine entries for approval;
- \* The submission of a scheme of remedial works for the shallow coal workings for approval.

A condition should also require prior to the commencement of development:

- \* The implementation of those remedial works.

The Coal Authority considers that the content and conclusions of the Desk Based Coal Mining Risk Assessment Report (September 2016, prepared by Ground Investigation Ltd) are sufficient for the purposes of the planning system and meet the requirements of PPW in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

#### National Resources Wales-

Thank you for referring the above application. Natural resources Wales gave pre-application advice in relation to this proposal Ref: SE/2014/117184/02-L01.

Natural Resources Wales brings together the work of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. Our purpose is to ensure that the natural resources of Wales are sustainably maintained, used and enhanced, now and in the future.

Natural Resources Wales does not object to the proposal subject to the imposition of appropriate conditions in relation to protected species and biosecurity.

#### Brecon Beacons National Park

Natural Resources Wales do not consider that there would be a significant landscape and visual effect on the Brecon Beacons National Park resulting from this development. The proposal is contained visually by mature trees, the majority of which are to be retained.

The site is part of an existing settlement and it would be good practice for the design of the buildings to reflect the character of the locality and take account of local design guidance, including that of the National Park, given its location on the edge of the park.

## Protected Species

Natural Resources Wales have considered the following that were submitted with the outline planning application;

- Seaward, D (26th August 2015) Site Adjacent to Ystradgynlais, Preliminary Ecological Appraisal. Acer Ecology Unpublished Report

- Lucocq, S (25th August 2015) Arboricultural Report – Sire Former Cynlais Playing Fields Project Reference – 173.1 Arboricultural Technician Services. Unpublished Report

NRW consider that the ecological submission is satisfactory for the purposes of informing the public decision making process. Our advice is restricted to European and British fully protected species as mentioned in sections 4.4.2 Bats, 4.4.3 Badger, 4.4.4 Dormouse and 4.4.6 Otter.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European or fully protected British protected species and therefore concur with the conclusions and recommendations in respect of these species as described in sections 5.6. Bats, 5.7 Badgers and 5.10 Bat/Bird boxes of the ecological report.

Natural Resources Wales require that any planning approval is subject to the imposition of a condition concerning the submission and implementation of Ecological Management Plan incorporating the recommendations made in section 5 of the ecological report.

NRW note that the recommendations listed in the submitted report in respect of 'partially protected' species such as nesting birds and reptiles. We are not commenting on those aspects and advise that you seek further advice in respect of these species from your internal ecological advisors.

## Biosecurity

NRW note the presence of Japanese knotweed on the site as identified in section 5.8 of the ecological report. We therefore advise that any subsequent consent is subject to the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) Appropriate measures to control any INNS on site; and
- (ii) Measures or actions that aim to prevent INNS being introduced to the site for the duration of the development and restoration.

## Flood Risk

Natural Resources Wales gave flood risk advice at the pre-application stage on 10th September 2014. This identified that some parts of the perimeter of the site could be within flood zone 2 and 3 and appropriate mitigation was advised.

NRW have considered the planning statement and flood consequences assessment that were submitted with the application. We are satisfied that our pre-application advice has been taken account of and the development has been sited outside the 1 in 1000 annual probability flood risk zone. NRW therefore have no concerns regarding flood risk to this development.

As stated in our pre-application advice, any works in, under, over or within 7m from the River Tawe will require prior written consent from Natural Resources Wales.

The Natural Environment and Rural Communities (NERC) Act (2006)

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species ([www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk)).

To conclude, Natural Resources Wales does not object to the proposal subject to the imposition of appropriate conditions in relation to protected species and biosecurity.

#### Welsh Water-

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### Sewerage

##### Conditions

Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

#### Water Supply

Dwr Cymru Welsh Water has no objection to the proposed development.

The proposed development is crossed by a watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

#### Ramblers Association-

Thank you for the opportunity to comment on this application. On this occasion we have no comments to make but can you also please ensure that, in the event of permission being

granted, the applicant is aware of the necessity of making sure that ROW any nearby is not obstructed during or after the proposed works, and that it remains fully available for public use during any works and afterwards.

Brecon Beacons National Park-

No response has been received.

Welsh Gov Highways-

No response received at the time of writing this report.

**Representations**

No letters of public representation have been received at the time of writing this report.

**Planning History**

None

Note: Access is in BBNP - separate application being made to BBNP for access.

**Principal Planning Constraints**

Flood Zone  
Public Right of Way  
BBNP

**Principal Planning Policies**

National Planning Policy

Planning Policy Wales (Edition 9, 2016)  
TAN 1 - Joint Housing Land Availability Studies (2015)  
TAN 2 - Planning and Affordable Housing (2006)  
TAN 5 - Nature Conservation and Planning (2009)  
TAN 6 - Planning for Sustainable Rural Communities (2010)  
TAN 12 - Design (2014)  
TAN15 – Development and Flood Risk (2014)  
TAN 18 - Transport (2007)  
TAN 23 – Economic Development (2014)

Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2– Strategic Settlement Hierarchy  
UDP SP5- Housing Developments  
UDP GP1- Development Control  
UDP GP3- Design and Energy Conservation



UDP GP4- Highway and Parking Requirements  
UDP HP3- Housing Land Availability  
UDP HP4- Settlement Development Boundaries and Capacities  
UDP HP6- Dwellings in the Open Countryside  
UDP HP8- Affordable Housing Adjoining Settlements with Development Boundaries  
UDP HP10- Affordability Criteria  
UDP DC10- Mains Sewage Treatment  
UDP DC11- Non-mains Sewage Treatment  
UDP DC13- Surface Water Drainage  
UDP DC15- Development on Unstable or Contaminated Land  
UDP DC8- Public Water Supply  
UDP DC9- Protection of Water Resources  
UDP ENV1- Agricultural Land  
UDP ENV 2- Safeguarding the Landscape  
UDP ENV 3- Safeguarding Biodiversity & Natural Habitats  
UDP ENV 7- Protected Species  
UDP ENV19- Amenity Open Spaces  
UDP RL1- Protection of Existing Outdoor Playing Space  
UDP RL2- Provision of Outdoor Playing and Recreation Space  
UDP TR2- Tourist Attractions and Development Areas

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **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.

### Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary

Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainability:

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Ystradgynlais which benefits from good public transport links and services. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The indicative site layout details a cul-de-sac formation, consistent with the surrounding built form within the Ystradgynlais area, whilst the scale of the proposed dwellings are considered to be in keeping with those in proximity to the site. Although Officers acknowledge that all matters relating to this application have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating 10 dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Highway Safety and Movement

It is noted that a small section of the access which adjoins onto the County Highway is located within the Brecon Beacons National Park (BBNP) and therefore a separate planning application has been submitted to the BBNP for consideration and has been conditional consented.

It is noted that only a small portion of the access is accommodated by the BBNP and therefore consultation has still been undertaken with this application to the Highway Authority to ensure that a safe access and internal road layout can be accommodated.

The Highway Officer in principle has confirmed that they have no objection to the proposed development and has recommended a number of conditions to be attached to any grant of consent. As this application is sought in outline with all matters reserved including access and layout it is considered that the layout and construction of the internal road including connection to the access can be dealt with under reserved matters and therefore it is not considered to be appropriate to attach the recommended conditions.

### Contaminated Land

It is noted that the eastern boundary of the application site is located on land that was formerly occupied by an area of former mining and quarrying and identified as unknown filled ground. Whilst to the western boundary the application site historically adjoined a canal with the southern area of the site being previously occupied by a cement, lime and plasterer manufacturer. All of the identified uses above could all be a potential contaminative risk to the proposed development.

The Powys Contaminated Land officer and the Coal Authority have both been consulted on the proposed application. Neither has raised an objection to the proposed development subject to a number of conditions being attached to any grant of consent.

Subject to the proposed conditions it is therefore considered that the proposed development can be managed to an acceptable level and fundamentally complying with relevant planning policy.

### Biodiversity

An Ecological Report was submitted in support of the application by Acer Ecology dated August 2015. It is noted that the application site is located within close proximity to both the River Tawe and River Giedd, furthermore there is an area of lowland mixed deciduous woodland present immediately adjacent to and partially within the proposed development site, adjacent to the river corridor. Japanese knotweed has also been identified to be present within the application site.

The Powys Ecologist and NRW have been consulted and have raised no objection in principle to the proposed development. They have however, requested that a number of conditions are attached to any grant of consent. It is considered subject to appropriately worded conditions securing the appropriate mitigation that the proposed development fundamentally complies with relevant planning policy.

### Affordable Housing

Consent is sought in outline for 10 dwellings with three of those being proposed as affordable housing. Under the Powys Local Plan Affordable Housing Topic Paper (Update), September 2016 the target affordable housing contributions for the 'South-west' area are indicated as a 0% contribution. In light of the topic paper, whilst affordable housing has been proposed, Development Management unfortunately considered it unreasonable to secure the provision of any affordable housing given the evidence available.

### Flood Risk

National Resources Wales have been consulted and note the pre-application discussions held with the applicant. They note that the development has been sited entirely outside of the 1 in 1000 annual probability flood risk zone and have therefore confirmed that they have no concerns regarding flood risk to this development. NRW have therefore raised no objections to the proposed development.

### Private Amenity Space

The application site for the purposes of the Unitary Development Plan is identified as being private open space. It is noted under the Unitary Development Plan policies ENV19, RL1 and RL2 seeks to protect existing open space/ recreational/ outdoor playing space. Proposals leading to the partial or complete loss of outdoor playing space that have significant recreational, landscape or amenity value should be refused.

It is noted that the application site was previously used in connection with the former Cynlais primary school. It is noted that the school following its closure (replaced with alternative provision) is now being used as a residential care home, which has resulted in the school fields no longer being required at this location. In light of the alternative school provision and subject to a condition requiring open space within the application site to mitigate any loss, it is considered that the proposed development fundamentally complies with relevant planning policy.

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

## Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **RECOMMENDATION**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

### **Conditions**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. Upon the submission of the reserved matters referred to in conditions 1 and 2, a scheme for the provision of on-site recreational facilities shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall accord with the Fields in Trust Standards and shall also involve arrangements for the long term management of the area together with the timing of construction and completion in relation to the housing units hereby permitted. The scheme shall be implemented in accordance with the agreed details.
5. The recommendations for mitigation and enhancement measures regarding bats, birds, reptiles and badgers identified in section 5 of the Ecological Report by Acer Ecology dated August 2015 shall be adhered to and implemented in full unless otherwise agreed in writing by the Local Planning Authority.
6. At the time of the submission of the reserved matters a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.
7. Prior to the first installation of any external lighting a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval. Development thereafter should be implemented as approved.
8. Prior to the commencement of development a Japanese knotweed management plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.
9. No development shall commence until an assessment of the nature and extent of contamination affecting the application site area (as outlined in drawing no. 3.1) has

been submitted to and approved in writing by the local planning authority. This assessment must be carried out by or under the direction of a suitably qualified competent person in accordance with BS10175 (2011) Investigation of Potentially Contaminated Sites Code of Practice and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- i.a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
- ii. an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- iii. an assessment of the potential risks to:
  - human health,
  - groundwater and surface waters
  - adjoining land,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - ecological systems,
  - archaeological sites and ancient monuments; and
  - any other receptors identified at (i)
- iv. an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with Welsh Local Government Association and the Environment Agency Wales' 'Development of Land Affected by Contamination: A guide for Developers' (2012).

10. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

11. A long term monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a duration to be agreed in writing with the Local Planning Authority, and the provision of reports on the same shall be submitted to and approved by the local planning authority, prior to the occupation of any approved building. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be submitted to the local planning authority at the end of every subsequent six month period and approved in writing to demonstrate the effectiveness of the monitoring and maintenance carried out. In the event that the remediation objectives are not achieved within the monitoring period, a revised remediation scheme and verification plan shall be submitted to and approved in writing by the local planning authority within two

months following the end of the monitoring period. Any further works necessary shall be undertaken within an agreed timescale until the remediation objectives are achieved and reports confirming the same have been submitted to and approved in writing by the local planning authority.

12. At the time of the reserved matters a scheme of intrusive site investigations for the mine entries and shallow coal workings including remedial works shall be submitted to and approved in writing by the Local Planning Authority. This should also include gas monitoring and the submission of a layout plan identifying the recorded mine entries on site and the definition of suitable 'no-build' zones. The approved schemes shall thereafter be implemented prior to the commencement of development.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. In accordance with policy RL2 of the Unitary Development Plan (March 2010).
5. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006
6. To comply with Powys County Council's UDP Policies ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006.
7. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV 7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006.
8. : To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006.
9. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).
10. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).
11. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).
12. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 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.

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

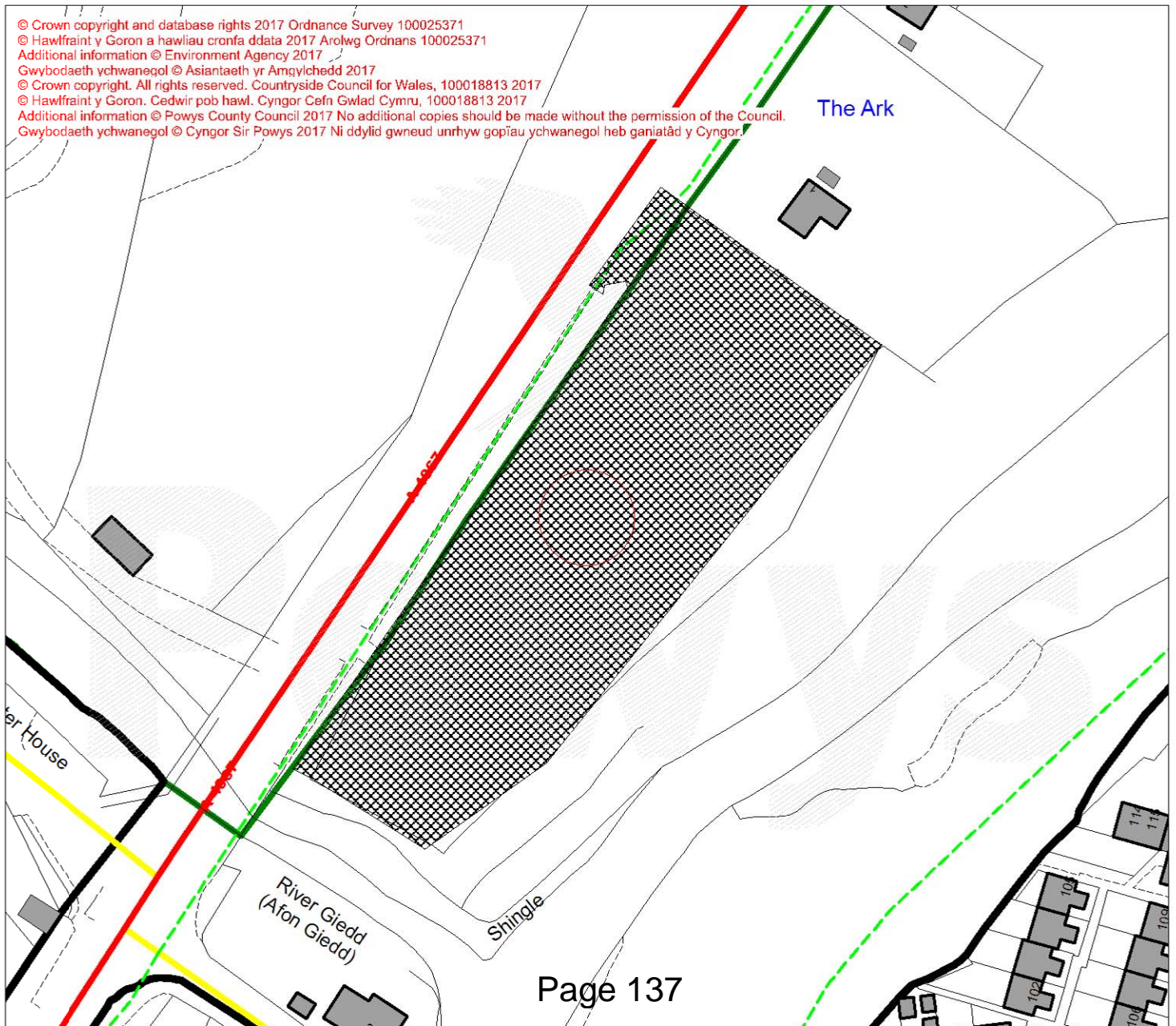
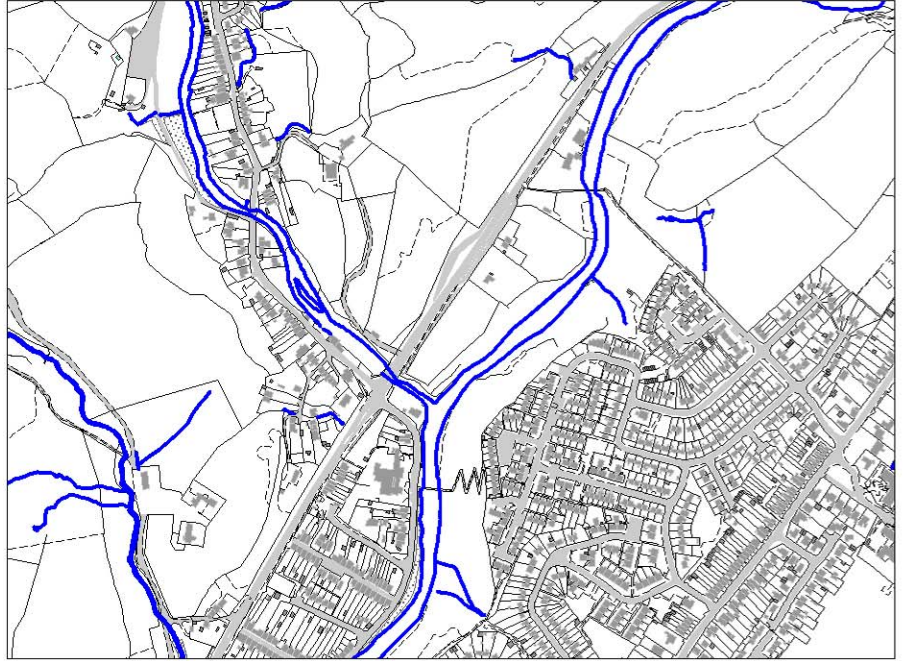
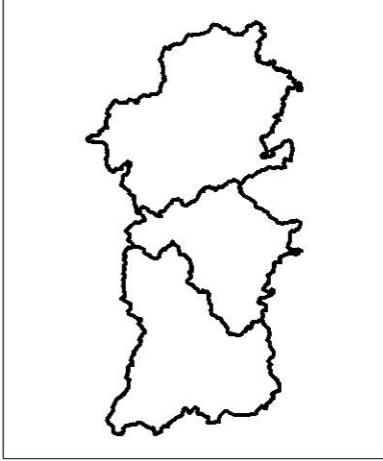
- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.



Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: Mr Craig Hopkins

Location: Land at former Cynlais School  
Playing Field, Ystradgynlais



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circulation area as identified on the plan is unclear. We therefore would request that the following conditions be attached to any consent issued.

Prior to the occupation of the temporary school a detailed traffic management plan shall be submitted and approved in writing by the local planning authority. The traffic management plan shall include full details of the means of ensuring a one-way traffic system, as detailed on drawing CLY 00 PL (05) 112 Rev. A, remains in force throughout the occupation of this site for the temporary school.

Prior to the occupation of the school a drawing at a scale not exceeding 1:500 clearly identifying all the parking and circulation areas shall be submitted to and approved in writing by the local planning authority and thereafter retained for the duration of the use of the site as a school. The details shall include swept path drawings for all vehicles that will use the car park and turning areas.

#### Powys Building Control-

Just to inform you this scheme will require a building regulation application to be submitted.

#### Wales & West Utilities-

Please find enclosed a copy of the requested plan and our general conditions, for your reference.

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in A3 size and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested.

#### Welsh Water-

##### Sewerage

As the applicant intend utilising a cesspit facility we would advise that the applicant seeks the appropriate advise from the Building Regulations Authority or an approved Inspector. However, should circumstances change and a connection to the public sewerage system/public sewage treatment works is preferred we must be re-consulted on this application.

##### Water Supply

No problems are envisaged with the provision of water supply for this development.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

### Powys Environmental Health-

In addition the following condition is recommended:

The landscaping and construction period working hours and delivery times to be restricted as follows:

All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

0800 - 1800 hrs Monday to Friday  
0800 – 1300 hrs Saturday  
At no time on Sunday and Bank Holidays

Deliveries to and removal of plant, equipment, machinery and waste, including soil, from the site must also only take place within the permitted hours detailed above.

### **Representations**

No letters of public representations have been received at the time of writing this report.

### **Planning History**

P/2009/1276- Full: Change of use of land to site for camping, touring caravans and motor homes with new toilet and shower facilities. Conditional Consent.

P/2016/0802- Construction of a new primary school and associated works. Conditional Consent.

### **Principal Planning Constraints**

Class 1 Road  
Pipeline buffer  
Historic Landscapes Register Outstanding

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition 9, 2016)  
Technical Advice Note 5- Nature Conservation and Planning (2009)  
Technical Advice Note 11- Noise (1997)  
Technical Advice Note 12- Design (2016)  
Technical Advice Note 18- Transport (2007)  
Welsh Office Circular 61/96 – Planning and Historic Environment: Historic Buildings and Conservation Areas

### Local Planning Policies

Unitary Development Plan (March 2010)

SP1- Social, Community and Cultural Sustainability  
SP3- Natural, Historic and Built Heritage  
SP9- Local Community Services and Facilities  
GP1- Development Control  
GP3- Design and Energy Conservation  
GP4 - Highway and Parking Requirements  
ENV1- Agricultural Land  
ENV2- Safeguarding the Landscape  
ENV3- Safeguarding Biodiversity and Natural Habitats  
ENV4- Internationally Important Sites  
ENV5- Nationally Important Sites  
ENV6- Sites of Regional and Local Importance  
ENV7- Protected Species  
ENV14- Listed Buildings  
ENV16- Landscapes, Parks and Gardens of Special Historic Interest  
CS5- Educational Developments  
DC11- Non-mains Sewage Treatment  
DC13- Surface Water Drainage  
ENV17 – Ancient Monuments and Archaeological Sites  
ENV18 – Development Proposals Affecting Archaeological Sites

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

### **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.

#### Principle of Development

Consent is sought under this application for the provision of a temporary primary school. It is noted that Members under planning permission P/2016/0802 recently granted consent for the replacement of Clyro School. In order to facilitate those works a temporary school is required for the duration of the works (2 years).

The proposed application site is located within the open countryside and has therefore been advertised as a departure from the development plan.

Policy CS5 of the Unitary Development Plan for educational development states that the provision of new facilities will be supported where they are located in sustainable locations. It is noted that the application site is located adjacent to the A438 approximately 0.2 miles south of the settlement of Clyro and approximately 210 metres to the south of the existing school site.

Given the nature of the application being temporary for two years whilst the demolition of the existing school and construction of the new primary school is being completed it is considered that the proposed development has been carefully located and suitable information has been submitted to demonstrate that the proposed development is located within a sustainable location.

### Design

With respect to design, specific reference is made to UDP policy GP1. The respective policies indicate that development proposals will only be permitted where the design, proportion, scale, materials and fenestration complements or enhances the character and appearance of the surrounding area.

Consent is sought on a temporary basis for the provision of 4 porta-cabin style buildings. It is noted that the proposed buildings are single storey in construction and constructed with plastic coated steel with a composite steel roof.

Whilst it is considered that the buildings are not considered to be of any architectural merit it is however noted that they are for a temporary basis only. It is therefore considered that subject to appropriately worded conditions the proposed development could be managed to acceptable level to ensure that all structures are removed from the site following completion of the new school.

In light of the above and subject to an appropriately worded condition it is therefore considered that the proposed development can be managed to an acceptable level.

### Landscape and Visual Impact

The application site is located within an area of outstanding historic Landscapes. Policy ENV16 states that development proposals which would unacceptably adversely affect the character or appearance of the area will be opposed.

It is noted that the application site and the Baskerville Hall is predominately surrounded by mature trees and hedgerows which largely screens the application site from the surrounding area and specifically from the A438 which runs parallel east of the application site. It is considered therefore given the temporary nature of the application and the existing mature landscaping which surrounds the application site that the proposed development fundamentally complies with relevant planning policy and would not be seen as having an unacceptable impact to the character and appearance of the surrounding area.

### Highway Authority

A safe access and parking is a fundamental requirement of any development. It is noted that the application site proposes a one-way system which includes entering the site from the access closest to the application site off the A438 and then utilising the private access track to exit the site to an existing access further north of the application site.

The Highway Authority has been consulted and has confirmed that the one way system is fully supported by the Highway Authority. However, they consider that insufficient information has at present been submitted in relation to the enforcement of the one way system and the car parking layout. Whilst in principle the highway authority have supported the proposed development they have therefore recommended a number of conditions are attached to any grant of consent.

Subject to the proposed conditions it is considered that the proposed development can be managed to an acceptable level and therefore fundamentally complying with relevant planning policy.

### Built Heritage

It is noted that the application site is located within close proximity to a scheduled ancient monument and listed buildings. These have been identified as the following:

- Scheduled Ancient Monument Clyro Court Chambered Tomb RD203
- Cil-y-Bleiddiau (Former stables and Coach-house to Clyro School) Grade II listed building
- Baskerville Hall Hotel (Formerly known as Clyro Court) Grade II\* listed building

The Built Heritage officer has been consulted. Unfortunately, at the time of writing this report no response has been received from the Officer however Members will be updated prior to the meeting via an update report.

### Biodiversity

The application is accompanied by an Extended Phase 1 Habitat Survey. The survey concludes that the site itself is of low ecological value with the trees along the western and eastern boundaries considered to provide the most valuable habitat due to their potential to provide connectivity to the wider landscape as well as a potential foraging/ commuting habitat for a number of species.

NRW and the Powys Ecologist have been consulted however at the time of writing this report no responses have been received. Members will be updated via an update with their full responses.

However, taking into consideration the recommendation of the survey to retain the mature trees it is considered that subject to a condition implementing the requirements of the survey that the proposed development can be managed to an acceptable level and therefore fundamentally complying with relevant planning policy.

### Crime and Disorder Act 1998



Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **RECOMMENDATION**

Whilst a departure from the development plans, given the temporary nature of the development it is considered that the application justifies the grant of consent as an exception to normal policies. The recommendation is therefore one of conditional approval.

## Conditions

1. The buildings, use and any associated infrastructure shall be removed from the land in its entirety and the land shall be restored to its former condition within 2 years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on (drawing no's: ).
3. Prior to the occupation of the temporary school a detailed traffic management plan shall be submitted and approved in writing by the local planning authority. The traffic management plan shall include full details of the means of ensuring a one-way traffic system, as detailed on drawing CLY 00 PL (05) 112 Rev. A, remains in force throughout the occupation of this site for the temporary school.
4. Prior to the occupation of the school a drawing at a scale not exceeding 1:500 clearly identifying all the parking and circulation areas shall be submitted to and approved in writing by the local planning authority and thereafter retained for the duration of the use of the site as a school. The details shall include swept path drawings for all vehicles that will use the car park and turning areas.
5. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:  
0800 - 1800 hrs Monday to Friday  
0800 - 1300 hrs Saturday  
At no time on Sunday and Bank Holidays  
Deliveries to and removal of plant, equipment, machinery and waste, including soil, from the site must also only take place within the permitted hours detailed above.
6. Development must be completed in full accordance with Section 10 (recommendations) of the Extended Phase 1 Habitat Survey Produced by Powys County Council and dated January 2017.

## 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 highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
4. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
5. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
6. In the interest of the protection and preservation of biodiversity in accordance with policy ENV3 of the Powys Unitary Development Plan.

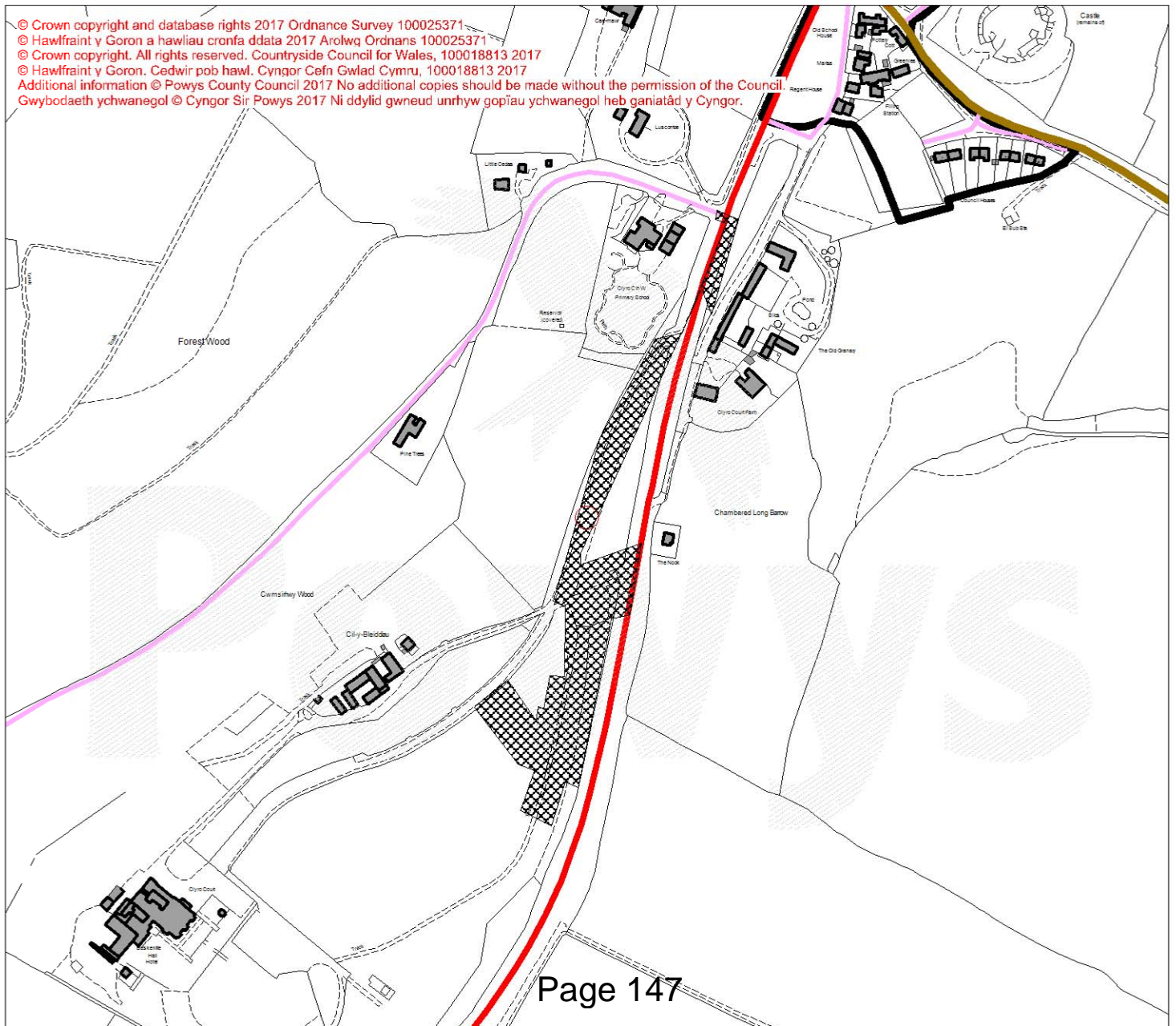
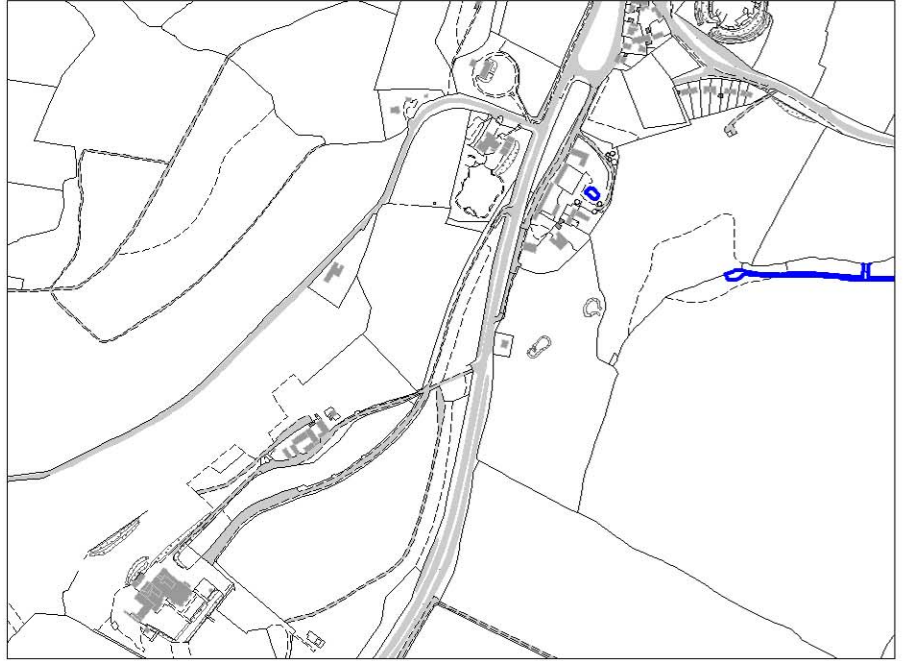
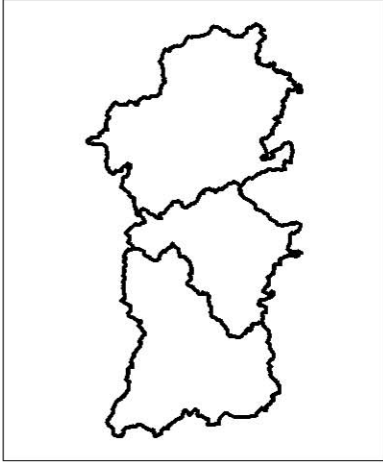
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Case Officer: Gemma Bufton- Principal Planning Officer  
Tel: 01597 827505 E-mail: gemma.bufton1@powys.gov.uk

Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: Powys County Council

Location: Land at Baskerville Hall Hotel,  
Clyro Court, Clyro



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## Recommendations/Observations

Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

### PCC Building Control

Building Regulations application required.

### Wales and West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### Severn Trent Water (STW)

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

### PCC Environmental Health

From our discussions I understand that the Treatment Plant currently serving some of the properties on the development is going to be relocated and this proposed dwelling will also be served by the newly relocated treatment plant.

Provided that the NRW allow the additional discharge to the water course I have no objection to the application.

## **Representations**

Following the display of a site notice and publicity in the local press, no public representations have been received.

## **Planning History**

P/2015/0433 - VAR: Removal of conditions 3, 4 & 5 of permission P/2012/0047 relating to the requirement for the Code for Sustainable Homes. Conditional consent 12/11/2015

P/2012/0047 - Erection of 4 no. dwellings, construction of a new vehicular access and formation of a new public footpath, installation of a sewage treatment plant and associated landscaping (resubmission). Conditional consent 07/08/2012

P/2011/0105 - Erection of 4no. dwellings, construction of a new vehicular access and formation of a new public footpath, installation of a package treatment plant and associated landscaping. Application withdrawn

### **Principal Planning Constraints**

- Outside of settlement development boundary;
- Unclassified highway;
- Scheduled Ancient Monument Bwlch-y-Cibau Enclosure located approximately 210m to the west of the application site;
- Bwlch y Cibau Conservation Area located approximately 6 metres to the north west of the application site;
- Four listed buildings located approximately 80 metres to the north west of the application site; and
- Bryngwyn Historic Garden located approximately 111m to the north west of the application site.

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition 9, 2016)

Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015)

Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010)

Technical Advice Note (TAN) 12: Design (2016)

Technical Advice Note (TAN) 15: Development and Flood Risk (2004)

Technical Advice Note (TAN) 18: Transport (2007)

Welsh Office Circular 11/99 – Drainage

Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas

Welsh Office Circular 61/96 – Planning and the Historic Environment: Archaeology

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

#### Local Planning Policy

*Powys Unitary Development Plan (2010)*

UDP SP1 – Social, Community and Cultural Sustainability

UDP SP2 – Strategic Settlement Hierarchy

UDP SP5 – Housing Developments

UDP GP1 – Development Control

UDP GP3 – Design and Energy Conservation

UDP GP4 – Highway and Parking Requirements

UDP ENV2 – Safeguarding the Landscape

UDP ENV11 – Development in Conservation Areas

UDP ENV14 – Listed Buildings  
UDP ENV16 – Landscapes, Parks and Gardens of Special Historic Interest  
UDP ENV17 – Ancient Mounuments and Archaeological Sites  
UDP ENV18 – Development Proposals affecting Archaeological Sites  
UDP HP3 – Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP5 – Residential Developments  
UDP HP6 – Dwellings in the Open Countryside  
UDP HP7 – Affordable Housing within Settlements  
UDP HP8 – Affordable Housing Adjoining Settlements with Development Boundaries  
UDP HP9 – Affordable Housing in Rural Settlements  
UDP TR2 – Tourist Attractions and Development Areas  
UDP DC9 – Protection of Water Resources  
UDP DC10 – Mains Sewage Treatment  
UDP DC13 – Surface Water Drainage

Powys Residential Design Guide (2004)  
Powys Joint Housing Land Availability Study (2016)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **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.

### Principle

The proposed development lies wholly outside the development boundary of Bwlch y Cibau as detailed on inset map M109 and would result in one dwelling being constructed outside the settlement boundary.

Outside of settlement boundaries, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing land supply



The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".*

The JHLAS identified a significant undersupply of housing land within Powys. As mentioned above, TAN 1 confirms that the need to increase supply should be given considerable weight but only where the development would otherwise comply with development plan and national planning policies.

Bwlch y Cibau is classified as a small village within the Powys Unitary Development Plan with no sites allocated for residential development in the UDP. However, a residential housing development of four dwellings within the settlement development boundary and adjacent to the application site was approved under reference P/2012/0047 and this permission has been implemented with three of the dwellings having been constructed and the final dwelling under construction. In addition, a further single infill dwelling within the settlement boundary was approved under reference P/2016/0980.

In light of the above, whilst acknowledging that the proposal does constitute a departure from the development plan, Members are advised that the lack of a five year housing supply in Powys needs to be given considerable weight in the determination of this application. However, before reaching a decision, the scheme will need to be considered against other policies contained within the UDP in order for a balanced view to be made on the acceptability of the development overall.

#### Sustainable location

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

As noted above, Bwlch y Cibau is identified as a small village within the UDP. The UDP advises that given the limited level of services (including church, public house and community

hall), especially the absence of mains sewerage facilities, together with the existing small scale of the village and the sensitivity of its Conservation Area, only a modest amount of growth would be considered acceptable in the plan period. Consequently the UDP states that only residential development on single plots or on sites consisting of small groups of dwellings is considered appropriate.

Given the designation as a small village, and that the proposal is for a single dwelling adjacent to the development boundary, it is considered that the proposed additional residential development in this location would accord with the provisions of Planning Policy Wales in so far as it is a sustainable location.

#### Design and impact upon character and appearance of the locality

Bwlch y Cibau is an attractive village which has a distinct character with the centre of the settlement (conservation area) having stone as the predominant building material. The site is located adjacent to the settlement boundary and a recent housing development of four dwellings where stone is used alongside render which is reflected in the proposed dwelling.

The proposed dwelling is considered to be of a suitable scale in terms of floor space and height and whilst located on the edge of the village, subject to appropriate landscaping measures, it is considered that the scale, form and design general of the proposal reflect the overall character and appearance of the settlement and surrounding area.

#### Impact upon amenities enjoyed by occupants of neighbouring residential properties

As noted above, consent was granted for four dwellings under reference P/2012/0047 on adjacent land. The side elevation of Plot 3 is located approximately 3 metres from the side elevation (garage) of the proposed dwelling. The front (south east) elevation of Plot 2 (under construction) is located approximately 22 metres to the north west of the front (north west) elevation of the proposed dwelling. In addition, the dwelling known as Llwyn Derw is located to the north of the front (north west) elevation of the proposed dwelling at a distance of approximately 28 metres.

Given that the distance between the front elevations of Llwyn Derw, Plot 2 and the proposed dwelling is more than the 20 metres advised for rear elevations within the Powys Residential Design Guide and that the side elevation of Plot 3 would be affected rather than front or rear elevations, it is considered that the proposal is acceptable in terms of the impact upon privacy. In terms of overshadowing, whilst the proposed dwelling would be less than 40 metres from the front elevation of Plot 2 and Llwyn Derw, given that the proposed dwelling is single storey and that the land level descends towards the application site, the proposal is acceptable in terms of overshadowing.

Therefore, it is considered that the proposed development would not have an unacceptable adverse impact upon occupiers of neighbouring residential properties in accordance with UDP Policy GP1.

#### Highway access and parking

Vehicular access to the site would be gained via the existing estate road off the U2176 unclassified highway and the submission indicates that parking and turning provision would

be provided at the site. The Highway Authority has not objected to the proposal but has recommended that a condition should be applied to any consent granted to require the provision and retention of 3 car parking spaces. On the basis of the advice from the Highway Authority and subject to the use of the recommended condition, it is considered that adequate provision for highway access and parking would be provided in accordance with UDP Policy GP4.

#### Foul and surface water drainage and flooding

It is proposed to dispose of foul sewage via the existing sewage treatment plant which serves the dwellings approved under permission P/2012/0047. The treatment plant would be relocated approximately 7 metres to the east of the existing with a new drain to be provided to the existing outflow. In addition, planning permission was recently granted under reference P/2016/0980 (under the same ownership of the applicant) for a single dwelling to the north west of Llwyn Derw with discharge into the treatment plant permitted. The Environmental Health department has not objected to the proposal providing that Natural Resources Wales allow the additional discharge to the water course. Given that the treatment plant and its discharge into the watercourse is consented/licensed by Natural Resources Wales under a separate regime, it is considered that adequate provision for foul drainage would be provided in accordance with UDP Policy ENV11.

The site is not located within an area known to be at risk of flooding. The site is located to the north west of a watercourse (stream) with the rear garden of the proposal meeting the watercourse. In terms of surface water run-off, the submission indicates that surface water is to be disposed to soakaways. However, no surface water drainage details/drawing(s) or an indication as to how the impermeable areas within the proposed application site will be drained/disposed, have been submitted. Therefore, to ensure adequate surface water drainage is provided for, it is considered reasonable and necessary to attach a condition to any consent granted to require the submission, approval and implementation of a surface water drainage scheme in accordance with UDP Policy DC13.

#### Impact upon heritage assets

##### *Setting of Scheduled Ancient Monument*

There is a policy presumption in favour of preserving the setting of scheduled ancient monuments. Bwlch-y-Cibau Enclosure Scheduled Ancient Monument (SAM) is located approximately 210m to the west of the application site.

The land level of the Enclosure rises from the C2121 highway to the south of the SAM, however the highway is very well treed and along with the intervening residential properties between the C2121 highway and the U2176 highway, the development is not likely to be visible from the SAM. On this basis and in consideration that the dwelling would be sited adjacent to other dwellings, it is not considered that the proposal would unacceptably affect the setting of a scheduled ancient monument in accordance with UDP Policy ENV17.

##### *Conservation area*

Bwlch y Cibau Conservation Area is located approximately 6 metres to the north west of the application site. The authority is required to have special attention to the desirability of

preserving or enhancing the character or appearance of the conservation area under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. UDP Policy ENV11 states that proposals located within conservation areas should be of high quality design and should preserve or enhance the character or appearance of the area. Proposed developments that would significantly detract from the character of the area will be opposed.

Taking into account the design of the proposal, it is considered that the proposal would not have an unacceptable impact upon the character or appearance of the conservation area in accordance with UDP ENV11.

#### *Setting of Listed buildings*

There are four listed buildings located approximately 80 metres to the north west of the application site within the village:

- Christ Church Parish Church – grade II;
- Sundial in the Churchyard – grade II;
- Lych-Gate to Christ Church – grade II; and
- Drinking Fountain – grade II.

The authority is required have special regard to the desirability of preserving the listed buildings or their settings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. UDP Policy ENV14 states that proposals unacceptably adversely affecting a listed building or its setting will be refused taking into account the desirability of preserving the listed building and its setting, the importance of the building, the effects of the proposal on any particular features and the contributions of the building to the local scene.

Taking into account the distance and the intervening village and the design of the proposal, it is considered that the proposal would not have an unacceptable adverse impact upon the identified listed buildings and their settings in accordance with UDP Policy ENV14.

#### *Archaeology*

Development Management is not aware of any archaeological interests affected by the proposal.

#### *Bryngwyn historic park and garden*

The site is located approximately 111 metres to the south east of the registered historic garden of Bryngwyn. The park and garden is located beyond the village, the A490 highway and the churchyard. The park includes a house with small formal garden set in park with lake and intact shelter belts. The park is noted as a fine example of late eighteenth century brick gentry house in a beautiful situation, surrounded by well preserved contemporary and early nineteenth century landscape parkland.

Taking into account the distance and the intervening village and the design of the proposal, it is considered that the proposal would not unacceptably adversely affect the character or appearance of the historic park and garden in accordance with UDP Policy ENV16.

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **RECOMMENDATION**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries significant weight in favour of this development and given that the

proposal would otherwise comply with development plan and national planning policies, the recommendation 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 on xxxx (drawing no's: Location Plan, 3, 4).
3. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The approved scheme must be implemented prior to first use of the dwelling hereby permitted.
4. Within one month of the implementation of this permission a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The submitted design shall include drawings at a scale of 1:200 or 1:500 and a written specification clearly describing the species, sizes, densities and planting numbers. Drawings must include accurate details of all existing trees and hedgerows with their location, species, size, condition, any proposed tree surgery and an indication of which are to be retained and which are to be removed.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.
6. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

### **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 ensure the provision of a satisfactory means of surface water disposal in accordance with Policies GP1 and DC13 of the Powys Unitary Development Plan (2010).
4. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment and visual amenity in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
5. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment and visual amenity in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

### **Informative Notes**

*Please note the comments from Wales & West Utilities:*

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

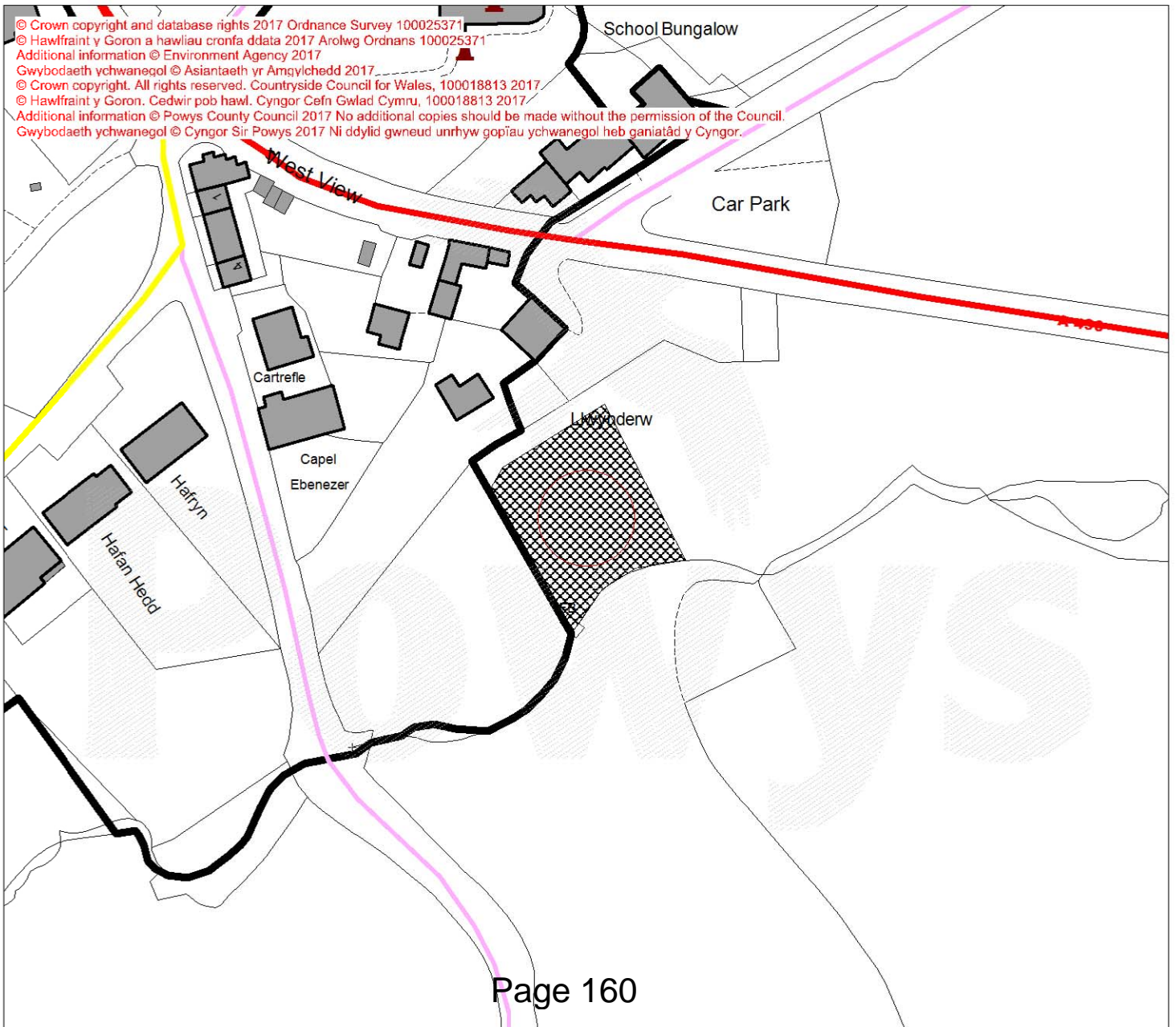
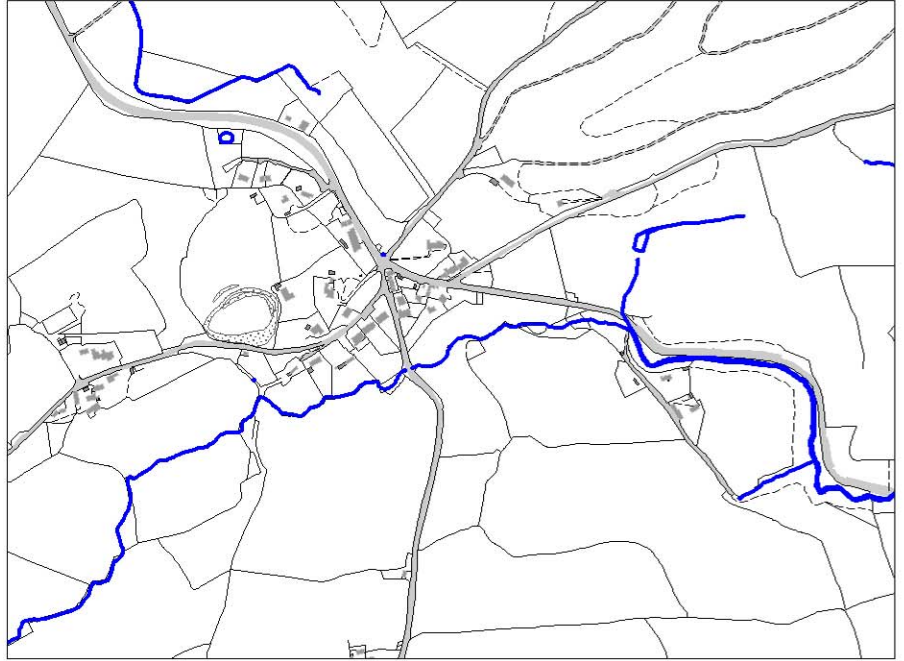
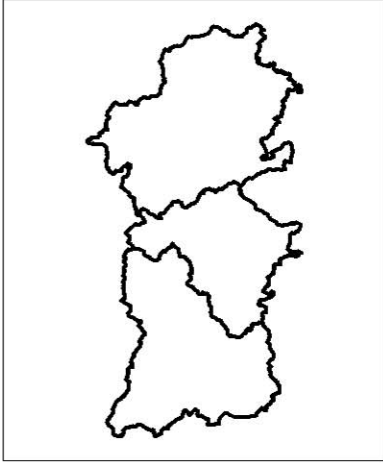
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Case Officer: Kate Bowen- Planning Officer  
Tel: 01938 551268 E-mail:kate.bowen@powys.gov.uk

Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: Lady Linlithgow

Location: Llwyn Derw, Bwlch y Cibau,  
Llanfyllin





# PTLRW34 - 20178

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** P/2016/1327 **Grid Ref:** 309162.99 264899.77

**Community Council:** Llanbadarn **Valid Date:** 29/12/2016 **Officer:** Karen Probert

**Applicant:** Mr Richard Lewis (MG And ES Lewis And Sons), Llwynmelyn, Crossgates, Llandrindod Wells, Powys, LD1 6RE.

**Location:** Land at Llwynmelyn, Crossgates, Llandrindod Wells, Powys, LD1 6RE.

**Proposal:** Outline - all matters reserved: Residential development of 4 dwellings and associated works.

**Application Type:** Application for Outline Planning Permission

### The reason for Committee determination

The proposed development constitutes a departure from the adopted Powys Unitary Development Plan.

### Site Location and Description

The site subject to this application is located on the far eastern side of Crossgates and is located approximately 20 metres from the Crossgates development boundary, Therefore, for the purposes of the Powys Unitary Development Plan (UDP) the development site is defined as open countryside.

The proposed development site is bounded to the north and east by existing agricultural land, to the south by the A44 Class I classified highway and to the west by an existing track (public right of Way 127/107/1) leading to Llwynmelyn and existing agricultural land.

Consent is sought in outline for the development of four dwellings and associated works on a parcel of land measuring approximately 0.49 hectares. All matters have been reserved for future consideration.

### Consultee Response

#### Llanbadarn Fawr Community Council

The Community Council are opposed to the above application, because the land lies outside the current boundary of the development plan.

#### PCC - Highways

The County Council as Highway Authority for the County Class I Highway, A44 wish the following recommendations/Observations be applied

## Recommendations/Observations

The Highway Authority would have no objection to the proposal in principle.

The proposed site is to be served from the A44 county highway via an existing access which is sited within the 30mph speed limit. Adequate access visibility is available and with some relatively minor geometry and surfacing improvement, it is considered that an acceptable means of access to the site could be achieved. In order to promote the sustainability of the site however, the Highway Authority would seek the provision of a 2 metre wide linking footway alongside the A44, in a westerly direction towards the garage and other local amenities, including the primary school.

Whilst it is noted that the current application has been made with all matters reserved for future consideration, the indicative layout shows the provision of four dwellings, which is a number that can be adequately served from a private access. It is clear however, that further developable land exists to the north and west and therefore future expansion cannot at this stage be ruled out.

In the absence of any restriction that would prohibit future development above this number, the Highway Authority would expect the application site to be extended in order for the existing access road to be upgraded to an adoptable standard. As and when Building Regulation Approval is granted, the Highway Authority would serve and secure Advance Payment Code road bonds.

### PCC - Building Control

Building Regulations will be required.

### Wales and West Utilities

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within

the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

## SEWERAGE

### Conditions

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

## WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development. The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site. Please ensure easement of 7.7m is maintained, 3.85m either side of the centre of the main.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

## PCC - Rights of Way

Thank you for the opportunity to comment this planning application.

The route of footpath LF107 follows the track to the west of the development area marked red, and should not be encroached upon. It must also be noted that there is a presumption against using P.R.O.W. for vehicular access unless the applicant already has a recorded public vehicular right, as set out by Government Circular 5/93 Public Rights of Way.

In the Site Layout Design (4614/SP), there are 3 points of access into the housing from the footpath; and Countryside Services would question the need for 3 separate access points, rather than 1. This is because it will increase the points where vehicles will be emerging onto the footpath and therefore encountering walker, as well as potentially increase the wear to the stone track from vehicles turning at each of these points. Countryside Services would recommend that a single point of access into the development of 4 houses is used instead of the 3 shown in the plan. With the removal of the cattle grid adjacent to the A44, being a welcome improvement to the public right of way.

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public footpath be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the footpath can be legally stopped-up for a defined period.

We would therefore advise that advice is sought from Countryside Services before any development begins.

## PCC - Land Drainage

The Land Drainage Section as The Lead Local Flood Authority would like to make the following comments:

### Surface Water Run-off

Observation: Reference to the management of surface water run-off is indicated in Item 13 – ‘Assessment of Flood Risk’ on the planning application form, where it states that surface water is to be disposed to soakaway.

No proposed surface water drainage details or layout drawing(s) have been submitted.

Comments: The site is classed as Greenfield. Therefore, proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – Development and Flood Risk and good practice drainage design.

The general soil type for the site location is described as being ‘impeded drainage’. Soakage in this type of soil structure may be difficult to achieve and therefore winter waterlogging will more than likely result in very wet ground conditions across the site.

The Flood and Water Management Act 2010 (Schedule 3), which has not been commenced, requires new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards. The Welsh Government has published interim national standards on an advisory basis until such time as it determines the most effective way of embedding SuDS principles in new developments in the longer term. This will enable designers, property developers, local authorities and other interested parties to both demonstrate that they have taken account of the Welsh Government's planning advice on Development and Flood Risk, Nature Conservation and Planning and to test the standards.

These interim non statutory national standards and guidance can be downloaded from The Welsh Government's website at <http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>. They set out the hierarchy standard and minimum design criteria on the design, construction, operation and maintenance of SuDS serving new developments in urban or rural areas of more than one house or larger than 300m<sup>2</sup> floor space. They also contain links to additional supporting information relating to SuDS.

The LLFA recommends that the surface water design for this development proposal follow and incorporate Welsh Government's SuDS design standards.

Recommendation: No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

Reason: To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

#### Environment Protection

Foul drainage from the proposed development should be conveyed to the main foul sewer, subject to the agreement by Dwr Cymru - Welsh Water. There must be adequate capacity at the receiving sewage treatment works to treat the additional flows.

I hope the above is helpful but should you have any further queries then please do not hesitate to contact me.

#### PCC Land Contamination

In relation to Planning Application P/2016/1327 there would be no requirements in respect of land contamination..

## Powys Ramblers Association

Thank you for the opportunity to comment on this application.

As with the comments submitted by Countryside Services we are concerned about the increased traffic on the right of way adjacent to the west of the development site which it is proposed should serve as the vehicular access for the new dwellings. Unless the applicant does have recorded public vehicular rights we are of the view that, in accordance with the Circular referred to by Countryside Services, the presumption should be not to use this right of way for vehicular access.

If there are vehicular rights then we agree with Countryside Services that the number of access points should be reduced to one. We also consider that in these circumstances the applicant should be required to work with Countryside Services to find a way in which pedestrians can be physically separated from vehicles from the access point back to the A44.

## PCC Ecology

### EIA Screening Requirement

No

The site area is understood to be 0.49hectares and includes 4 dwellings. Therefore, it is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.

### Protected Species & Habitats

#### European Species

No ecological information has been submitted with the application. Aerial imagery indicates that the development site is currently improved grassland, bordered by a hedgerow to the east and south and a copse of trees to the north. Based on the information submitted it is understood that the hedgerows and trees would be retained.

There are historical records of otter, bat species and great crested newt within 2km of the development site, but not within its immediate vicinity. There does not appear to be any habitat that would support these species within the development site.

#### UK Species

There are historical records of various nesting birds, reptiles and badger within 2km of the development site. There does not appear to be any habitat that would support a badger sett within the development site. The boundary hedgerows appear to provide suitable habitat for nesting birds and possibly common reptiles.

Reasonable avoidance measures, such as sensitive timing of works and use of buffer zones, are required to avoid destroying active bird nests and harming reptiles.

#### Section 7 Species & Habitat

Hedgerows border the south and east of the site. There are historical records of hedgehog, hare and polecat within 2km of the development site and hedgehogs have been recorded in close proximity to it. Both hedgehog and polecat could use the hedgerows that border the site.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

The hedgerows that border the site should therefore be retained and protected from damage during the construction phase.

#### LBAP Species & Habitat

See observations above.

#### Protected Sites

##### International Sites

The Afon Gwy SAC is located approximately 640m north-west of the development site. The SAC is on the opposite side of Crossgates to the development and there are no hydraulic links between the two sites. This SAC is therefore not considered likely to be affected by the development.

##### National Sites

The River Ithon SSSI is located approximately 640m north-west of the development site. The SSSI is on the opposite side of Crossgates to the development and there are no hydraulic links between the two sites. This SSSI is therefore not considered likely to be affected by the development.

##### Local Sites (within 500m)

The Maes-y-Geidfa SINCR is located within 500m to the north-west of the development site on the opposite side of the A483 and would therefore not be affected.

The Tan-y-Fron Roadside Nature Reserve is also within 500m to the north-west of the development site, along the A483, and would also therefore not be affected.

#### Invasive Non-Native Species

#### Unknown

## Cumulative Effect

Unknown / Unconfirmed

### Summary of recommendations / further assessment or work

The boundary hedgerows are a Section 7 priority habitat and provide valuable food and shelter for a range of wildlife; they should therefore be retained and protected during the works.

Reasonable avoidance measures, such as sensitive timing of works and use of buffer zones, are required to avoid destroying active bird nests and harming reptiles.

### Recommended Conditions

Should you be minded to approve this application, I recommend the inclusion of the following conditions:

1) Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.

2) Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012, and incorporating reasonable avoidance measures for nesting birds and reptiles, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

3) Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

4) A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.



Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

## Informatives

### 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.

## Relevant UDP Policies

SP3 Natural, Historic and Built Heritage

ENV 2: Safeguard the Landscape

ENV 3: Safeguard Biodiversity and Natural Habitats

ENV 6: Sites of Regional and Local Importance

ENV 7: Protected Species

## Network Rail

Thank you for your email dated 10th January, together with the opportunity to comment on this proposal.

Whilst there is no objection in principle to this proposal I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

## Foundations

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be

no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

### Drainage

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

### Ground disturbance

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

### Access Points

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

### Fencing

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

### Site layout

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

### Excavations / Earthworks

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property /

structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

### Signalling

The proposal must not interfere with or obscure any signals that may be in the area.

### Environmental Issues

The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.

### Landscaping

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

### Plant, Scaffolding and Cranes

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

### Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

### Safety Barrier

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

### Bridge Strikes

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with

Network Rail's Asset Protection Engineers is necessary to understand if there is a problem. Developers may be asked to pay for bridge protection barriers.

### Abnormal Loads

From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges, level crossings). We would have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contacts our Asset Protection Engineers to confirm that any proposed route is viable and to agree a strategy to protect our assets from any potential damage caused by abnormal loads. I would also advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement. In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works.

Please feel free to get in contact if you have any questions.

### Representations

A public site notice was displayed on the 19<sup>th</sup> January 2017. At the time of writing this report no public representations have been made.

### Planning History

None as per GIS

### Principal Planning Constraints

Public Right of Way 127/107/1

### Principal Planning Policies

#### National Planning Policy

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note 1 - Joint Housing Land Availability Study (2015)

Technical Advice Note 5 - Nature Conservation and Planning (2009)

Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010)

Technical Advice Note 12 - Design (2016)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

#### Local Planning Policy

Powys Unitary Development Plan (March 2010)

UDP SP2 - Strategic Settlement Hierarchy  
UDP SP3 - Natural, Historic and Built Environment  
UDP SP5 - Housing Development  
UDP SP6 - Development and Transport  
UDP SP9 – Local Community Services and Facilities  
UDP GP1 - Development Control  
UDP GP3 - Design and Energy Conservation  
UDP GP4 - Highway and Parking Requirements  
UDP ENV1 - Agricultural Land  
UDP ENV2 - Safeguarding the Landscape  
UDP ENV3 - Safeguarding Biodiversity and Natural Habitats  
UDP ENV7 – Protected Species  
UDP HP3 - Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP5 - Residential Development  
UDP HP6 - Dwellings in the Open Countryside  
UDP CS3 – Additional Demand for Community Facilities  
UDP T2 - Traffic Management  
UDP RL6 - Public Rights of Way and Access to the Countryside  
UDP DC8 – Public Water Supply  
UDP DC9 – Protection of Water Resources  
UDP DC10 - Mains Sewerage Treatment  
UDP DC11 - Non-mains Sewage Treatment  
UDP DC13 - Surface Water Drainage  
UDP DC1 - Access by Disabled Persons  
UDP RL6 - Rights of Way and Access to the Countryside

Powys Residential Design Guide (2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **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.

### Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside and proposes 3 open market dwellings and one affordable dwelling. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan (2010).

### Housing land supply:

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

#### Sustainable development:

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although the site is located in the open countryside, the site adjoins the settlement development boundary of Crossgates defined as a Key Settlement within the UDP.

Crossgates is located 3 miles (5km) north east of Llandrindod Wells, and lies at the intersection of the A483 (T) and A44. Because of the size of the settlement, the availability of services and facilities and the number of dwellings it can accommodate, Crossgates and The Fron have been classed as a Key Settlement for the purposes of the UDP. Crossgates benefits from a community centre, church, County Primary School and petrol filling station including a shop, restaurant and launderette and public toilets. Good transport links between Crossgates and Llandrindod Wells exist and Penybont rail station is located approximately 700 metres directly east of the proposed development site. Given the proximity of these facilities, future occupiers would have good access to existing facilities and services. The site is therefore considered to be sustainable.

#### Appearance, Layout and Scale

Guidance contained within UDP policy HP5 (Residential Development) indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Although this application has been submitted in outline (with all matters reserved), an indicative site layout and supporting Planning Statement have been submitted which indicate four detached dwellings with detached garages each with a shared access from the existing track located directly west. The Planning Statement indicates that the dwellings are to be 2 storey with a mix of 3 and 4 bedrooms and approximately 182 – 220 square metres in floorspace. Each dwelling is to have an approximate eaves height of between 4.7 metres

and 4.8metres and an overall ridge height of between 7.7 metres and 8.0 metres. The submitted site layout design shows considerable private garden and amenity space proposed for each dwelling together with adequate parking and garaging. The concept design shows a low density scheme.

Existing designs within the settlement of Crossgates have been considered and there are a mix of single storey and two storey dwellings using a mix of materials including brick, stone and render.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the layout provided, it is considered that the application site is capable of accommodating four dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Affordable Housing

Policy HP7 has been considered in relation to this application which states that the Council will seek to negotiate the provision of affordable housing on sites allocated for housing by the plan and on all windfall sites capable of accommodating five or more units – or 0.3 hectares and over.

The proposal was submitted for four market dwellings. Negotiations have taken place with the Agent who has confirmed in an email dated 10th February 2017 that the applicant is “content for one of the dwellings to be identified as affordable in compliance with your authorities’ policies”.

Subject to a condition to secure a scheme for the provision of affordable housing, it is considered that the application accords with Policy HP7 in respect of affordable housing and therefore in accordance with the UDP.

### Impact on residential amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. More specific guidance is set out in the Powys Residential Design Guide.

The application site is bounded to the south by existing mature hedgerow which forms a natural buffer between the proposed development site and the A44 highway. The closest neighbour to the site known as “Homefield” is located approximately 60 metres distant in a south westerly direction. In a south easterly direction approximately 90 metres from the site lies a dwelling known as “Shady Grove”. Having visited the site, the existing mature boundary hedgerows along the southern boundary of the site will provide screening to the new development and it is therefore considered that the proposal will not unacceptably adversely affect the amenity of the neighbouring properties and therefore accords with Policy GP1 of the UDP.

### Landscape and visual impacts

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory integration into the landscape'.

The site occupies an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change.

In terms of landscaping, the indicative layout shows that the proposal will retain the mature hedgerow along the southern and eastern boundary of the site with additional tree and hedge planting proposed within the development site. Existing mature trees along the west boundary of the land in the applicant's ownership will also provide a visual screen and assist in mitigating visual impact in this area.

The site would be visible from the A44 county highway and right of way; however existing mature landscaping to the south and west will help screen any future development.

It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage.

Whilst the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location on the edge of settlement, it is considered that the proposal is acceptable and in accordance with Policy ENV2 of the UDP.

#### Highway Safety and movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The proposed development will be accessed from the A44, Class I County Highway.

Consultation with the Highway Authority has confirmed that there are no objections to the proposal in principle. The Highway Authority note that the existing access is sited within the 30mph speed limit and adequate access visibility is available and with some relatively minor geometry and surfacing improvement, it is considered that an acceptable means of access to the site could be achieved.

The Highway Authority do request in their consultee response that they would seek the provision of a 2 metre wide linking footway alongside the A44, in a westerly direction towards the garage and other local amenities, including the primary school.

The Highway comments also note that further developable land exists to the north and west of the proposed site and the Highways Authority would expect the access road to be upgraded to an adoptable standard should further development take place.

It is noted that the application is submitted as outline with all matters reserved; therefore the access and highway issues will be considered at reserved matters stage with no highway



conditions included at this stage of the process. The local planning authority cannot consider future development as part of a planning application and therefore the application as it is currently submitted accords with Policy GP4 of the UDP.

### Drainage

With regard to drainage issues, the Agent dealing with the application has confirmed via email on the 23<sup>rd</sup> February 2017 that the foul drainage from the site will be connected to the mains running at the side of the highway adjoining the site.

Welsh Water have been consulted on the application and have no objections to the proposal subject to a condition being included stating that no surface water and / or land drainage shall be allowed to connect directly or indirectly with the public sewerage network. In addition advisory notes are to be included for the attention of the applicant.

The Councils Land Drainage Officer has also been consulted and notes that the proposed site is classed as Greenfield. No objections have been raised subject to conditions being included for a scheme for the surface water drainage of the site to be submitted to and approved in writing by the local planning authority. In addition a condition is to be used to ensure that should non permeable surfacing be used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

The Land Drainage Officer notes that the foul drainage should be conveyed to the main foul sewer, subject to the agreement by Dwr Cymru / Welsh Water.

Having considered the details as submitted and having received no objections to them from Welsh Water or the Councils Land Drainage Officer, it is considered that the proposal accords with Policy DC13 and DC10 of the UDP.

### Impact on Ecology

The Councils Ecologist has provided comments with regard to the proposed development.

The Councils Ecologist does not object to the proposal subject to conditions being included relating to the submission of a Biodiversity Enhancement Plan, a Tree and Hedgerow Protection Plan, a Species List for the Landscape Planting and a Lighting Scheme prior to development.

It is therefore considered, subject to conditions that the application accords with Policies ENV3 and ENV7 of the UDP.

### **Decision**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

**Conditions:**

1. Details of the access, layout, appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the documents: Planning Statement (dated December 2016), 4614/SP – site layout design, 4641/2 – site location as stamped approved.
5. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
6. Prior to commencement of development, a Biodiversity Enhancement Plan 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.
7. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012, and incorporating reasonable avoidance measures for nesting birds and reptiles, 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.
8. Prior to commencement of development, a Species List for the Landscape Planting 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.
9. A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval.
10. No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.
11. If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.
12. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that

replaces it. The scheme shall include:

- i) the type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 1 housing unit/bed space;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

13. Submission of reserved matters shall include 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 floor levels of buildings and levels and gradients of roads and driveways.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
6. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature

Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

8. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
9. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
10. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design
11. To ensure that no surface water runoff from the new driveway runs onto the highway.
12. The dwelling is permitted as an exception to normal housing policies. This condition is imposed to control the future affordability and management of the development in accordance with policies HP7 of the Powys Unitary Development Plan (2010).
13. In order that the Local Planning Authority can be satisfied that impact on neighbours and internal siting and gradients are acceptable in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

## **Informative Notes**

### Right of Way

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public footpath be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the footpath can be legally stopped-up for a defined period.

We would therefore advise that advice is sought from Countryside Services before any development begins.

### Wales and West Utilities

The applicant's attention is drawn to the comments of Wales and West Utilities which are attached to this decision notice for information.

### Highways

The applicant's attention is drawn to the comments of the Powys Highways Authority which are attached to this decision notice for information.

### Land Drainage

The applicant's attention is drawn to the comments of the PCC Land Drainage Officer which are attached to this decision notice for information.

### Welsh Water

The applicant's attention is drawn to the comments of Dwr Cymru / Welsh Water which are attached to this decision notice for information.

### Network Rail

The applicant's attention is drawn to the comments of Network Rail which are attached to this decision notice for information.

### Ecology

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.

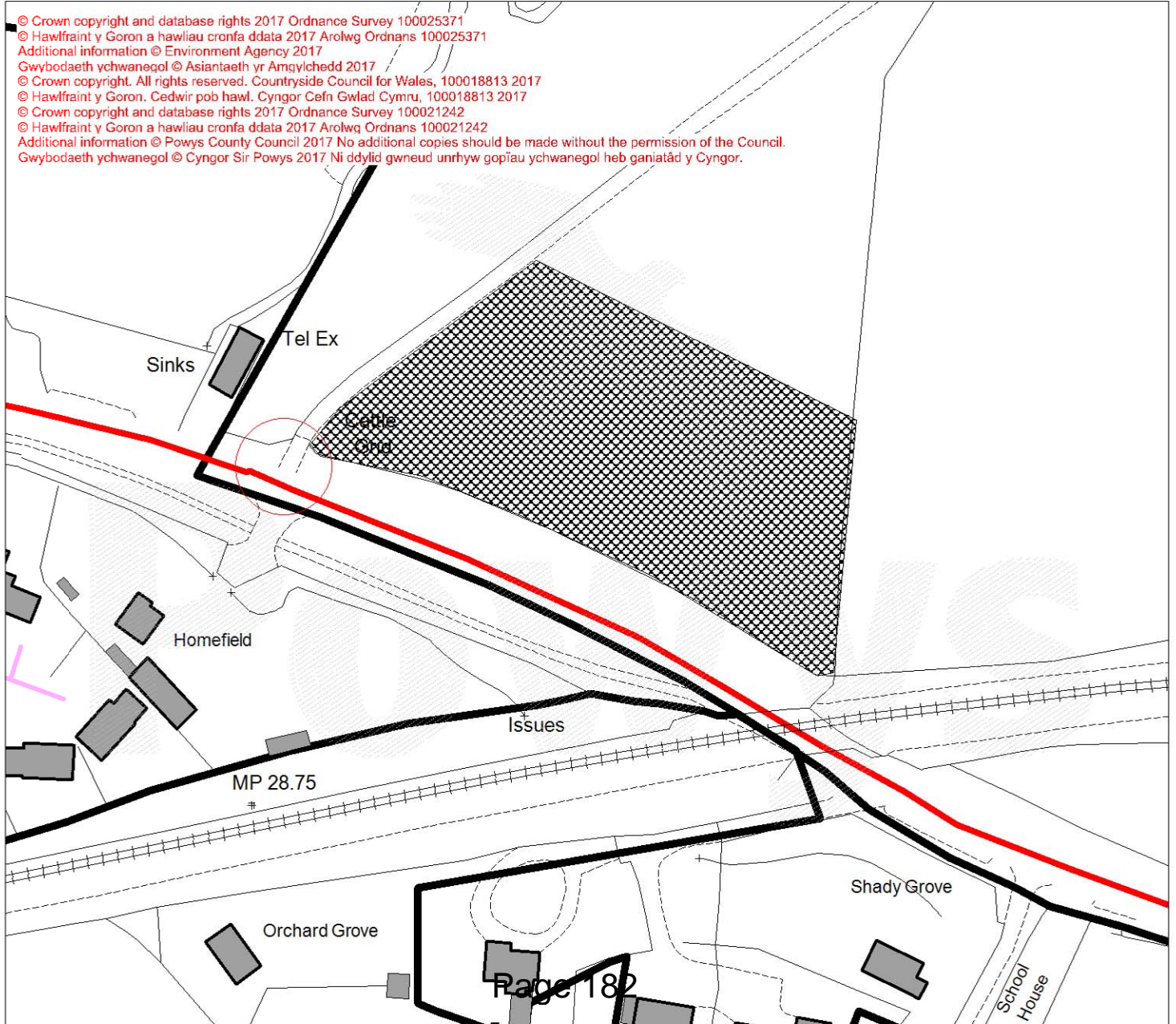
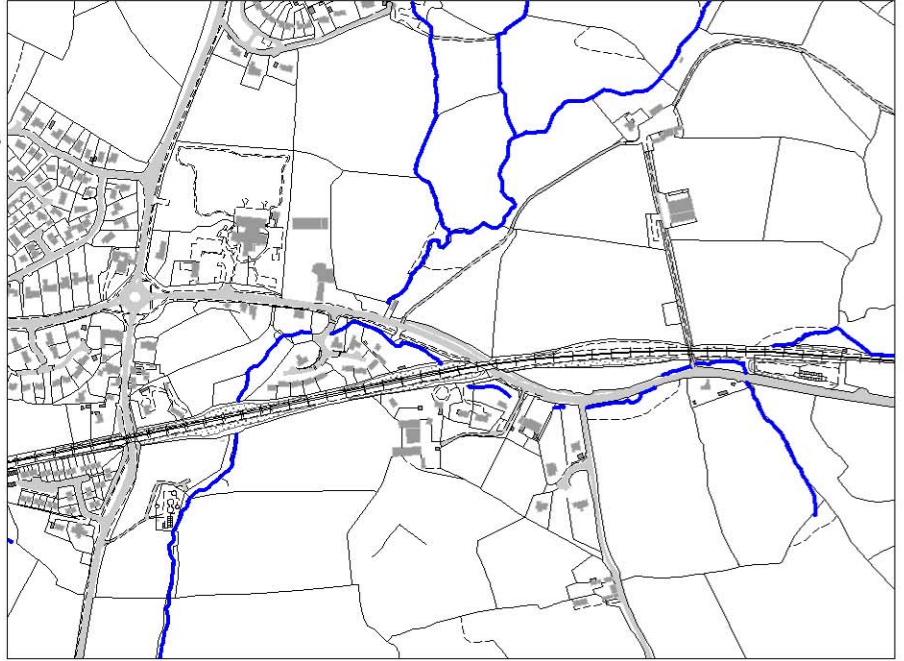
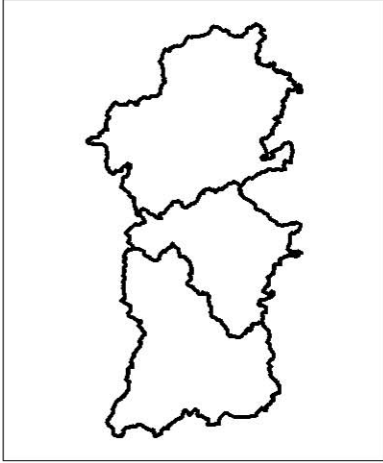
### Building Regulations

A building regulations application may be required, please contact Building Regulations on 01874 612290.

Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: MG & ES Lewis & Sons

Location: Land at Llwynmelyn, Crossgates





Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in A3 size and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested.

Any questions please let me know. Thanks

#### PCC Highways

Powys County Council as Highway Authority do not wish to comment on this application as the access is onto a trunk road which comes under the jurisdiction of the Welsh Government.

#### PCC Environmental Health

Environmental Health has no objections to the application.

#### Severn Trent Water

No response received by Development Management at the time of writing this report.

#### PCC Built Heritage

Thank you for consulting me on the above application.

I note the proximity of the proposed works to Black Hall Farmhouse Cadw ID 8194, the farm range attached to Black Hall Farmhouse Cadw ID 8195 and agricultural buildings at Black Hall Cadw ID 8196.

The application relates to the re profiling of land for agricultural use, and I acknowledge the extensive works that are currently being undertaken in respect of the Newtown bypass.

I would have no objection to the application as it relates to mitigation works to restore the land post engineering operations.



## PCC Ecologist

<b>Planning Application Reference</b>	P/2017/0058
<b>Project Name / Description</b>	Engineering operations involving <u>re-profiling</u> of land for agricultural use At , <u>Ffrydd Vaughan, Dolfor Road, , ,</u> Newtown
<b>Consultation Deadline</b>	08/02/2017

Ecological Topic		Observations
<b>EIA Screening Requirement</b>	<b>Unknown / Unconfirmed</b>	The application is linked to the A483 Newtown Bypass, for which an Environmental Statement has already been prepared. This application involves an additional 2.2ha of re-profiling land for agricultural use and is associated with that scheme.
<b>Protected Species &amp; Habitats<sup>1</sup></b>	European Species <input checked="" type="checkbox"/>	<p>An ecological report has been completed by <u>EcoVigour</u> and encompasses the findings of an ecological desk study and extended Phase 1 habitat survey (2013) that were carried out previously as part of the Newtown Bypass EIA. The report (dated September 2016) accompanies this application and generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).</p> <p>The report concludes that roosting bats are unlikely to be affected by the proposals. Various bat species have been recorded foraging/commuting within the vicinity of the application site. The report proposes that all hedgerows surrounding the application site will remain intact to avoid impacts on foraging/commuting bats.</p> <p>The report considers the boundary hedgerows as being suboptimal for Dormice. However, it</p>

		<p>states that a precautionary approach will be adopted and their presence in woodland within the north-east corner of the site and the boundary hedgerows will be assumed. A European Protected Species licence for Dormice will be applied for on the Newtown Bypass scheme and the report states that NRW will be consulted regarding the use of this for the application site. The report also states that work will be excluded within 5m of the boundary hedgerows.</p> <p>The report assumes the presence of Otters within the vicinity of the application site, but due to the nature of the works does not propose further mitigation.</p>
	UK Species <input checked="" type="checkbox"/>	<p>Birds could nest in the boundary hedgerows. The report recommends avoidance measures if the works are to be undertaken within the bird nesting season.</p> <p>While no Badgers have been recorded within the application site, the report states that a precautionary approach will be taken in accordance with the Newtown Bypass Construction Environmental Management Plan (CEMP).</p>
	Section 7 Species & Habitat <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>The main habitat at the site is improved grassland. The site is bounded by hedgerows along its northern, eastern and southern boundaries. The eastern boundary is delineated by a combination of hedgerow and tree belt. The report states that there is no intention to remove boundary hedgerows for these works.</p> <p>Two watercourses flow within 500m of the application site and are connected to the site by field ditches. Controls for silt-polluted run-off are stipulated in the report. The Construction Environmental Management Plan (CEMP) for the A483 Newtown Bypass scheme will also be implemented for these works.</p>

		There is a risk that invertebrates favouring wet areas of the site could be affected by polluted runoff water. The report states that the pollution prevention controls to be adopted for the Newtown Bypass scheme will also be implemented for these works.
	LBAP Species & Habitat	<input checked="" type="checkbox"/> There is potential for common amphibians to be encountered during topsoil stripping of the application site. The report states that this activity will be supervised by an ecologist.
Protected Sites	International Sites <sup>2</sup>	<input checked="" type="checkbox"/> The Montgomery Canal SAC is located approximately 2km to the north-east, on the other side of the River Severn to the site. The report concludes that there is no groundwater connectivity between this SAC and the application site.
	National Sites <sup>3</sup>	<input checked="" type="checkbox"/> The Montgomery Canal SSSI is located approximately 2km to the north-east, on the other side of the River Severn to the site. The report concludes that there is no groundwater connectivity between this SSSI and the application site. The report also concludes that no other SSSI within 3km are at risk from impacts of the proposals.
	Local Sites (within 500m)	<input type="checkbox"/> None within the search area.
Invasive Non-Native Species	No	
Cumulative Effect	Yes	This development is connected with the Newtown Bypass, for which an Environmental Statement has been produced. Recommendations made to mitigate adverse impacts of this application overlap with measures proposed in the ES.

	<p>November 2016), Welsh Governments TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>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 LPA.</i></p> <p><b>Reason:</b> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><b><u>Informatives</u></b></p> <p><b>Birds - Wildlife and Countryside Act 1981 (as amended)</b></p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> <li>• intentionally kill, injure or take any wild bird</li> <li>• intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built</li> <li>• intentionally take or destroy the egg of any wild bird</li> <li>• <u>intentionally</u> (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.</li> </ul> <p>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.</p> <p>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,</p>
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<p><b>Summary of recommendations / further assessment or work</b></p>	<p>See observations above.</p>
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>The mitigation regarding hedgerows, watercourses, invertebrates, amphibians, birds, badgers, bats and dormice in pages 6 to 9 of the ecological report by EcoVigour dated September 2016 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>The work shall not commence until the LPA has been provided with a licence (Dormice) that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitat and Species Regulations (2010) authorising the specified work, or a letter provided by Natural Resources Wales informing the applicant that such licence is not required.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9,</p>
	<p>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.</p> <p><b>EPS Licence Required</b></p> <p>The Ecological Report (EcoVigour, September 2016) suggests that a European Protected Species (EPS) licence may be required in support of this development.</p> <p>Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 (as amended) is likely to occur in respect of this permission hereby granted, no works of site clearance, demolition or construction shall take place which are likely to impact on Dormice unless a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the local planning authority.</p> <p><b>Otters – Wildlife &amp; Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</b></p> <p>Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).</p> <p>It is therefore an offence to:</p> <ul style="list-style-type: none"> <li>• Deliberately capture, injure or kill an otter;</li> <li>• Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;</li> <li>• Damage or destroy an otter holt;</li> <li>• Intentionally or recklessly disturb any otter whilst it is occupying a holt; or</li> <li>• Intentionally or recklessly obstruct access to a holt.</li> </ul>

	<p>Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:</p> <ul style="list-style-type: none"> <li>• No night working or lighting of the works area;</li> <li>• Ensuring that no barriers to movement of otters along the river are created;</li> <li>• Keep unnecessary noise to a minimum during the works; and</li> <li>• Do not light any fires close to areas of vegetation.</li> </ul> <p><b>Dormice - Wildlife &amp; Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</b></p> <p>It is an offence for any person to:</p> <ul style="list-style-type: none"> <li>• Intentionally kill, injure or take any dormice.</li> <li>• Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.</li> <li>• Under the Habitats Regulations it is an offence to:</li> </ul> <p>Damage or destroy a breeding site or resting place of a dormouse. This is an absolute offence - in other words, intent or recklessness does not have to be proved.</p> <p>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 dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p>
<p>Relevant UDP Policies</p>	<p>SP3 Natural, Historic and Built Heritage  ENV 2: Safeguard the Landscape  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 6: Sites of Regional and Local Importance  ENV 7: Protected Species</p>

## NRW

Thank you for consulting Natural Resources Wales (letter dated 18/01/2017) regarding the above.

NRW does not object to the proposal. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed, subject to the implementation of the same pollution prevention measures agreed for the Newtown bypass road scheme.

### Pollution Prevention

We would expect all the pollution and prevention advice to be covered in the overarching Construction Environmental Management Plan (CEMP) for the Newtown bypass project. Responsibility for preventing pollution rests with those in control of the site. Pollution Prevention Guidance should be read by those carrying out the work.

### Ecology

We concur with the conclusions of the ecological submission (reference – Gregory, J. (2016). Improvement of Agricultural Land at Blackhall, Newtown. EcoVigour. Unpublished. We have no concerns with regards to Protected Species at this location.

### Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including

environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

### **Representations**

No comments received.

### **Planning History**

No relevant planning history.

### **Principal Planning Constraints**

NewtownBypass  
UNKNOWN C2061

### **Principal Planning Policies**

National Planning Policy  
Planning Policy Wales (2016)  
Technical Advice Note 5-Nature Conservation and Planning (2009)  
Technical Advice Note 18-Transport (2007)  
Welsh Office Circular 11/99 – Environmental Impact Assessment  
Welsh Office Circular 61/96 – Planning and Historic Environment: Historic Buildings and Conservation Areas

Local Plan Powys Unitary Development Plan (March 2010)  
UDP ENV 1 – Agricultural Land  
UDP ENV 2 - Safeguarding the Landscape  
UDP ENV 3 - Safeguarding Biodiversity & Natural Habitats  
UDP ENV 6 – Sites of Regional and Local Importance  
UDP ENV 7 - Protected Species  
UDP ENV 14 – Listed Buildings  
UDP GP4 - Highway and Parking Requirements

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

### **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.

#### Principle of Development

The current planning application has been made in conjunction with the construction of the Newtown bypass. The utilisation of this land as part of the scheme will enable an improved finish to the landscape following completion of the scheme.

Policy ENV1 seeks to protect the best and most versatile agricultural land and lower quality land in situations where such land is of particular value to agriculture in the locality. The application site is not classified within either of these categories and as such its reprofiling for the benefit of the landscape is, in principle, considered to be acceptable.

#### Landscape impact

UDP policy ENV2 requires proposals to take into account the high quality of the landscape in Powys and to be appropriate and sensitive to the landscape surroundings. In considering landscape impact, consideration should be given to the sensitivity of the particular landscape and the potential impact on its character and appearance.

In terms of the impact on landscape features, the additional works are considered to have a minimal impact in light of the bypass works. The proposed works will allow the landscape to slope gently following the completion of the bypass works.

#### Visual impact

The additionally proposed works are not expected to have an adverse effect on the visual amenity of the area, and will improve the overall visual impact of the wider bypass scheme.

#### Ecological impact

An ecological survey was submitted in support of the application. Following consultation with the Powys Ecologist and Natural Resources Wales no objections have been received provided conditions are attached to any consent regarding mitigation, trees and hedgerows and pollution.

In light of the information available to Development Management, it is concluded that the proposal will not unacceptably impact on individual protected species or designated wildlife

#### Listed Buildings

The site lies within close proximity to three listed buildings. Following consultation with the Built Heritage Officer no objections have been received.

In light of the information available to Development Management, it is concluded that the proposal will not unacceptably impact on the nearby listed buildings.

#### Other Legislative Considerations

##### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those

functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

#### **Conclusion**

For the reasons outlined above it is considered that the proposal is in accordance with planning policy. Therefore subject to the use of conditions as set out below, the recommendation is one of consent.

Environmental Information has been taken into account in reaching the above recommendation.

## 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 and documents stamped as approved on xxx (drawing no's: A483-EV-BH-PA-001, Proposed Cross Sections, Design and Access Statement, Cultural Heritage Assessment and Ecological Report by EcoVigour (September 2016)).
3. The mitigation regarding hedgerows, watercourses, invertebrates, amphibians, birds, badgers, bats and dormice in pages 6 to 9 of the ecological report by EcoVigour dated September 2016 shall be adhered to and implemented in full.
4. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
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.

## 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 UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
4. To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
5. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 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.

### **EPS Licence Required**

The Ecological Report (EcoVigour, September 2016) suggests that a European Protected Species (EPS) licence may be required in support of this development.

Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 (as amended) is likely to occur in respect of this permission hereby granted, no works of site clearance, demolition or construction shall take place which are likely to impact on Dormice unless a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the local planning authority.

### **Otters – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

### **Dormice - 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 dormice.

- Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.
- Under the Habitats Regulations it is an offence to:

Damage or destroy a breeding site or resting place of a dormouse. 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 dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

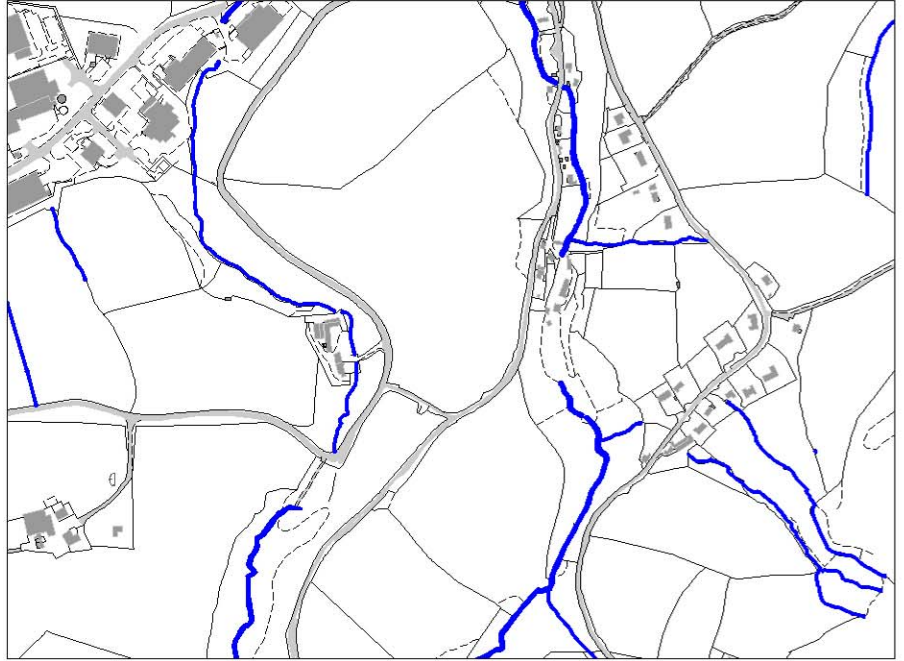
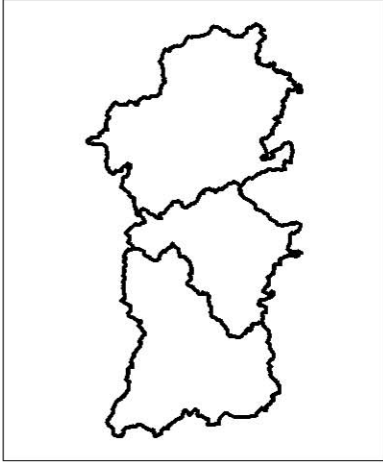
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Case Officer: Tamsin Law- Principal Planning Officer  
Tel: 01597 82 7230 E-mail:tamsin.law@powys.gov.uk

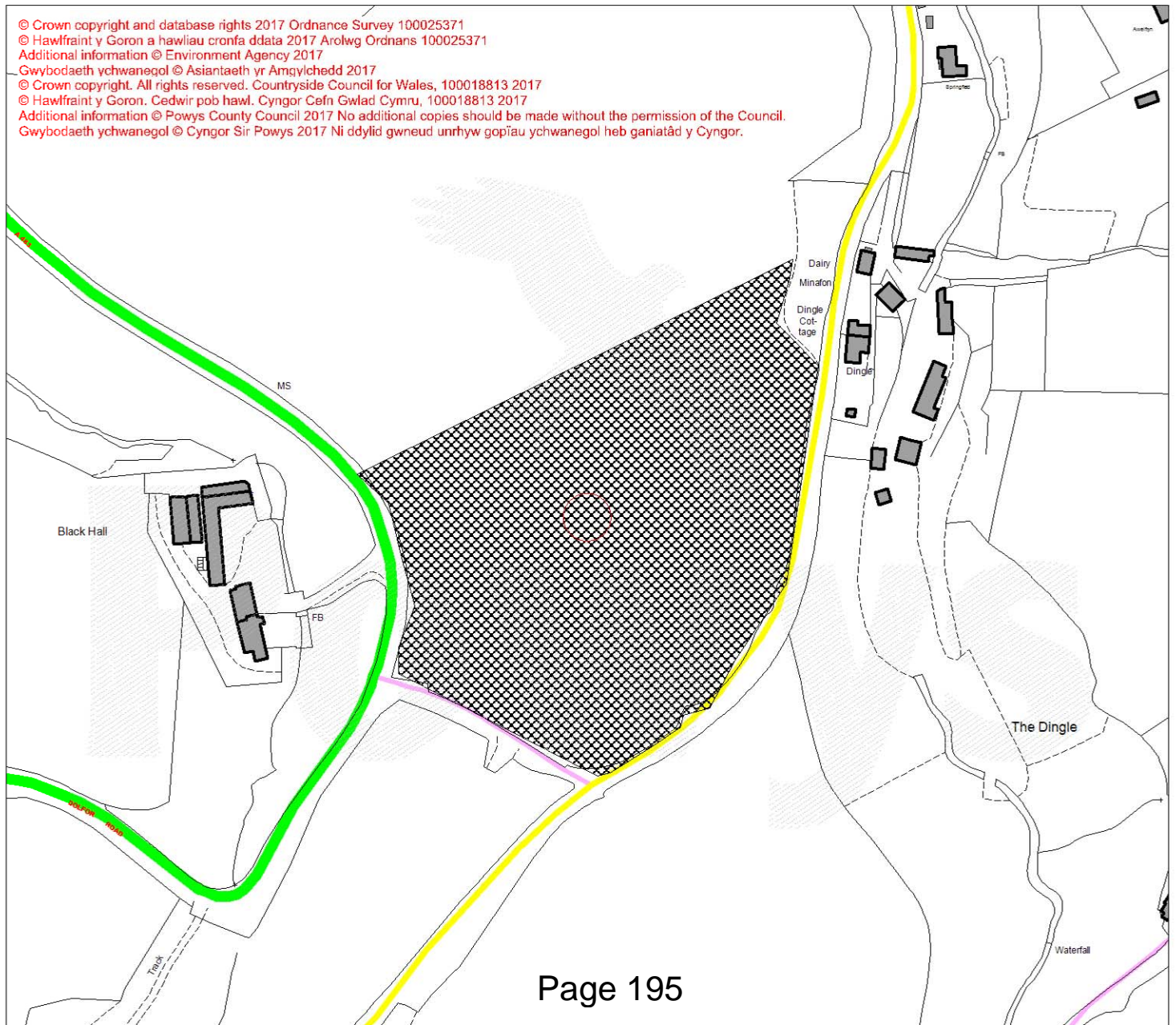
Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: Mr R Evans

Location: Ffrydd Vaughan, Dolfor Road,  
Newtown



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No statutory or non-statutory designated sites are present within 500m of the proposed tree works.

Having reviewed the photos of the tree affected by the proposed works it is considered that there is low potential for the tree to be used by roosting bats – the semi-mature oak tree appear to be in good health and good condition and appears to lack potential roosting features suitable for use by roosting bats – however the presence of bats cannot be fully ruled out from photographs therefore I have provided an informative regarding the bats.

It is considered possible that the tree may be used by nesting birds during the breeding season – All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended) therefore works should be timed to avoid the nesting season which is generally considered to be March – August (inclusive).

Therefore should you be minded to approve the application I recommend inclusion of the following informatives:

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 0345 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

Birds - Wildlife and Countryside Act 1981 (as amended)

The site of the proposed tree works is considered to have potential to support nesting birds during the breeding season. All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore 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.

Cllr J Shearer

I welcome work to be done on this tree.

### **Planning History**

TREE/2010/0009 – Works to TPO trees – Approved – 05/05/2010

### **Principal Planning Constraints**

Tree Preservation Order 108

### **Principal Planning Policies**

#### National planning policy

Planning Policy Wales (2016)

Technical Advice Note (TAN) 5 – Nature Conservation and Planning (2005)

Technical Advice Note (TAN) 10 – Tree Preservation Orders (1997)

Tree Preservation Orders: A guide to the Law and Good Practice

#### Local planning policies

Powys Unitary Development Plan 2010

GP1 – Development Control

ENV 2 – Safeguarding the Landscape

ENV 3 - Safeguarding Biodiversity & Natural Habitats

ENV 7 - Protected Species

ENV8- Tree Preservation Orders

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

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.

### Principle of Development

UDP policy ENV 8 sets out the general requirements applied to all proposals relating to works to trees within a Conservation Area and trees with Tree Preservation Orders (TPO's) placed upon them, such as this proposal. Trees, groups of trees and woodlands of amenity value that make a particular contribution to the landscape or that are noted for their beauty or local rarity will be protected. Proposals for development that unacceptably adversely affect trees that are the subject of a TPO or within a Conservation Area will be refused. Applications to fell or carry out works on trees which are the subject of a TPO or within a Conservation Area will be approved if the work is necessary for public safety or to secure the future of the trees themselves by appropriate management measures.

This notification contains the crown reduction and pruning of an oak tree subject to a TPO. The proposed works are to sympathetically reduce the crown of the tree and targeted pruning of the tree over the roof area of No.5 Llys Derw as some branches are touching the roof of the dwelling.

As the proposals are for health and safety purposes and maintenance of the tree subject to the TPO it is considered that the works are justified in this instance. It is therefore considered that the proposed works fundamentally comply with planning policy ENV 8 of the UDP.

### Biodiversity

The PCC Ecologist was consulted on this application and reviewed the proposed works, and photos of the tree and its surroundings.

The PCC Ecologist has assessed the site and has stated that there is low potential of the tree to be used by roosting bats however the presence of bats cannot be fully ruled out from photographs therefore recommends that an informative is included regarding bats. The PCC Ecologist also assessed the tree for nesting birds and has stated that it is considered possible that the tree may be used by nesting birds during the breeding season and therefore has recommended a further informative to be included regarding nesting birds.

In light of the above and subject to the recommended informatives it is therefore considered that the development fundamentally complies with relevant planning policies.

## **RECOMMENDATION**

It is recommended that the proposed works shall be allowed to go ahead subject to the following conditions as set out.



1. The works hereby approved shall be carried out within two years from the date of this decision.

## **Informative Notes**

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:

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- 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.

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It is therefore an offence to:

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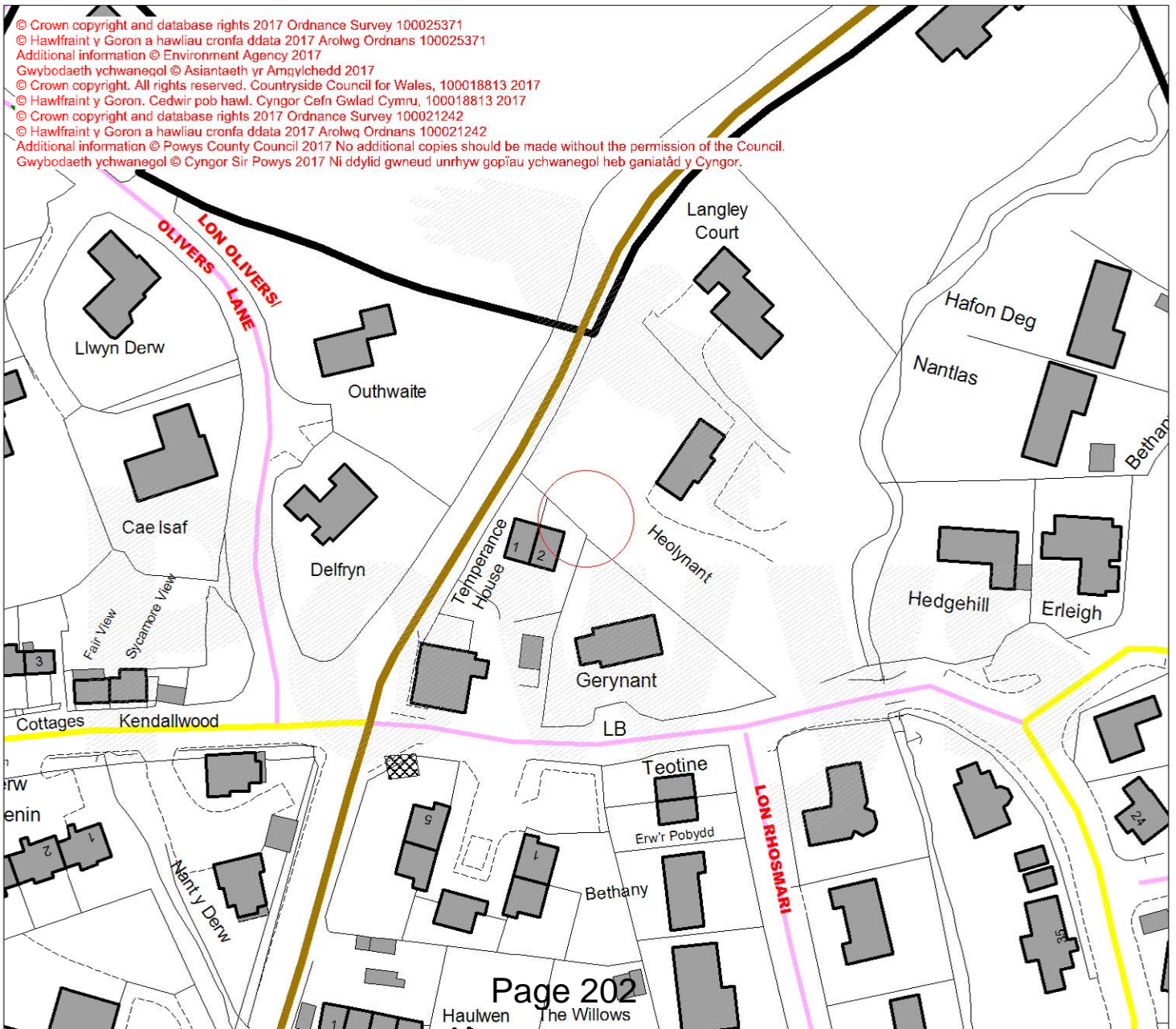
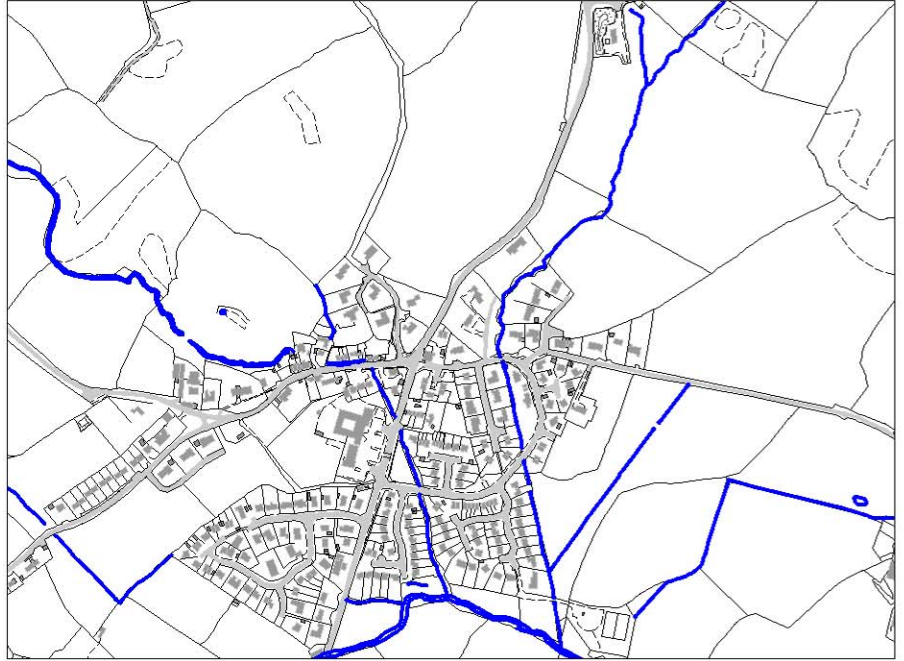
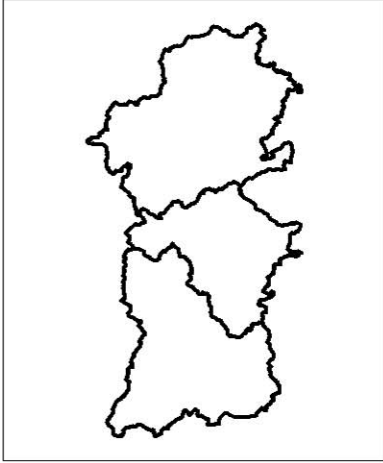
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Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: Powys County Council

Location: 5 Llys Derw, Tregynon





## Delegated List

**09/03/2017**

**29/03/2017**

For the purpose of the Local Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

### FOR INFORMATION Decisions of the Head of Regeneration, Property & Commissioning on Delegated Applications

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0061 FULL	13/01/2017	CONSENT	10/03/2017	Full: Siting of two holiday cabins to include the demolition of a barn and installation of a septic tank	Cwmachau Farm Lower Chapel Brecon LD3 9RF
P/2017/0022 FULL	13/01/2017	CONSENT	10/03/2017	Erection of agricultural building and all associated works	Old Hall Farm Old Hall Llanidloes SY18 6PW

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0024 FULL	13/01/2017	CONSENT	10/03/2017	Erection of two holiday chalets, installation of a septic tank and creation of new access	Land Adjoining The Larches Llanfyllin SY22 5NF
P/2017/0045 LBC	17/01/2017	REFCADW	13/03/2017	LBC Replacement doors to the Visitor Centre and lifting of flagstones outside door to the Byre for new disabled access and all associated works	Gilfach Nature Reserve Interpretation Centre St. Harmon Rhayader LD6 5LF
P/2017/0084 FULL	19/01/2017	CONSENT	13/03/2017	Demolition of rear lean to extension and erection of new extension	Smithfield Garage Pool Road Newtown SY16 1DW
P/2017/0023 FULL	20/01/2017	CONSENT	14/03/2017	Full: Change of use of ground floor from offices (B1a) to residential (C3)	Ground Floor 9 Gas Street Newtown SY16 2AD
P/2017/0080 HOUS	18/01/2017	CONSENT	15/03/2017	Erection of single storey extension	Long Barn Velindre Brecon LD3 0TE

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0025 FULL	18/01/2017	CONSENT	15/03/2017	Change of use of agricultural land to a recreational field, erection of a pump track and skate park and all associated works	Land Rear of Spar Car Park  Llanfyllin  SY22 5AH
P/2017/0067 HOUS	19/01/2017	CONSENT	15/03/2017	Householder: Erection of an attached garage	3 Jacks View  Norton Presteigne  LD8 2EQ
P/2017/0074 CLA2	18/01/2017	PD	15/03/2017	Certificate of proposed use: Removal of dutch barn and erection of garage and pool house within domestic curtilage	Pantytanhouse Fach  Dolanog Welshpool  SY21 0JU
P/2017/0087 FULL	20/01/2017	CONSENT	15/03/2017	Proposed general purpose Agricultural building and improvements to existing access	Tymawr Farm Llanwern Brecon  LD3 7UW
P/2017/0105 HOUS	27/01/2017	CONSENT	15/03/2017	Householder: Erection of a garden studio	Little Folley New Radnor Mutton Dingle Presteigne  LD8 2TL

<b>Application No.</b>	<b>Valid Date</b>	<b>Decision</b>	<b>Decision notice sentdate</b>	<b>Proposal</b>	<b>Location</b>
P/2017/0110 FULL	25/01/2017	CONSENT	15/03/2017	Proposed demolition of existing detached garage and erection of new dwelling	6 Bryn Villas Crescent Street Newtown  SY16 2HH
P/2017/0124 FULL	31/01/2017	CONSENT	15/03/2017	Full - Change of use from grazing field to garden	Lower Gaer Huntington Kington  HR5 3QB
P/2017/0156 FULL	07/02/2017	CONSENT	15/03/2017	Full: Erection of agricultural building	Land Near Coed Pryfydau  Llanbrynmair
P/2017/0157 HOUS	07/02/2017	CONSENT	15/03/2017	Householder: Erection of a single storey side extension to dwelling	8 The Row Old Radnor Presteigne  LD8 2RW
P/2017/0193 HOUS	17/02/2017	CONSENT	15/03/2017	Householder: Erection of an extension	18 Oakridge Drive Llandrindod Wells  LD1 5EW

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2016/0942 FULL	26/09/2016	CONSENT	16/03/2017	Erection of an affordable dwelling with detached garage, creation of vehicular access, improvements to junction, installation of a septic tank and all associated works	Land Adjacent to Old Court Barn Kerry Hodley  SY16 4LU
P/2016/1336 HOUS	30/12/2016	CONSENT	16/03/2017	Erection of detached double bay garage with store room above	Watergrist Mill  Water Lane Rhayader  LD6 5AN
P/2017/0077 FULL	19/01/2017	CONSENT	16/03/2017	Installation of 20m high telecommunications tower and associated infrastructure	Nannerth Fawr Cwmduddwr Rhayader  LD6 5HA
P/2017/0083 CLA2	20/01/2017	LAWFUL USE	16/03/2017	Section 192 application for a certificate of lawful development to replace a PVC window with french doors	Water Grist Mill  Water Lane Rhayader  LD6 5AN
P/2017/0090 HOUS	20/01/2017	CONSENT	16/03/2017	Hous: Erection of an extension	Spring Barn Berriew Pentre Llifior Welshpool  SY21 8QJ

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2016/0937 OUT	27/09/2016	CONSENT	20/03/2017	Outline: Erection of an affordable dwelling including new access and installation of sewerage treatment plant.	Brynlwarch Garden  Kerry  SY16 4PD



Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0060 REM	16/01/2017	CONSENT	20/03/2017	Section 73 application to vary Condition 1 of planning permission P/2011/1538 in relation to commencement of development	Land Adjacent to A483 Howey Hundred House Lane Llandrindod Wells  LD1 5TP
P/2017/0076 HOUS	25/01/2017	CONSENT	20/03/2017	Householder: Erection of canopy over front door of property	Brynawel Troedyrallt 16 Church Street Llanidloes  SY18 6BE
P/2017/0106 CLA1	24/01/2017	REFUSE	20/03/2017	Certificate of lawfulness for an existing use namely use of annex as a single residential dwellinghouse	Sycharth Smithy (The Doghouse) Pen-y-bont L.E. Oswestry  SY10 9JQ
P/2017/0115 FULL	27/01/2017	CONSENT	20/03/2017	Installation of 3 no antennas, 1 no 0.6m transmission link dish on free standing frames, 2 no equipment cabinets and all associated works	Fit 4 Life Part Second Floor 22 Broad Street  SY16 2NA
P/2017/0165 REM	09/02/2017	CONSENT	20/03/2017	Section 73 application for removal of conditions 4, 5 and 6 of planning permission P/2013/0151 in relation to code for sustainable homes	Land adj City House Four Crosses Llanymynech  SY22 6RG

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0137 HOUS	01/02/2017	CONSENT	21/03/2017	Householder: Erection of single storey rear extension (retrospective)	Ystradgynlais 20 Pelican Street Swansea  SA9 1LG
P/2017/0147 REM	01/02/2017	CONSENT	21/03/2017	Section 73 application to vary condition no.2 attached to planning permission P/2016/0357 to allow design and layout changes - extension to south elevation and addition of dock leveller to service yard and associated works	Invertek Fisher Road Offas Dyke Business Park Buttington  SY21 8JF
P/2016/0632 LBC	04/07/2016	REFCADW	22/03/2017	Retention of internal and external works to a listed building	New Radnor 6 Broad Street  LD8 2SP
P/2016/0635 FULL	14/06/2016	CONSENT	22/03/2017	Erection of an affordable dwelling	Land adjacent to Llwyn Derw Pontrobert  Meifod  SY22 6JB
P/2017/0057 FULL	26/01/2017	CONSENT	22/03/2017	Construction of vehicular access and track (part retrospective)	Land Adjacent to Gwreiddyn Lane Guilsfield Welshpool  SY21 9DT

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0103 LBC	25/01/2017	REFCADW	22/03/2017	LBC Replacement and alteration of windows and external doors, building of a small extension, subdivision of rooms to create additional bathrooms, opening up of existing fireplaces, alteration of a lower ground floor opening to	Fron Farm House Llandyssil Montgomery SY15 6HR
P/2017/0107 HOUS	26/01/2017	CONSENT	22/03/2017	Householder: Erection of an extension	Chapel Croft Churchstoke Pentre Montgomery SY15 6ST
P/2017/0121 CLA2	31/01/2017	LAWFUL USE	22/03/2017	Application for certificate of lawfulness for a proposed use - erection of a detached summerhouse	Rose Cottage Abermule Green lane SY15 6LB
P/2017/0176 FULL	10/02/2017	CONSENT	22/03/2017	Full: Alterations to existing trolley bay to form an enclosed area for the sale of garden products	Morrisons Supermarket Berriew Road Welshpool SY21 7SJ
P/2017/0178 FULL	14/02/2017	CONSENT	22/03/2017	Full: Construction of a new trolley bay	Morrisons Supermarket Berriew Road Welshpool SY21 7SJ

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0207 CLA1	20/02/2017	LAWFUL USE	22/03/2017	Section 191 application for lawful development certificate for use of site as a B2 vehicle garage, workshop and haulage business	Graig-Goch Fawr Newbridge-on-Wye Builth Wells LD2 3RU
P/2017/0213 HOUS	22/02/2017	CONSENT	22/03/2017	Householder: Alterations and Extension to existing dwelling	Maes-Y-Gwaelod Llanwrtyd Wells LD5 4SL
P/2017/0231 CLA2	27/02/2017	LAWFUL USE	22/03/2017	Section 192: Lawful certificate for a proposed use: Erection of conservatory	1 Green Terrace Arosfa Tregynon SY16 3EL
P/2016/1265 FULL	09/12/2016	CONSENT	23/03/2017	Erection of a proposed affordable dwelling, detached double garage and construction of a vehicular access	The Homestead Brynmaur Llanymynech SY22 6PQ
P/2017/0030 LBC	06/01/2017	REFCADW	23/03/2017	Listed Building Consent: Lowering of ATM and associated internal and external works	Midland Bank Middleton Street Llandrindod Wells LD1 5ET

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0031 FULL	06/01/2017	CONSENT	23/03/2017	Lowering of ATM machine and associated internal and external works	Midland Bank Middleton Street Llandrindod Wells  LD1 5ET
P/2017/0021 HOUS	27/01/2017	CONSENT	23/03/2017	Proposed extension	White Hopton Farm Sarn Wern Lane Newtown  SY16 4EN
P/2017/0096 FULL	30/01/2017	CONSENT	23/03/2017	Full: Extension of the existing building to create open A1 retail space over ground floor & mezzanine level with associated alterations to onsite parking	Former Phillip Paul Used Car Cent Llanidloes Road Rydal House Newtown  SY16 1ET
P/2017/0097 FULL	27/01/2017	CONSENT	23/03/2017	Full: Erection of agricultural workers dwelling and associated works	Tynyberth Abbeycwmhir Llandrindod Wells  LD1 6PU
P/2017/0122 HOUS	30/01/2017	CONSENT	23/03/2017	Householder: Erection of a two storey front extension	1 Chaseley Fields Churchstoke Hall Bank Montgomery  SY15 6EN

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2016/0656 LBC	12/08/2016	CONSENT	24/03/2017	Listed building consent for refurbishment works involving internal and external alterations including installation of new windows and doors	Ty Gwyn Carreghofa Llanymynech SY22 6LB
P/2017/0120 FULL	27/01/2017	CONSENT	24/03/2017	Full - Erection of 3 log cabins, new access and hardcore road and installation of sewage treatment plant and soakaway	Land at Tower Hill Cilmeri Builth Wells LD2 3PB
P/2017/0082 FULL	19/01/2017	CONSENT	27/03/2017	Erection of manure store	Hafod Llaithddu Llandrindod Wells LD1 6YS
P/2017/0141 FULL	31/01/2017	CONSENT	27/03/2017	Erection of a building for storage use	Unit 29 Mochdre Industrial Estate Newtown SY16 4LE
P/2017/0175 FULL	10/02/2017	CONSENT	27/03/2017	Full: Change of use of land from agricultural to residential curtilage	Ty Mawr Dolanog Welshpool SY21 0LS

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2016/1157 FULL	24/11/2016	CONSENT	28/03/2017	Conversion of and alterations to a redundant chapel into a residential dwelling to include demolition of attached structure, car parking, sewage treatment plant and ancillary works	Cwm Gwyn Baptist Chapel (Bethel Chapel) Felindre Ddol Knighton  LD7 1YT
P/2017/0149 FULL	02/02/2017	CONSENT	28/03/2017	Construction of a replacement silage clamp	Pecknall Farm Alberbury Pecknall Lane  SY5 9AN
P/2016/0466 FULL	10/05/2016	CONSENT S106	29/03/2017	Residential development of former bowling green to create 24 flats	Newtown Bowling Club Back Lane Newtown  SY16 2NH
P/2017/0227 HOUS	27/02/2017	CONSENT	29/03/2017	Householder: Erection of Summer Room to replace existing conservatory	1 Erw Haf Llanwrtyd Wells  LD5 4RT

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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 01/03/17  
Ymweliad â safle a wnaed ar 01/03/17

**gan Clive Nield BSc(Hon), CEng,  
MICE, MCIWEM, C.WEM**

**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 17.03.2017**

## Appeal Decision

Hearing held on 01/03/17  
Site visit made on 01/03/17

**by Clive Nield BSc(Hon), CEng, MICE,  
MCIWEM, C.WEM**

**an Inspector appointed by the Welsh Ministers**  
**Date: 17.03.2017**

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**Appeal Ref: APP/T6850/A/16/3159853**

**Site address: Box Bush Farm, Three Cocks, Brecon, LD3 0SH**

**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 Andrew Laurie-Chiswell against the decision of Powys County Council.
  - The application Ref P/2015/1102, dated 11 November 2015, was refused by notice dated 4 August 2016.
  - The development proposed is change of use to a touring caravan park, conversion and extension of existing buildings to provide sanitary, office, retail (site users only), storage and garage facilities, alteration to the access arrangements and installation of a private sewage treatment facility.
- 

## Decision

1. The appeal is allowed and planning permission is granted for change of use to a touring caravan park, conversion and extension of existing buildings to provide sanitary, office, retail (site users only), storage and garage facilities, alteration to the access arrangements and installation of a private sewage treatment facility at Box Bush Farm, Three Cocks, Brecon, LD3 0SH in accordance with the terms of the application, Ref P/2015/1102, dated 11 November 2015, and the plans submitted with it, subject to the conditions in the attached Annex.

## Procedural and Background Matters

2. On the original application form the site address was described as: Box Bush, A4079 from Junction with A438 by Three Cocks to Junction etc, Bronllys, Brecon. That was simplified in the Council's notice of refusal, and the simplified site address is adopted for this appeal. The description of the development is also slightly different on the appeal form compared with the application form and, again, reflects that in the Council's notice of refusal. The change is not material, and I have adopted the original wording.
3. The proposal for a touring caravan site on the land has been the subject of several planning applications since 2011, including one in 2012 (Ref P/2012/0465) which was dismissed on appeal (Ref APP/T6850/A/13/2206566) in May 2014. The Inspector

concluded that the proposal would be harmful to highway safety, primarily due to an inadequate visibility splay along the road to the west and the high speeds of some traffic on that road. The current proposal has attempted to address that matter by moving the caravan site access further to the east along the site frontage.

4. At the Hearing an application for costs was made by Mr Laurie-Chiswell against Powys County Council. This application is the subject of a separate Decision.

### **Main Issue**

5. The main issue in this case is the effect of the proposed development on highway safety, particularly in respect of the adequacy of the visibility splay to the west and of the geometry and layout of the proposed access.

### **Reasons**

#### ***Visibility Splay***

6. It is agreed amongst all parties that visibility along the highway should be at least 215 metres in both directions (generally referred to as the "Y-distance"), and the Council and the Appellant agree that this should be assessed from a point set back from the edge of the carriageway of 2.4 metres (generally referred to as the "X-distance"). The third party objectors argue the set-back should be 4.5 metres.
7. Technical Advice Note 18: Transport (TAN18) provides advice on visibility standards and says a minimum X-distance of 2.4 metres should be used in most situations, as this represents a reasonable maximum distance between the front of the car and the driver's eye. It mentions the possible use of longer X-distances to allow drivers to look for gaps in the traffic as they approach the junction but advises that "longer X-distances are not safety critical". In this case the A4079 highway is not heavily trafficked, and vehicles leaving the proposed access would not have any problems joining the highway on this account. Thus I consider an X-distance of 2.4 metres to be the appropriate standard to be applied to this access.
8. On that basis there is no dispute that an adequate visibility splay could be achieved to the east (i.e. looking right from the proposed access), and the Council now accepts that adequate visibility would also be achieved to the west and no longer defends its first Reason for Refusal on this matter. However, the third party objectors maintain their argument that the required 215 metres visibility would not be achieved to the west. This same concern was the reason the previous Inspector dismissed the appeal in 2014, albeit for an access proposed at that time some distance further to the west along the site frontage.
9. In order to improve visibility to the west the current proposal includes the setting back of the road-facing wall of the large shed (involving partial demolition) and realignment of a section of hedgerow on the appeal site's roadside boundary. In recent years the Appellant has also improved visibility to the west of his property by clearing shrub growth from the wide grass verge and trimming a length of field hedge belonging to a neighbouring landowner. These measures were carried out with the agreement of the Highways Authority, and no evidence has been brought forward to indicate any lack of agreement on the part of the third party landowner. The result is that the required 215 metres visibility splay is currently readily available.

10. However, the third party objectors submit that when allowance is made for growth of the hedge the visibility would be reduced to only 209 metres. It is the Council's practice to require developers planting new hedges to allow for future lateral growth of 1 metre when assessing visibility splays and, although the circumstances are different here, it seems to me that a similar rule of thumb would be appropriate in this case. When I carried out my site visit I was able to make such an allowance and to satisfy myself that, even with that extra width of hedgerow, the neighbour's hedge would not impinge on the 215 metres visibility splay. Thus on that basis, the proposed access would benefit from adequate visibility along the highway.
11. The third party objectors take exception to the Appellant trimming his neighbour's hedge and say he has cut it back so far that the original centre line is now near the roadside face of the hedge. They argue that I should measure the 1 metre growth allowance from the original width of the hedge rather than its current width, and they have provided plans to illustrate the effect this would have on the visibility splay. However, I do not consider that to be appropriate. The size and form of the hedge is now what it is, and future growth will start from this state. The objectors' submission that the Appellant should not have cut his neighbour's hedge has little relevance to my considerations, and I have taken the only reasonable approach to assessing the effect of the hedge on visibility based on its current circumstances.
12. My conclusion on this matter is that the proposed access would enjoy adequate visibility along the highway to ensure highway safety would not be harmed by the proposed development.

### ***Geometry and Layout of Access***

13. The Council's second reason for refusal concerned the geometry and layout of the proposed access, which would involve a relatively short initial length perpendicular to the highway before it bends sharply to the west to enter the caravan area. The Council's initial response to the Appellant's requests for clarification on this reason for refusal were to the effect that a length of 15 metres perpendicular to the highway was required in order to meet the standards prescribed in the Design Manual for Roads and Bridges (DMRB). However, it was later acknowledged that no such standard is prescribed in the DMRB and the standard is the Council's own good practice measure.
14. It was explained that the aim of this measure is to ensure that vehicles approaching the junction with the public highway are perpendicular to it so that the drivers can look readily in both directions along the road and that drivers entering the access from the highway can see its shape and form well in advance. The appeal access would have a length of about 9 metres perpendicular to the highway before bending sharply to the west. This is ample length for a car to approach the highway and, in my view, would also enable a car towing a caravan to approach the highway so that the car would be perpendicular to it, even if the caravan was still at an angle.
15. Whilst the 15 metres length normally specified by the Council is a desirable arrangement, it does not necessarily follow that a lesser standard is inadequate. The safety of each alternative arrangement needs to be individually assessed. In this case, cars towing caravans (the critical vehicle unit in this case) would tend to approach the access relatively slowly and would have plenty of time to see its geometry and shape before turning into it from the highway or approaching the highway from within the site. Thus, from the point of view of driver visibility the shorter perpendicular distance would be entirely adequate.

16. The second element of concern about the access geometry is the constraints on manoeuvrability that it would impose. The curves would have relatively short radii and the access width would be limited, the initial width being some 10.6 metres, but reducing to 6 metres and then 5.5 metres further into the site. The geometry is constrained by the close proximity of the Appellant's house.
17. The Council argues that the DMRB standards contained in TD41/95, Vehicular Access to All Purpose Trunk Roads, should be applied to this access, even though the A4079 is not a trunk road. The Inspector who dealt with the previous appeal in 2014 considered that the appropriate DMRB standard on visibility should be applied to the proposed access and, in view of the high traffic speeds experienced along this stretch of road, I agree, even though it is relatively lightly trafficked. I have applied the appropriate standard in my assessment of the visibility splay above. However, the Council argues that the recommendations for geometric design of access junctions contained in TD41/95 should also be fully applied.
18. The smallest kerb radius in the proposed design is 6 metres; the Council submits that a minimum standard of 10 metres should be applied. The third party objectors consider the design standards in TD42/95, Geometric Design of Major/Minor Priority Junctions, should be applied and submit that the curves should have a minimum radius of 15 metres (or 10 metres if no large vehicles would use the access) with further refinement for transitions. However, that guidance is aimed at junctions between 2 roads and is unnecessarily prescriptive for an access such as this.
19. Rather than insist on slavish compliance with numeric standards, the key issue is whether or not the proposed access would provide a safe means of entering and leaving the site for the modest amount of traffic generated by the proposed caravan site. The Appellant has provided evidence of a wept path analysis, using the longest combination of car and caravan unit allowed, which demonstrates that it would be feasible for units entering and leaving the site at the same time to pass on the entrance to the access. It is contended that the space between the paths is too tight (about 0.5 metre) and that they pass over some kerb lines and over the centre line of the highway. However, it must be remembered that these analyses are for a very extreme situation: 2 of the largest possible units (a large 4x4 car towing the longest caravan permitted on the public highway) arriving and leaving at the same time. It is normal practice for touring caravan sites to experience caravans arriving later in the day and leaving early in the day, so the chance of any sort of towed unit clashing with one coming in the opposite direction would be quite slim.
20. Other arguments have been put forward, e.g. towed caravans having to slow down to enter the site causing disruption and danger to fast moving traffic; and the accident record of the A4079. However, in view of the long lengths of visibility along this stretch of the highway, I do not consider the slowing of caravans to enter the site would significantly affect highway safety. As for the accident record, the accidents occurred some distance from the appeal site and illustrate the dangers of a particular bend rather than the risks of the highway as a whole. These arguments carry little weight.
21. My overall conclusion on the access layout is that, whilst larger kerb radii would be ideal, the combination of geometry and width provided in this case would ensure an access of acceptable design and safety.

**Other Matters**

22. Although the Council's only reasons for refusing the application were on grounds of highway safety, the third party objectors have raised a number of other matters. Firstly, they consider that exclusion of the Appellant's dwellinghouse from the application site may have some significance. However, any future changes relevant to planning would be subject to further applications to the Council for appropriate consideration, and traffic associated with the house would have negligible effect on the safety of the proposed new access. The development description quoted on the appeal form is also slightly different from that on the application form. However, it merely adopts the description used by the Council in its refusal notice; the scheme itself is unchanged.
23. Concern has been expressed about the size of the proposed shop, and it is alleged that it would attract customers from outside the camp site, leading to increased traffic using the access. However, a suitable planning condition could ensure that it was solely ancillary to the caravan site use. Drainage arrangements and effects on ecology have also been raised. However, Natural Resources Wales commented on these matters as part of its consultation response, and no new evidence has been brought forward to lead me to a view that these are of any concern. Finally, it is asserted that there is a lack of clarity in the application such that its acceptable delivery is flawed. I consider there is no merit in this argument and that the proposal is sufficiently clear.
24. It should not be overlooked that the proposed development would bring a range of benefits. The previous Inspector referred to these in his 2014 decision: "the appeal site is well related to local facilities and lies in an area where tourism is encouraged by national and local planning policy"; and "the proposal (which involves small scale economic development) would bring about benefits to the local rural economy".
25. I have also 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 this decision, I have taken into account the ways of working set out in 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 as required by section 8 of the WBFG Act.

**Overall Conclusion**

26. I have taken into account all matters raised by both the Council and the local third party objectors, but nothing outweighs my conclusions that the proposed development would include an adequate and safe means of access and that the visibility shortcomings of the scheme considered at appeal in 2014 have been satisfactorily overcome. In its refusal the Council has referred to policies SP8 (Tourism Developments), GP1 (Development Control), GP4 (Highway and Parking Requirements), TR1 (New Tourism Developments) and TR7 (Touring Caravan and Camping Sites) of the adopted Powys County Council Unitary Development Plan, and I consider the proposal is in compliance with these and all other relevant policies.
27. For the reasons given above I conclude that the appeal should be allowed and that planning permission should be granted subject to a suite of necessary conditions.

28. A set of conditions was suggested by the Council and these, and other suggestions from the parties, were discussed at the hearing. The standard 5 years condition is needed as well as a condition specifying the approved plans. A number of conditions are needed to ensure the access is completed to acceptable design and construction standards, that parking facilities are provided within the site, that the specified visibility splays are provided and maintained, and that the existing means of access is closed, though the Council's suggested 5 days timeframe for some of these is not appropriate. Suggested conditions on the setting back of gates and the erection of a barrier along the back of the visibility splay are clearly not appropriate in this case.
29. Conditions are also required to ensure landscaping works are carried out as proposed and that necessary bat avoidance and mitigation measures are carried out. Conditions were also suggested for post construction monitoring of bats and for an amphibian avoidance scheme. However, I do not consider these to be necessary as the first would serve no purpose relevant to planning and no significant presence of amphibians has been identified.
30. In addition, conditions are needed to limit the number of caravans permitted on the site, to prevent the sloping area at the back of the site from being used for caravans, and to control occupation of the caravans solely as holiday accommodation (all to safeguard the character and appearance of the local environment). I have also explained above that a condition is needed to tie the use of the proposed shop to the caravan site use. Finally, a condition is needed for provision of a construction management scheme to control hours of construction work and parking, amongst other things, in order to minimise impacts on amenity.
31. The Appellant suggested that a condition limiting the times when caravans were allowed to arrive at and leave the site would ensure there would be no risk of conflict at the site entrance. However, that is unnecessary as I consider the risk to be small anyway. Other conditions were also suggested for employee parking and the provision of a travel plan. However, the site plan already includes adequate parking provision, and the very nature of the development is such that a travel plan would serve no useful purpose.

*Clive Nield*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Andrew Laurie-Chiswell	Appellant.
Peter Weavers, FACCA	Peter Weavers Business Services – Agent.
Michael Haire, CMLI	Landscape Consultant.

### FOR THE LOCAL PLANNING AUTHORITY:

Tamsin Law, BSc, MSc	Principal Planning Officer.
Dale Boyington, BA, HNC (Civ Eng)	Development Manager, Highways.
Colin Edwards	Solicitor.

### INTERESTED PERSONS:

Neil Evans	Neighbouring Resident.
Professor Charles Craddock, CBE, FRCP, FRCPATH	Local Resident.
Andrew Bevan, MA, MRTPI	ab planning – Agent for Mr Evans.
Matt Thomas, BSc, MSc, FCICT, FIHT	Director, Vectos, Transport Planning Consultant.
Alastair Pike, MICE, MCIHT, MSRSA	Senior Technician, Vectos.

## **DOCUMENTS SUBMITTED AT HEARING**

- 1 Letter of Notification of Hearing and list of persons notified.
- 2 Set of Conditions Suggested by Council.
- 3 Appellant's Costs Application with 2 Appendices of relevant correspondence and extracts of other appeal documents and correspondence relevant to the costs application.
- 4 Council's response to the costs application in respect of Reason for Refusal 1.

## PLANS

### A1-A12 Application Plans:

230/01 Rev B – Site Location Plan.

230/02 – Existing Site Layout Plan.

230/03 Rev F – Proposed Site Layout Plan.

230/05 Rev A – Large Store Shed, Existing Plans and Elevations.

230/06 Rev A – Small Store Shed, Existing Plans and Elevations.

230/07 Rev A – Stable/Garage, Existing Plans and Elevations.

230/08 Rev F – Conversion of Large Shed into Caravan Park Shop, Proposed Plans and Elevations.

230/09 Rev B – Conversion of Small Shed into Store, Proposed Plans and Elevations.

230/10 Rev E – Conversion of Stables into Sanitation Block, Plant, Office, Waste + Recycling, Store Room, Reception + Extension of Garage – Proposed Plans.

230/11 Rev C - Conversion of Stables into Sanitation Block, Plant, Office, Waste + Recycling, Store Room, Reception + Extension of Garage – Proposed Elevations.

BOX BUSH 001C – Topographical Survey.

397/05 Rev D – Planting Plan.

### B1-B3 3 Drawings submitted to the Council on 6 May 2016, all numbered J159/access/Fig1:

- Access Design (Geometry).
- Swept Path Analysis for vehicles entering the site.
- Swept Path Analysis for vehicles leaving the site.

### C1-C4 4 Plans submitted at the Hearing by Vectos on behalf of objectors:

Figure 1 – On Centre Survey, Overlaid with Appellant's Survey.

Figure 2 – Desirable/ Achievable Western Visibility Splays.

Figure 3 – Appellant's Visibility Plans.

Figure 4 – Visibility Restrictions from Appellant's Topographical Survey.



## **ANNEX of Conditions**

- 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: 230/01 Rev B; 230/02; 230/03 Rev F; 230/05 Rev A; 230/06 Rev A; 230/07 Rev A; 230/08 Rev F; 230/09 Rev B; 230/10 Rev E; 230/11 Rev C; BOX BUSH 001C; 397/05 Rev D; and 3 plans all numbered J159/access/Fig 1 denoting Access Design (Geometry) and two Swept Path analyses.
- 3) No development shall commence until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall include provisions for: hours of work during the construction period; the parking of vehicles of site operatives and visitors; and the loading and unloading of plant and materials and their storage on the site.
- 4) No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level and 2.4 metres back from the edge of the main carriageway at the centre of the access to points 0.26 metre above ground level at the edge of the main carriageway and 215 metres distant in each direction, measured along the edge of the carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility, and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
- 5) Upon formation of the visibility splays as detailed in Condition 4 above, the centre line of any new or relocated hedge shall be positioned no less than 1 metre to the rear of the visibility splay and shall be retained in that position for as long as the development remains in existence.
- 6) Before any other development is commenced the vehicular access shall be constructed to a minimum of 410 mm depth, comprising a minimum 250 mm of sub-base material, 100 mm of bituminous macadam base course and 60 mm of bituminous macadam binder course material, for a distance of 20 metres from the edge of the adjoining carriageway, measured along the centre line of the access. Any proposal to use alternative materials shall be submitted to and approved in writing by the local planning authority prior to the access being constructed.
- 7) Prior to the first use of the caravan park the vehicular access shall be finished in a 40 mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway, measured along the centre line of the access.
- 8) Prior to the commencement of development, a scheme of bat avoidance and mitigation measures, including the measures described in the bat report (by Just Mammals Consultancy LLP, dated July 2012) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 9) Prior to the first use of the caravan park any pre-existing means of access shall be closed for normal use and only thereafter be used for emergency purposes. Detailed proposals for its closure and subsequent future availability for

- emergency use are to be submitted to and approved in writing by the local planning authority.
- 10) Prior to the first use of the caravan park provision shall be made within the site for the parking of cars as shown on approved plan 230/03 Revision F, together with a turning space to allow all vehicles serving the site to enter and leave the site in forward gear. The parking and turning areas shall be retained for their designated uses for as long as the development hereby permitted remains in existence.
  - 11) The landscaping works shall be carried out in accordance with page 6 of the Design and Access Statement (August 2015) and approved plan 397/05 Revision D, Planting Plan, during the first planting season immediately following completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
  - 12) No caravans shall be positioned on the grassed sloping bank at the rear of the site, indicated on approved plan 230/03 Revision F as "to be used as recreation area only".
  - 13) No more than 24 touring caravans (or camper vans or tents) shall be stationed on the site at any time.
  - 14) 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 touring caravan site hereby permitted 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 caravans, their main home addresses and their date of arrival and departure from the site.
  - 15) The caravan park shop included in the permitted development shall be for use ancillary to the caravan park only.

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## Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 01/03/17

Ymweliad â safle a wnaed ar 01/03/17

gan Clive Nield BSc(Hon), CEng,  
MICE, MCIWEM, C.WEM

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.03.2017

## Costs Decision

Hearing held on 01/03/17

Site visit made on 01/03/17

by Clive Nield BSc(Hon), CEng, MICE,  
MCIWEM, C.WEM

an Inspector appointed by the Welsh Ministers

Date: 17.03.2017

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**Costs application in relation to Appeal Ref: APP/T6850/A/16/3159853**

**Site address: Box Bush Farm, Three Cocks, Brecon, LD3 0SH**

**The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Andrew Laurie-Chiswell for a full award of costs against Powys County Council.
  - The hearing was in connection with an appeal against the refusal of an application for planning permission for change of use to a touring caravan park, conversion and extension of existing buildings to provide sanitary, office, retail (site users only), storage and garage facilities, alteration to the access arrangements and installation of a private sewage treatment facility.
- 

## Decision

1. The application for an award of costs is refused.

## Submissions for Mr Andrew Laurie-Chiswell

2. The costs application was submitted in writing and was presented at the hearing. The following additional points were made orally following the Council's response.
3. With respect to the Council's withdrawal of reason for refusal number 1, it was not until 29 November 2016 that Mr Boyington confirmed that the Council would inform the Planning Inspectorate that Reason for Refusal 1 (RfR1) would be withdrawn, well beyond any reasonable period. The Costs Circular says notification should be made immediately. Because that confirmation was so late the Appellant had no choice but to prepare his statement on the possibility that the Council would not withdraw it.
4. On Reason for Refusal number 2 (RfR2), concerning the geometry and layout of the access, the Council has still not explained its stance on DMRB standards and has provided no evidence to back up its position. Its only arguments on highway safety are the theatrical comments about sudden braking and deficiencies on the internal access road, which could have been addressed by condition if the Council had been prepared to consider it. Even at the hearing there was no evidence from the Council to link its claims to UDP policies, TAN18 or Planning Policy Wales, which were the policy references in its reasons for refusal. A full award of costs is justified on both reasons for refusal.

## Response by Powys County Council

5. The response was made partly in writing and partly orally at the hearing. A written response was submitted in respect of RfR1, which was reinforced by further oral comments. The response in respect of the costs application for the second reason for refusal was made entirely orally.
6. In addition to the written response on RfR1, it is noteworthy that the Council's correspondence of 29 November 2016 was preceded by the Agent's email of 29 September 2016 confirming the agreement reached with Mr Boyington (the Council's highways officer) at a site meeting that day that RfR1 would be withdrawn. Thus the Appellant was well aware of the Council's intended withdrawal long before its formal confirmation in its December statement.
7. The Appellant has complained about a lack of response to correspondence on the part of the Council but that was due to an unfortunate change in both the highways officer and the planning case officer which caused some disruption, though Mr Boyington did respond on 9 June 2016 explaining the situation and saying he needed to review the file. He also responded on 29 June 2016 saying that information had been received from objectors and that he needed to discuss that with the planning officer before clarifying the Council's position. Thus, although there was some delay, there was no lack of intent on the Council's part.
8. Turning to RfR2, the Appellant claims the Council should have made more reference to the DMRB (Design Manual for Roads and Bridges). The Council disagrees; this RfR is valid on planning grounds and by reference to the policies listed in the refusal. Nevertheless, the DMRB has been discussed at the hearing and covered in previous meetings and correspondence, and it is clear it is the standard that has to be applied.
9. The costs application is not justified in respect of either of the reasons for refusal.

## Reasons

10. Circular 23/93, Awards of Costs Incurred in Planning and Other (including Compulsory Purchase Order) Proceedings, advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
11. In this case, the Council refused the application for 2 reasons relating to highway safety: the first referred to insufficient information to demonstrate adequate visibility splays; the second stated that the access would be substandard due to its geometry and layout. On the first reason (RfR1) the Council's (then) highways officer initially advised that visibility splay requirements would be met, but the Council later receded from that position after receiving advice from the third party objectors' highways consultant. However, the Council has provided no evidence that it critically appraised that third party evidence, and it certainly made no attempt to resolve its apparent uncertainties with the Appellant before refusing the application.
12. Those uncertainties were subsequently overcome when the (present) highways officer visited the site on 29 September 2016 and agreed that the required visibility splays were achievable. I have reached the same conclusion, finding the third party objectors' case to have little merit. As a consequence, the Council has not defended RfR1, and has presented no evidence to justify it. I consider the Council acted unreasonably in refusing the application on this ground, particularly in apparently

making little or no attempt to resolve uncertainties with little merit. Whilst this failure might be explained by officer changes occurring at the time, it provides no justification for it. The Council acted unreasonably in this respect.

13. The Council could have limited the implications of this if it had withdrawn the reason for refusal promptly. However, it also failed to do that. Although the (present) highways officer accepted the visibility splays were achievable as early as 29 September 2016, the Council did not inform the Planning Inspectorate that it was withdrawing RfR1 until it submitted its statement on 23 December 2016. The appeal was formally started on 17 November 2016, and the Council should have withdrawn RfR1 promptly. Although the Appellant was aware that the Council's highways officer no longer supported this RfR, he acted prudently in dealing with the reason in his appeal statement in the absence of the Council's formal confirmation. He may not have considered this to be necessary if the Council has acted more promptly, and I consider the Council acted unreasonably in failing to do this.
14. I turn now to the second reason for refusal (RfR2). Following the Council's refusal and during the preparation of the appeal statements there seemed to be some uncertainty as to the basis of the Council's assertion that the geometry and layout of the access would be substandard. Although correspondence made particular mention of concerns about the swept path analysis, reference was also made to DMRB standards. However, there was some doubt about what standards were being referred to. Nevertheless, the Council's appeal statement makes reference to TD41/95, Vehicular Access to All Purpose Trunk Roads, and argues that its geometry standards should be applied to this case. That is a reasonable argument and, although I have concluded that the access would be safe whilst falling short of those standards, I consider the Council has provided reasonable evidence to support its case. Thus it has not acted unreasonably in respect of RfR2.
15. As a consequence of this, it would have been necessary for the Appellant to pursue an appeal even if the Council had not included RfR1. Thus it is necessary to consider the second part of the "test" to justify an award of costs against the Council, i.e. "and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process". In this case, the dispute between the Appellant and the Council cannot be considered in isolation, as the third party objectors also played an active and determined part. They were represented by professional experts in planning and highways matters, who presented detailed evidence to support the Council's refusal on both reasons for refusal. Thus, regardless of the Council's position on RfR1, the Appellant would still have needed to produce evidence on that ground in order to counter that of the objectors' experts. Consequently, I do not consider that the Council's unreasonable behaviour in respect of RfR1 has caused the Appellant to incur expense that he would not have to have incurred on account of the third party objectors' active involvement.
16. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has not been demonstrated.

*Clive Nield*

Inspector

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# PTLRW37 - 2017

## MINUTES OF A MEETING OF THE TAXI REVIEW PANEL HELD AT NEUADD BRYCHEINIOG, BRECON ON 21<sup>ST</sup> MARCH, 2017

**PRESENT:** County Councillor D.A. Thomas [Chair]

County Councillors K. Silk and D.H. Williams

### **Officers**

Susan Jones, Senior Licensing Officer

Martin Phillips, Senior Licensing Officer

Nigel Vaughan, Solicitor, Clerk to the Panel

### **1. APOLOGIES**

There were no apologies for absence.

### **2. RESOLUTION TO EXCLUDE THE PUBLIC AND THE PRESS**

**RESOLVED** that in accordance with Section 100(A)(4) of the Local Government Act 1972 the public and press were excluded from the meeting on the grounds that there would be disclosure to them of exempt information under paragraphs 12 and 18 of Schedule 12A Part 7 of the above Act in respect of the following item.

### **3. PROCEDURAL GUIDELINES**

The Chair introduced the Review Panel and its Clerk.

The Clerk to the Panel, on behalf of the Solicitor to the Council, explained the procedures to be followed in this meeting of the Review Panel.

### **4. CONSIDERATION OF A HACKNEY CARRIAGE LICENCE – C.E.**

#### **C.E. – Licence holder**

The Licensing Officer outlined the issues for consideration and referred Members to the report.

The Licence Holder was asked whether or not the records that he had produced to the Licensing Officer were complete and by his admission in evidence to the Panel he confirmed that those records were incomplete, thus preventing the Panel from making an informed proper decision as at that time.

All parties agreed that they had had ample opportunity to present all aspects of their case and had said all that they had wanted to say.

The Review Panel withdrew to consider the issues in private with the support of the Clerk. The Clerk advised that in reaching the decision the Members had taken into account the relevant verbal and written representations.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>That the Licence Holder's Hackney Carriage Licence be suspended for 28</b>	<b>The reason for the decision was the Licence Holder failed to produce</b>

<p><b>days to enable him to produce adequate records to satisfy the Licensing Officer that the Licence Holder complies with the Intended Use Policy for journeys carried out by him for the last three months up to the date of Hearing. Failure by the Licensing Holder to either produce evidence or to satisfy the License Officer that he complies with the Intended Use Policy renders his Licence to be revoked after a period of 28 days has elapsed.</b></p>	<p><b>adequate records to the Panel Members and by his own admission during the course of the Hearing confirmed that his records were incomplete thus preventing the Panel from making an informed proper decision.</b></p>
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The Clerk to the Panel advised that he would confirm the Panel’s decision in writing. The Chair thanked all for attending.

**5. CONSIDERATION OF APPLICATION FOR A NOVEL PRIVATE HIRE VEHICLE – A.C.**

**A.C. – Licence holder**

The Licensing Officer outlined the issues for consideration and referred Members to the report. All parties agreed that they had had ample opportunity to present all aspects of their case and had said all that they had wanted to say.

The Review Panel withdrew to consider the issues in private with the support of the Clerk. The Clerk advised that in reaching the decision the Members had taken into account the relevant verbal and written representations.

<p><b>RESOLVED:</b></p>	<p><b>Reason for decision:</b></p>
<p><b>To grant the application.</b></p>	<p><b>The Panel were satisfied that the conditions imposed by the Licensing Officer as well as the condition of the vehicle satisfies Section 48 of the Local Government Provisions Act 1976.</b></p>

The Clerk to the Panel advised that he would confirm the Panel’s decision in writing. The Chair thanked all for attending.

County Councillor D.A. Thomas  
Chair