

Planning, Taxi Licensing & Rights of Way Committee

Meeting Venue
**Council Chamber - County Hall,
Llandrindod Wells, Powys**

Meeting Date
Thursday, 27 April 2017

Meeting Time
12.00 pm



County Hall
Llandrindod Wells
Powys
LD1 5LG

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

20 April 2017

AGENDA

1.	APOLOGIES	PTLRW43 - 2017
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To receive apologies for absence.

2.	MINUTES OF THE PREVIOUS MEETING	PTLRW44 - 2017
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 20 April 2017 as a correct record.

(To Follow)

Planning		
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3.	DECLARATIONS OF INTEREST	PTLRW45 - 2017
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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.

4.	PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE	PTLRW46 - 2017
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To consider the reports of the Head of Regeneration, Property and Commissioning and to make any necessary decisions thereon.

(Pages 5 - 6)

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/2014/0672 Land off A44 SW of Llandegley, Llandrindod Wells, Powys

(Pages 7 - 88)

4.3. P/2016/0803 Beacons Edge, Pontithel, Brecon, Powys LD3 0RY

(Pages 89 - 130)

4.4. DIS/2016/0247 Blaen y Glyn, Llangurig, Welshpool, Llanidloes, Powys SY18 6SL

(Pages 131 - 136)

4.5. DIS/2016/0258 Blaen y Glyn, Llangurig, Welshpool, Llanidloes, Powys SY18 6SL

(Pages 137 - 150)

5.	DECISIONS OF THE HEAD OF REGENERATION, PROPERTY AND COMMISSIONING ON DELEGATED APPLICATIONS	PTLRW47 - 2017
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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 151 - 154)

6.	APPEAL DECISION	PTLRW48 - 2017
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To receive the Planning Inspector's decision regarding an appeal and decision regarding costs.

(Pages 155 - 166)

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PTLRW46 - 2017

Planning, Taxi Licensing and Rights of Way Committee 27th 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>P/2014/0672</p> <p>New Radnor</p> <p>313083.41 260357.03</p> <p>14/07/2014</p>	<p>Full: Construct and operate 7 wind turbines with a maximum tip height of 110m and maximum hub height of 69m together with ancillary development comprising substation, control building, new and upgraded access points and tracks, hardstanding and temporary compound and associated works</p> <p>Land off A44 SW of Llandegley, Llandrindod Wells, Powys</p> <p>Hendy Wind Farm Ltd</p> <p>Recommendation:</p> <p>Conditional Consent - Subject to a S106 agreement</p>
<p>P/2016/0803</p> <p>Bronllys</p> <p>315874.33 236213.88</p> <p>29/07/2016</p>	<p>Full and Outline: Hybrid planning application comprising change of use from 3 no dwellings to 1 no dwellings, the change of user of plots 1 and 4 and erection of plots 2 and 5 each becoming single holiday let units in lieu of each comprising 4 individual motel units approved under planning application B6022, the erection of a detached garage, access, parking and associated works (applied for in full), and the erection of 1 no dwelling (applied for in outline)</p> <p>Beacons Edge, Pontithel, Brecon, Powys LD3 0RY</p> <p>Mr & Mrs G Hopkins c/o Agent</p>

	<p>Recommendation:</p> <p>Conditional Consent - subject to a legal agreement</p>
<p>DIS/2016/0247</p> <p>Llangurig</p> <p>291676 281370</p> <p>08/12/2016</p>	<p>Application for Approved Details Reserved by Condition: Discharge of conditions 4, 22,23,25,27,28 & 32 of planning permission P/2014/1102</p> <p>Blaen y Glyn, Llangurig, Welshpool, Llanidloes , Powys SY18 6SL</p> <p>Mr Radford, Bryn Blaen Wind Farm Limited c/o Agent</p> <p>Recommendation:</p> <p>Conditions 4,22,23,25,27,28 & 32 to be formally discharged</p>
<p>DIS/2016/0258</p> <p>Llangurig</p> <p>291676 281370</p> <p>04/01/2017</p>	<p>Application for Approved Details Reserved by Condition: Discharge of conditions 9,33,39,41,42,43,44,45,46,47,48,49,50,51,56 & 60 of planning permission P/2014/1102</p> <p>Blaen y Glyn, Llangurig, Welshpool, Llanidloes , Powys SY18 6SL</p> <p>Mr Radford, Bryn Blaen Wind Farm Limited</p> <p>Recommendation:</p> <p>Conditions to be formally discharged</p>

PTLRW46 - 20172

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2014/0672 **Grid Ref:** 313083.41 260357.03

Community Council: New Radnor **Valid Date:** 14/07/2014 **Officer:** Andrew Metcalfe
(Planning Consultant)

Applicant: Hendy Wind Farm Limited

Location: Land off A44 SW of Llandegley, Llandrindod Wells, Powys

Proposal: Full: Construct and operate 7 wind turbines with a maximum tip height of 110m and maximum hub height of 69m together with ancillary development comprising substation, control building, new and upgraded access points and tracks, hardstanding and temporary compound and associated works

Application Type: Application for Full Planning Permission

The reason for Committee determination

The planning application is accompanied by an Environmental Statement.

Site Location and Description

The application site is located circa 6km east of the town of Llandrindod Wells, circa 2.8km south west of the Penybont, and circa 2.5km north of the small rural settlement of Franksbridge.

The application site sits within a relatively low lying valley landscape with ridge lines generally running north/south to its east (peaking at circa 540m) and west (peaking at circa 440m). The turbines themselves will be located between 290m and 340m meaning they will be (in part) visible from distance over the tops of the surrounding terrain – this is discussed in more detail later in this report.

The application site has Public Rights of Way and peat within it. A section of the access road included within the application boundary is registered as common land i.e. (Radnorshire) - CA34, Llandegley Rhos. Llandegley Rhos Common is subject to rights of common and the owner, as recorded in the register, is 'Green Price Settled Estates' (The Gwernaffel Estate).

The area surrounding the application site hosts a number of Scheduled Ancient Monuments and Listed Buildings. The area also hosts a variety of wildlife including breeding birds.

The Environmental Statement (ES) states that the proposal is to construct and operate a wind farm of up to 17.5 MW comprising of:

- 7 (110m tip height) wind turbines (2.5 MW each) and associated infrastructure including crane hard standing areas;
- 1 no. new site entrance to the east off the A44;
- Construction of c. 3.3 km of new access tracks;
- Circa 1km of existing track to be upgraded;
- Construction of temporary site compound (20m x 30m) close to turbine T5;
- Construction of a new on-site substation (circa. 40m x 20m) which includes a control building (25m x 10m) south of turbine T3.

The Development would generate electricity for 25 years after which time it will be decommissioned. Alternatively, the life of the Development may be extended subject to further environmental studies and new consents.

Consultee Responses

Powys County Council – Commons Registration

- Response dated 15th July 2014

We've been made aware that an application has been made to the Planning Inspectorate, for consent for works on common land and for deregistration and exchange. The site is at Llandegley Rhos Common and we have become aware of the application through an advertisement in the County Times on 4th July.

However, to date, no public notice has been sent to Commons Registration in relation to these applications. It would have been sent out by the applicants (Sir Robert Green-Price and Hendy Wind Farm Limited) and we would have expected to receive a copy of the public notice by now. I am emailing to ask whether notice of the application has been sent to the Chief Executive, as is sometimes the case; if so, please let me know.

- Response dated 24th July 2014

I am emailing with regard to applications that have recently been made to the Planning Inspectorate for consent for works, and for deregistration and exchange in respect of an area of common land near Llandegley. We believe that these applications may relate to a planning application (P/2014/0672), for construction of 7 wind turbines and ancillary development. The area of common land affected is Llandegley Ethos Common, which is register unit RCLO34.

We have become aware of the applications for consent for works (under section 38 of the Commons Act 2006), and for deregistration and exchange under section 16 of the Commons Act 2006, because we have been notified by graziers and residents of an advert that appeared in the County Times on 4th July. A scan is attached. This is part of the statutory process; it is the responsibility of the applicant to place the advert.

The applicant is also required to serve notice of the application on a number of parties, including those with grazing rights. Although the regulations do not state that notice must be served on the Commons Registration Authority, the Planning Inspectorate's application forms advise that notice must be served on any relevant County Council. The Regulations and

PINS application forms are attached; the information in the application forms about those to be notified is under sections I (section 16 applications) and J (section 38 applications)

We have not received notification of the application from the applicant, to date; I have checked with Julie Shaw, in case a notice was sent directly the Chief Executive, but they have not received anything. Likewise, we have also checked with Graham Eales of Legal Services and with Gwilym Davies of Planning Services.

The other issue that has been raised is that the register unit quoted in the newspaper adverts has been given the correct name, but the wrong register unit number; the number quoted is RCL3S.

Having discussed the matter with Stuart Mackintosh and with my colleague, Claire Lewis, we feel that these issues do need to be raised with the Planning Inspectorate. We would also like the opportunity to review the proposed exchange land, as it may impact on both the registered rights of common and the CRoW access enjoyed by the public. The deadline for any representations is 1st August.

Before we contact the Planning Inspectorate, I would be most grateful if you could let me know if you have any comments or advice in relation to this, as I understand that you are co-ordinating responses from the Council, from a legal perspective, in relation to wind farm planning applications.

- Response dated 1st August 2014

Thank you for giving Commons Registration the opportunity to comment on the above planning application.

The application does affect an area of registered common land. The eastern part of the application site is located on an area of land registered under the Commons Registration Act 1965 as register unit (Radnorshire) CL34 and known as Llandegley Rhos Common.

A GIS plan identifying the location of the registered common land is enclosed. Commons Registration records show that:

- The owners of the part of common affected by this application are Sir Robert John Green-Price and the Gwernaffel Estates.
- The common is subject to grazing rights.

As the applicant has indicated in the Environmental Statement, two of the access tracks that are proposed to be upgraded do cross the common. In addition, they have stated that temporary fencing will be needed.

It is noted that the applicant has acknowledged the additional protection afforded to registered common land, by sections 16 and 38 of the Commons Act 2006, and is making a Common Land application to the Planning Inspectorate.

Commons Registration advice is that before any construction work on the common starts:

- Consent under section 38 of the Commons Act 2006 must be obtained;

- A section 16 application must be processed and a 'Deregistration and Exchange' Order issued to the Commons Registration Authority.

- Response dated 10th December 2015

Thank you for consulting Commons Registration about the additional information in relation to P/2014/0672. Having reviewed the information, the Commons Registration service has nothing to add to the comments previously made in response to this planning application.

Powys County Council – Countryside Services

- Response dated 21st August 2014

Thank you for the opportunity to comment on this application. Countryside Services would like to register a holding objection to this proposal until additional information is supplied.

From the information made available at this time, it would appear that public rights of way are going to be affected by the application. Countryside Services recommend that turbines are kept tip height from footpaths and 200m from other public rights of way (bridleways, restricted byways and byways open to all traffic or BOATs). Of the proposed turbines at Hendy, the majority fail to meet these recommended distances.

- Turbine 2 is 110m from BOAT CR127
- Turbine 3 is 172m from BOAT CR127
- Turbine 4 is 189m from bridleway LA1218
- Turbine 5 is 127m from bridleway LA1218
- Turbine 6 is 170m from BOAT CR127

The applicants have not offered any permissive additional routes to allow users to keep the recommended distances from the proposed turbines.

Of major concern is the intention to use BOAT CR127 as the main access track into the site. The current plans show the access track running along byway CR127 and then cutting across it at a number of locations. Footpath GC1570 also has an access track running along it to the south of the site, for access to a borrow pit. Figure 3.1 in the Planning Statement shows the location of the substation on top of Footpath GC1570.

In our scoping response, dated 21st August 2013, we requested that the developer provide a single, suitably marked site map indicating clearly all the recorded public rights of way, along with the proposed turbine locations and proposed access tracks with the relevant radius zones shown. They have failed to provide this map, which has meant that it is difficult for people viewing the application to accurately assess the impact of this proposal on the public rights of way network. The information on public rights of way that is provided is on times inaccurate; for example, distances of turbines from public rights of way quoted on P.8 of the Planning Statement, showing a footpath as a bridleway in Fig.7.1 and paths shown in the wrong locations.

It is clear that the turbines are going to have an impact on the visual amenity of the users of the public rights of way network. Therefore, we request that this impact is assessed by the

council's expert. Countryside Services request to see a copy of the PCC Landscape and Visual Architect's report before submitting a final response to this application.

Countryside Services have significant concerns surrounding this application, which have not been addressed following our scoping response. Once we are in receipt of the additional information requested, we will provide a full response. Therefore, we would like to register a holding objection to the proposed Hendy Wind Farm at this time.

- Response dated 29th March 2017

From the information made available at this time, it would appear that public rights of way are going to be affected by the application. Countryside Services recommend that turbines are kept tip height from footpaths and 200m from other public rights of way (bridleways, restricted byways and byways open to all traffic or BOATs). Of the proposed turbines at Hendy, the majority fail to meet these recommended distances.

- Turbine 2 is 110m from BOAT CR127
- Turbine 3 is 172m from BOAT CR127
- Turbine 4 is 189m from bridleway LA1218
- Turbine 5 is 127m from bridleway LA1218
- Turbine 6 is 170m from BOAT CR127

The applicants have now offered a permissive additional route to allow users (walkers, cyclists and horse riders) to keep further from the proposed turbines. They also propose a pre-development condition requiring a micrositing protocol, which includes the micrositing of turbines 2 and 3 away from the public rights of way, to be submitted to and agreed by the Council. If the proposed micrositing occurs, the permissive route would allow 200m recommended distances to be met.

It has now been confirmed that the substation will not be located on top of Footpath GC1570. Concerns were raised about the intention to use BOAT CR127 as the main access track into the site. The current plans show the access track running along byway CR127 and then cutting across it at a number of locations. The applicant is now offering a pre-development condition requiring an access management plan to be submitted to, and agreed by the Council. This plan will set-out, in detail, how the BOAT would be managed during construction to allow safe access by all public users at all times. The plan will need to consider all public rights of way affected during construction and how they will be managed safely. Temporary closures, with diversions, may be required. If so, the applicant is recommended to contact Countryside Services ASAP as the process, for which a separate fee applies, can take a couple of months.

It is clear that the turbines are going to have an impact on the visual amenity of the users of the public rights of way network. Countryside Services request that this impact is assessed by the council's expert and included within their final report.

The applicant has offered additional mitigation in terms of a pre-development condition requiring the access track from the footpath south of the substation GC1570 to the BOAT to be designated as a permissive right of way for the life of the scheme. This permissive route means that the dead-end footpath will now link to the BOAT CR127, offering improved access in the area.

A pre-development condition has also been offered requiring an access management plan to include the reasonable upgrading of the byway through the applicant's property to be submitted to, and agreed by, the Council. Upgrading BOAT CR127 could again provide benefits to the network and users.

A draft s106 has been submitted, which outlines that the applicant is prepared to offer a public rights of way contribution to the sum of £17,500 to allow PCC to provide maintenance and improvements to the local public rights of way network. This would provide users improved opportunities for avoiding the wind farm site if they wish.

Countryside Services have assessed the clarification information provided and additional mitigation offered by the applicant. In light of such, Countryside Services will remove their holding objection to this proposal.

Powys County Council – Highways

- Response dated 21st August 2014

Further to the reasonably comprehensive submission provided for this application the Highways Authority do still require clarification and additional information on the following points:-

- The proposed access route to the site from the SSA C includes a section of the A44 just east of Crossgates where a railway bridge crosses the highway with just 4.4m height clearance. The submission clearly indicates AIL's of heights equal to or greater than this and we therefore do not consider this route to be feasible. Other companies have already dismissed this route as unworkable and sought alternatives
- The TMP includes swept path diagrams identifying manoeuvres through junctions south of Crossgates which therefore do not tally with the access route detailed throughout the documentation.
- The red line boundary within the application fails to include any of the areas of land required for the highway improvements or holding areas proposed within the submission.
- The holding points detailed in section 4 of the TMP have been produced based on Ordnance Survey background data and in order to accurately assess the viability of the proposals the details should be re-submitted based on topographical surveys at scales not exceeding 1 in 500.
- The access arrangements to the site seem to be un-necessarily complicated. It is far from clear why a second access is required when any vehicle travelling from the east would have already passed two alternative access points to the site.
- Full engineering drawings and the appropriate safety audit is required for the proposed new access point detailing access visibility, forward and tangential visibility and additional information regarding the specification of the central barrier.

- Full engineering details are required of the proposed works to the U1574 between the new access link track and the properly known as Pye Corner.
- Copies of the traffic count print outs should be provided so that the Highways Authority can check the figures tabulated within the documents.
- Clarification of how speed limits and travel direction will be realistically enforced is requested. I consider the distance vehicles exiting left from the site will have to travel to Crossgates roundabout is totally unrealistic and believe other road junctions will be utilised for this manoeuvre if such an arrangement is pursued.
- Finally, for information, it should be assumed that the Highways Authority will require an appropriate agreement and bond relating to abnormal wear and tear to the highway network, specifically covering the entire costs in respect of the unclassified U1574.

I trust it is accepted that this list may not be exhaustive and further information may be sought following receipt of the details requested above. Additionally all drawings which relate to the access route to the site, including those already supplied will need to be submitted based on topographical surveys at a scale not exceeding 1 in 500.

- Response dated 5th April 2017

The County Council as Highway Authority for the Class 1 A44 and unclassified U1574.

The details submitted with the application are generally acceptable in that it would appear that a safe means of access can be provided to serve the construction of the development. However, we will require the submission of full engineering details for all aspects of the works that will affect any part of the county highways. Accordingly, we have included a number of pre-commencement conditions to ensure that those details are formally approved before any works commence on the site.

1. No development shall take place until detailed engineering drawings of all highway works on the A44 and U1574 have been submitted to and approved in writing by the local planning authority. The works shall be designed in accordance with the standards in the Design Manual for Roads and Bridges. The details submitted shall also include:
 - a) Drainage details;
 - b) Road markings and signage proposals
 - c) A programme for the implementation of the works
 - d) Details of visibility splays that shall be kept free of obstruction exceeding 0.26 metres above the carriageway level.
 - e) The submission of Road Safety Audits prior to the works being undertaken and upon completion of the highway works.

The works shall be implemented in accordance with the approved details.

2. No deliveries by Abnormal Indivisible Loads shall take place until an assessment of the capacity and impact on the highway and all structures forming part of the highway along the delivery route including layover areas, passing places, bridges, culverts, retaining walls, embankments, drainage systems, street lighting, street

signs, safety barriers is carried out and submitted to and approved by the local planning authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the local planning authority and the approved works shall be completed prior to any abnormal indivisible load deliveries to the site.

3. Abnormal Indivisible Loads (AIL's) shall be delivered along the routes specified in Sections 1,2,4,5 of the Strategic Traffic Management Plan for Mid-Wales Wind Farms (the sTMP) dated August 2012 unless the Newtown Bypass is constructed. No AIL's shall be delivered to the site until a Traffic Management Plan (TMP) has been submitted and approved in writing by the local planning authority. Thereafter, AIL's shall be carried out in accordance with the sTMP and approved TMP. The TMP shall include:
 - a) Management of junctions and crossings and any other public rights of way while AIL deliveries take place;
 - b) Management and maintenance of layover areas, passing places and welfare facilities while AIL deliveries take place;
 - c) Details of temporary signing;
 - d) Restrictions of AIL movements during the Royal Welsh Show;
 - e) Details of any alterations to any works that are carried out to enable AIL movements proposed to be implemented after such movements;
 - f) A review mechanism in light of the construction of the Newtown Bypass.

4. No AIL shall be made to the site until an Abnormal Indivisible Load management strategy has been submitted to and approved in writing by the local planning authority. All AIL deliveries shall be carried out in accordance with the approved AIL management strategy which will include details of the following:
 - a) Means of control of timing of delivery of AIL movements;
 - b) Temporary traffic diversions and traffic hold points;
 - c) Details of banksmen and escorts for abnormal loads;
 - d) Coordination with all other AIL deliveries (including without limitation to other wind farms in Mid Wales)
 - e) Description of procedures for the allocation of delivery slots including delivery slot triggers and trading;
 - f) The appointment and role of a Transport Coordinator to administer the Abnormal Indivisible Load delivery strategy;
 - g) Liaison with relevant highway and planning authorities and the Police;
 - h) Liaison with members of the public and local communities;
 - i) Liaison with hauliers, developers and landowners prior to the submission of notifications for AIL deliveries and applications for Special Orders for AIL deliveries.

5. No construction works shall take place on site until a Construction Traffic Management Plan (CTMP) for non-abnormal indivisible load vehicles has been submitted to and approved in writing by the local planning authority. The approved Construction Traffic Management Plan shall thereafter be complied with and will include the following:
 - a) Construction vehicle routeing;
 - b) Means of monitoring vehicle movements to and from the site including the use of liveried construction vehicles displaying the name of the developer,

the vehicle number, a telephone number for complaints and procedures for dealing with complaints.

- c) Timing of vehicle deliveries to the site;
 - d) The management of junctions and crossings of highways and other public rights of way;
 - e) Contractual arrangements for the control of construction traffic offsite and to ensure that complaints and breaches of the TMP requirements are able to be remedied;
 - f) A travel Plan aimed at maximising the use of sustainable travel by the construction workforce associated with the development;
 - g) Vehicle movements during the Royal Welsh Show;
 - h) Communications with members of the public and local communities;
 - i) A review mechanism in light of the Newtown Bypass
6. No construction works shall take place on site until a scheme to provide for the remediation of any damage or deterioration of the county highway attributable to the development has been provided to the local planning authority and approved in writing. Such a scheme shall include:
- a) The undertaking of a condition survey of the proposed highway to be used as AIL and construction delivery routes prior to the commencement of development;
 - b) The undertaking of further condition survey work after the first export (this being the date when Hendy wind farm wind turbine development first exports electricity to the National Grid on a commercial basis) and;
 - c) Provision of details and timescale for works to remediate damage or deterioration to all parts of the highway including street furniture, structures, highway verge and carriageway and footway surfaces.
- The scheme shall thereafter be implemented in accordance with the approved details.
7. No movement of traffic associated with any decommissioning of the development shall take place until a traffic management plan dealing with such decommissioning has been submitted and approved in writing by the local planning authority and thereafter the approved TMP shall be implemented.
8. No abnormal indivisible load movements associated with any repairs or replacement components shall take place during the life of the development until a traffic management plan dealing with such repair and/or replacement has been submitted to and approved in writing by the local planning authority and thereafter the approved TMP shall be implemented.

Powys County Council – Ecology

- Response dated 20th August 2014

Further information is required for ecology. This information is required prior to determination. Due to time constraints and resources, I have not yet managed to visit the site and as such this is not a comprehensive response, however, the key material insufficient information gaps have been identified. Any further information gaps should be picked up by the ecological

consultants in addressing the identified inadequacies set out below. I intend to visit the site but a site visit is best undertaken with yourself and NRW.

I have attached the above documents which the ecology impact assessment should comply with.

Background on which to base the scoping report and survey requirements

The desk study has not been undertaken in accordance with CIEEM, SNH or BCT guidance. The desk study should include designated sites up to 5km and up to 10km for SPAs. This is the standard zone of influence for wind farm impact assessments, particularly with regard to sites designated for birds. The impact assessment for birds needs to be revised to take into account the designated sites up to 10km. Red kites and other target species have been shown to forage at least 7km from their nesting sites.

Of particular note is that the Radnor Forest SSSI, which is designated for its breeding raptors and breeding golden plover, has not been included in the impact assessment. It is located approximately 4.5km to the east of the site. This site and other relevant sites should be included in the impact assessment.

Birds

I have compared the survey results with the Radnorshire bird reports and I have looked the target species up in the Birds of Radnorshire (Peter Jennings 2014) and the survey results and the evaluations do not correspond to these up-to-date bird records. Therefore, the impact assessment needs to be revised to include these records, including any collision risk assessments. In particular, the starling roost at Llandegley is a well known roost that has been there for many, many years. The starling roost is several times larger than recorded during your surveys and therefore the collision risk may be altered by an order of magnitude, perhaps from 200 to 2000 or greater? The ES concludes that the starling roost identified during their survey work is likely to be transient. This is not the case. It is a well known winter roost which has been there for decades and therefore is of much greater than district value. The status of starling, an RSPB red list bird and a UK Priority BAP species, at the site needs to be re-evaluated taking into account the Radnorshire Bird Report data and the potential impacts and collision risk reassessed.

The ES states that golden plover do not breed on the site. The ES states that the closest records are 35km to the west however, they breed on the Radnor Forest SSSI within 5km of the site. Is there no suitable breeding habitat for them on the site?

The impact assessment for target bird species and other significant numbers of birds at the site, such as the winter roost of starlings at Llandegley Rhos (located within the site) reported in the Birds of Radnorshire to be between 135,000 and 180,000 birds (estimated to be 10,000 in your report), needs to be revised to include the local bird information from the Radnorshire Bird Report

A high number of red kite records were recorded for the site. What methodology was used for identifying red kite nests?

Please could the methodology for determining the target species also be provided. The surveyed area does not comply with the SNH guidance as the surveyed area does not extend beyond 500m of the north eastern site boundary. Further survey will be required unless an adequate justification is given for the deviation from the standard methodology. Please could the start and finish times for each of the vantage point bird surveys be provided to assist me in interpreting the results. The report doesn't consider that goshawk and sparrow hawk are target species, an explanation is required. These are both protected species. The impacts to curlew have not been considered in the assessment. Curlew are very sensitive to disturbance particularly when breeding and there were two pairs recorded close to the site access but there is no consideration of them in the impact assessment and no specific mitigation proposed. This needs to be addressed.

A cumulative impact assessment for ecological impacts, particularly potential impacts to birds and bats and habitat loss (particularly any areas of unimproved grassland and habitats of ecological value), is also required.

The information provided in the RSPB Collision Risk checklist above needs to be provided and the impact assessment should assess the potential impacts for the life of the wind farm. Where potential impacts to European designated sites are identified, a Habitats Regulations Assessment will be required and the applicant is required to provide the information to inform this.

Peat

With regard to the peat depth mapping. What survey methodology was followed? Is this an acceptable method to NRW? NRW produced guidance for this type of assessment in 2010, and unless agreed otherwise, Powys County Council require this survey method to be undertaken.

Great Crested Newts

With regard to great crested newts, the HSI is not reliable when there are waterbodies close by that support great crested newts. Whether a pond has potential to support great crested newts or not is greatly influenced by the presence of great crested newts nearby, i.e. a poor quality pond will support great crested newts if there are great crested newts in nearby ponds. Therefore, all ponds within 500m of the area affected by the proposed development are required to be surveyed for great crested newts.

Reptiles

If suitable habitat is present on the site then it should be assumed that common lizards and perhaps also slow worms, will be present. Areas of habitat suitable to support reptiles should be shown on a map and graded as to their potential, i.e. high, medium, low, and negligible.

Habitats of Biodiversity Value

With regard to habitats, and the species-rich marshy grassland, pillwort is considered to be of global significance and I would therefore place the species-rich marshy grassland to be of regional importance as a minimum rather than county value.

Habitat Restoration and Potential Biodiversity Gain

The proposed development of a wind farm at the site should include an extensive habitat restoration scheme as the habitats within the site are known to have degraded in their biodiversity value over recent decades and the government has set a target to reverse biodiversity loss by 2020 and large development proposals are best placed to contribute to this.

Habitats Regulation Assessment — River Wye SAC

The proposed development may impact on the River Wye SAC, therefore the nearest point of the River Wye SAC and feeder watercourses needs to be identified. A Habitats Regulations Assessment is required.

Bats

With regard to bats, potential impacts to noctule bats and pipistrelle bats were identified and further survey effort was undertaken to better understand how noctule bats and other bat species are using the site to inform the impact assessment. The bat survey report on the account of high levels of bat activity at some of the turbines, namely, turbines T5, T7, T8, T9, T10, T11 and T12, recommends that it may be appropriate to increase the cut-in speeds of the turbines either side of dusk and dawn and on a seasonal basis. Therefore, curtailment conditions should be considered for bats. However, the other impacts have to be considered also such as impacts to birds and landscape, etc.

Other Protected Species and Habitats of Biodiversity Value

A Construction Ecological Mitigation Plan (CEMP) will be required for the site which details all the measures to be implemented to safeguard all protected species and habitats of ecological value during construction.

All of the above information is required prior to determination.

- Response dated 7th April 2017

Thank you for consulting me with regards to planning application P/2014/0672 which concerns an application for the construction and operation of 7 wind turbines with a maximum tip height of 110m and maximum hub height of 69m together with ancillary development comprising substation, control building, new and upgraded access points and tracks, hardstanding and temporary compound and associated works.

A response regarding ecology matters and this application was previously provided by Hannah Powell on the 20th August 2017. Within this response request for clarification regarding a number of issues was raised, to address this additional information has been submitted to provide additional information and clarification.

The additional information provided with regards to ecology matters comprises:

- Letter from Cunnane Town Planning dated 23rd March 2015 including statement from ADAS consultant ecologist responding to the comments provided by Hannah Powell and Natural Resources Wales
- Appendix A: Hendy VP Summary Revised 170315, prepared by ADAS UK Ltd
- Appendix B: Reptile Survey Area, Hendy Windfarm, Powys, prepared by ADAS UK Ltd
- Appendix C: Hendy Wind Farm Habitats Regulations Assessment Screening Report, prepared by ADAS UK Ltd

Concern was raised over the zone of influence for which designated sites was considered within the ES, in order to address this the zone of influence has been extended to 10km of Internationally designated sites and 5km for nationally designated sites. No additional internationally designated sites were identified in the extended search area, an additional 8 SSSI were identified as a result of the extended search radius for nationally designated sites – of these only 2 were identified as having birds as features of interest – the other sites identified were for geological or vegetation features.

The Glascwm and Gladestry SSSI identifies red grouse as features of the SSSI, the Radnor Forest SSSI identifies upland breeding birds as a feature of the SSSI. It is acknowledged that whilst these sites were not included in the original ES the surveys undertaken – breeding bird surveys, winter walkover surveys and Vantage Point surveys would have considered the features associated with these sites and the assessments of potential impacts to these features provided in the ES would also be appropriate to consider impacts to these sites and their associated features.

Clarification has been provided regarding the survey methodology for determining target species and identification of red kite breeding sites in addition details regarding timings of Vantage Point surveys has also been provided – the methodology used is considered to be in accordance with relevant guidance and standards and is considered appropriate to enable assessment of potential impacts. The ES concludes that the survey results and collision risk modelling indicates that operational risks of the wind farm to the target species considered would result in non-significant impacts and would not affect the potential of the populations of these species to maintain current numbers.

Curlew were recorded during the surveys, two pairs were recorded either side of the proposed access track at Pye Corner – no mitigation was proposed within the ES for this species. Curlew are highly sensitive to disturbance particularly during the breeding season. In order to address potential impacts to this species it has been identified that construction operations in relation to the track in the area will not be carried out during the curlew breeding season, this precaution will need to be identified within a Construction Environmental Management Plan (CEMP), in addition consideration will also need to be given to the potential for additional or revised areas of no construction activities during the curlew breeding season as a result of pre-commencement survey results.

Concerns were also raised over the presence of a starling roost at Llandegley Rhos – comparisons were made between the results of the surveys undertaken to inform the proposed development and the results of the ‘Birds of Radnorshire’ report and whether additional collision risk modelling was required to assess the discrepancies between the data. The additional information submitted has provided further clarification regarding the observed behaviour and flight patterns of starlings observed during the surveys – the birds were observed flying at low height and were arriving at the roost from directions other than through

the proposed wind farm. In addition it has been proposed that given the transitory nature of starling roosts and ability for this species to adapt to alternative roost location the area of plantation in which the roost is located is felled which would cause the roost to relocate to an alternative location a greater distance from the proposal – whilst this is considered to be an option to reduce the collision risk to this starling roost it must be noted that under the Conservation of Habitats and Species Regulations 2010 (as amended) requires Local Authorities to take measures to preserve, maintain and re-establish habitat for wild birds. This duty includes promoting and delivering habitat management and restoration, and/or habitat creation, to support wild birds through the planning process. As such should the felling of this area form part of the mitigation identified in the Protected Species Protection Plan (PSPP) then appropriate compensation habitat will need to be provided – this could be included as part of a Habitat Management and Enhancement Plan.

Clarification has been provided regarding the methodology used to assess peat depths at the site, it is noted that the methodology used is in accordance with published guidance. The ES identifies that no areas of infrastructure are located on areas of deep or medium depth peat with infrastructure proposed for drier areas of the site – clarification should be sought from NRW as to the acceptability of the methodology.

Great crested newts have been identified in a number of ponds at the site, medium to low population sizes were recorded during the surveys, limited mitigation measures have been proposed within the ES with regards to Amphibians:

Amphibians

No mitigation is considered necessary in respect of amphibians (aside from maintaining a 19mph speed limit on the site). This is because the likelihood of negative effects is very low. This applies to Great Crested Newt as well as other amphibians.

NRW identified in their response dated 22nd December 2014 that they consider that the proposed development is not likely to be detrimental to the favourable conservation status of great crested newt, provided any consent is subject to the imposition of planning conditions or obligations securing the submission of a Reasonable Avoidance Scheme including measures that will be implemented during the construction phase of the development – it is recommended that a Reasonable Avoidance Method Statement (RAMS) for great crested newts is secured through a condition for a Protected Species Protection Plan.

Clarification was requested over areas present on the site considered suitable to support reptiles, a plan indicating the location and extent of habitat considered suitable to support reptiles has been provided. This area was considered to be of medium potential to support reptiles and records of common lizard were made in this area. Limited mitigation measures have been proposed within the ES with regards to Amphibians:

Reptiles

No mitigation is considered necessary in respect of reptiles (aside from maintaining a 19mph speed limit on the site). This is because the likelihood of negative effects is very low.

As common lizard have been recorded on the site and the proposed infrastructure crosses the area of suitable habitat for this it is recommended that a Reasonable Avoidance Method

Statement (RAMS) for reptiles with regards to construction activities is secured through a condition for a Protected Species Protection Plan.

Species rich marshy grassland supporting pillwort has been identified in the north of the site – it was identified in the response made by Hannah Powell that this area of habitat should be considered to be of Regional Importance. This area of habitat is outside of the proposed development area and is not directly impacted by any construction activities – whilst there are no direct impacts considered likely indirect impacts of pollution from construction activities could result in negative impacts – Chapter 10 of the ES and the submitted Hendy Wind Farm Habitats Regulations Assessment Screening Report, prepared by ADAS UK Ltd identify pollution prevention measures that will be implemented, it is considered that the measures proposed are appropriate to prevent negative impact to this area of habitat during the construction phase – full details of pollution prevention measures should be secured through a Construction Environmental Management Plan condition.

As required by Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to seek to maintain, enhance and restore biodiversity through all of their functions this includes the planning process. The letter from Cunnane Town Planning identifies that the applicant is amenable to committing to a habitat restoration scheme – this is welcomed. It is recommended that a Habitat Management and Enhancement Plan is secured through a planning condition, any habitat management, restoration or creation identified will need to be appropriate to the site and species associated with the local area and it will need to be demonstrated that proposed measures are achievable – concern has been raised over the suggestion of provision of habitat restoration for the Llandegley Rhos Common area given the potential difficulties in securing management measures on Common Land.

With regards to bats concerns with regards to the perceived impact to Noctule bats were raised by both Hannah Powell and NRW in their response dated 22nd December 2014, in the letter from Cunnane Town Planning the response to NRW's comments with regards to bats identifies that should post-consent/preconstruction surveys reveal unacceptable collision risks to bats then a curtailment scheme will be suggested on specific turbines. The submission and agreement of details of pre-commencement surveys will need to be secured through a planning condition, proposed curtailment measures including the criteria at which curtailment should be applied and the timing/winds speeds in which curtailment would occur should also be identified within a Protected Species Protection Plan.

In NRW's response dated 22nd December 2014 an objection to the application was raised due to lack of transparent Habitats Regulations Assessment for the River Wye SAC. In order to address this a Habitats Regulations Assessment Screening Report produced by ADAS dated February 2015 has been submitted.

As the Competent Authority with regards to projects requiring planning permission PCC are required by Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) to assess the potential for projects to impact European Designated sites, as such the information submitted has been used to undertake a Habitats Regulations Assessment Screening has been undertaken for the River Wye SAC.

Having reviewed the information provided by the applicant as well as comments received from NRW it has been determined that the proposed development would not result in a likely

significant effect to the SSSI's, River Wye SAC and/or its associated features – I have attached a copy of the Screening Assessment for your records.

Should you be minded to approve the application it is recommended that planning conditions are included to secure the following:

- Construction Environmental Management Plan (CEMP) – submission prior to commencement of development. The CEMP shall cover the periods of site clearance, construction and the restoration of all work areas and shall include:
 - Detailed method statements
 - Contractor arrangements
 - Reporting and liaison mechanisms between the contractor, Ecological Clerk of Works (ECoW), the local planning authority and NRW
 - Monitoring and contingency proposals for implementation
 - Pollution Prevention Plan
 - Invasive Non-Native Species Control Plan
- Protected Species Protection Plan (PSPP) – submission prior to commencement of development. The PSPP will need to include
 - A detailed Pre-commencement Survey Programme including specification for pre-commencement surveys to be undertaken for (but not limited to) bats, otter, curlew, water vole, badger, great crested newt and reptiles and include:
 - survey methodology
 - schedule and timing
 - the development of casualty risk models for bats
 - Details of specifications for Mitigation or Reasonable Avoidance Measures including in relation to bats, great crested newts, otters, reptiles, breeding birds, water vole, pillwort and badgers to ensure their protection throughout the pre-construction, construction and operational phases of the development
- Habitat Management and Enhancement Plan – submission prior to commencement of development This plan will set out detailed nature conservation management and enhancement objectives including the management, restoration or creation of priority habitats and/or species, and a timetable for its implementation. The plan will need to include confirmation of the deliverability of the identified measures.
- Confirmation of appointment of a suitably qualified Ecological Clerk of Works (ECoW) to be employed on the development – submission prior to commencement of development
- Submission of an Ecological Monitoring Plan (EMP) – submission prior to commencement of development. The EMP will need to include details of monitoring of Ecological features through construction, operation and decommissioning of the development, the monitoring will also need to be linked to appropriate contingency plans and identify when results would trigger implementation of relevant contingency measures identified in the CEMP. The EMP shall also include the monitoring arrangements for the Habitat Management Plan (HMP) and Protected Species Protection Plan (PSPP).
- It is recommended that the wording of the conditions to secure the above includes provision for the submitted details to be reviewed for approval by PCC and Natural Resources Wales.

- Response dated 12th April 2017

I have realised that in my previous response to planning application P/2014/0672 I have not made specific reference to consideration of impacts to SSSIs as a result of the development, whilst I did not directly refer to this in my response I confirm that potential for the development to result in negative impacts to these designated sites and or their associated features was considered and following the receipt of additional information it is considered that the proposals subject to adherence to the mitigation measures identified would not result in negative impacts to the SSSIs or their associated features.

The following SSSI are present within 5km of the proposed development consideration of the potential for impact based on the type of SSSI is provided below:

- River Ithon SSSI (also designated as River Wye SAC)
- River Wye (Tributaries) SSSI (also designated as River Wye SAC)

The mitigation measures identified within the Habitats Regulations Assessment Screening Report produced by ADAS with regards to the River Wye SAC are also applicable to demonstrate protection of the associated SSSIs which form part of the River Wye SAC. Having concluded that the measures identified are acceptable and appropriate to avoid harm to the SAC it is also considered that these are appropriate to avoid harm to these SSSIs

- Banc Hirllwyn SSSI – areas of acid grassland vegetation and the nationally scarce maiden pink
- Cae Cwm-Rhocas SSSI - large hay meadow supporting an unusual plant community that has strong affinities with those found in certain flood-meadows
- Cae Llwyn SSSI - an excellent example of a traditionally managed herb-rich meadow supporting both "wet" and "dry" plant communities
- Caeau Coed Mawr SSSI - one of the most extensive areas of agriculturally unimproved grassland remaining in the area, the site also contains a short stretch of the River Edw
- Graig Fawr SSSI - good examples of both acidic and calcareous grassland; for its woodland; and for its lichen community developed on volcanic rocks.
- New Castle Meadows SSSI - good example of species-rich pasture and hay meadow

The above SSSIs are designated for vegetation features, the features would not be directly impacted by the proposed development. Indirect effects e.g. dust, pollution etc. have also been considered and the mitigation measures identified within the ES and HRA Screening Report regarding construction and decommissioning phases of the development are considered to be appropriate to minimise any potential negative impacts to these SSSIs.

- Radnor Forest SSSI - well developed submontane heath communities over thin blanket peat, upland breeding birds
- Glascwm and Gladestry Hills SSSI - excellent example of heather moorland of a predominantly dry heathland type, The site is of high ornithological interest for moorland birds, it has one of the largest red grouse populations in Wales

In addition to the vegetation components of these SSSIs ornithological importance for these sites has also been identified, having reviewed the surveys undertaken to assess impacts to birds from the proposed wind farm as well as the additional information submitted with regards to the survey methodology used to assess the potential impacts it is considered that the surveys have been undertaken in accordance with the recognised guidelines and the assessment results provided demonstrate that the development would not result in significant

negative impacts to bird species identified during the surveys – as such it is considered that the proposed wind farm would not have a negative impact to the mobile features associated with these SSSIs

- Howey Brook Stream Section SSSI – Geological Importance

This SSSI is designated for its geological interest.

Apologies again for the omission of this information in my previous response.

- Response dated 19th April 2017

In Hannah Powell's response to this application dated 20th August 2014 she asked for clarity regarding the potential for the site to support golden plover – the ES stated that golden plover did not breeding on the site of the proposed development and that the nearest records were 35km to the west – however it was identified by Hannah Powell that golden plover were known to breed on the Radnor Forest SSSI within 5km of the site.

Given the identification of breeding populations of this species in a closer proximity than that identified within the ES clarity was sought regarding the potential for this species to breed on the proposed windfarm site i.e. were suitable habitats present for breeding purposes.

The statement provide by the ADAS ecologist Cunnane Town Planning letter dated 23rd March 2015 provides further detail regarding the suitability of the site to support golden plover, surveys undertaken only recorded small number s of this species during spring/autumn migratory periods – the habitats present comprise improved, poor semi-improved and semi-improved grassland considered to be largely unsuitable for feeding and wholly unsuitable for breeding.

Given the further information provided regarding the habitats and suitability of the site to support breeding golden plover it is considered that whilst the ES had not identified the presence of breeding golden plover within 5km of the site at the Radnor Forest SSSI the assessment that the proposed wind farm site is not used by this species for breeding is appropriate due to lack of suitable habitats required by this species during breeding this is further supported by low numbers and timings during which this species was observed during the breeding bird surveys and VP surveys.

Welsh Government as Highway Authority

- Response dated 13th August 2014

I refer to your consultation of 23 July 2014 regarding the above application and advise that the Welsh Government as highway authority for the A44 trunk road directs that the application remains pending until such time as the information below is provided:

1. Within the ES, it has been indicated in 13.8.2 that the movement of Abnormal InvisibleLoads (AIL's) would 'potentially' include a police escort. In addition, the Traffic Management Plan (TMP) describes that the route and movement will also have a Police

escort. The Welsh Government and the Police would require the proposed AIL's to be escorted and the required TTRO(s) to be in place in advance of any proposed movements.

2. Section 3 of the TMP focusses on the sTMP and the movement of AIL's. Reference is made to the use of the proposed Newtown by-pass if completed by the time of their deliveries or alternatively use of the proposed Mochdre link. The document refers to the developer consortium proposing to construct the link. Further information is required detailing whether the applicant is part of the consortium? If not, what guarantees do they have that it will be put in place?

3. If the applicant is a partner they are assuming that all wind farm proposals south of Newtown will be given consent and that the link will be in place when they need it. What proposals does the applicant have if the proposed routes (i.e. sTMP and/or NewtownBypass are not available or in place).

4. Section 4 of the TMP includes details for hold points. This information has been produced using an OS background and in order to accurately assess the viability of these proposals the applicant would need to submit detailed proposals based on a topographical survey at a scale not exceeding 1:500.

5. Section 5 of the TMP identifies a number of proposed signs that will advise the travelling public of wind farm deliveries. The design and proposed location will need to be agreed/approved by the Highway Authority.

6. At the end of the TMP there are various swept path drawings. These identify turning movements on a number of junctions south of Crossgates. These drawings imply that the AIL's journey is from the south, whilst the text states the route is from the north. Clarification is required about the actual route proposed for the AIL's.

7. If the proposed route is from the north, swept path drawings(s) will need to be provided for the bends along the A483 south of Newtown that will need to be negotiated by the proposed AIL convoys. Currently the application does not include, (within red line boundary), any additional land that may be required to allow the proposed AIL(s) to manoeuvre these tight bends. Therefore the applicant must be able to demonstrate that the above manoeuvre is possible without any additional land being required under their control or ownership or it must be included within their application.

8. All drawings including those already supplied (if relevant to the proposed route), will need to be submitted based on a topographical survey at a scale not exceeding 1:500.

If you have any further queries, please contact Darryn Hill on 029 20826676 or darryn.hill4wales.psi.gov.uk

- Response dated 16th December 2015

I refer to your consultation of 25 November 2015 regarding the above application and advise that the Welsh Government as highway authority for the A44 trunk road directs that the application remains pending until such time as the information below is provided:-

1. Detailed dimensions are required at all the proposed layover / holding areas, together with a mid point dimension if they are intended to be located on a curve (long or wide loads at mid point would reduce available width).

The following points should be brought to the attention of the applicant:

a) The AIL's are intended to travel from north Wales to the site, recent loads have actually arrived in a south Wales port and travelled northwards then into England and then back into Wales using the A44. This would seem to be a far quicker and easier route.

b) It is noted that the intention is to run the loads from Ellesmere Port, I would point out that Ellesmere Port is currently suffering a shortage of space and is likely to suffer at the time of these deliveries. An alternative Port put forward by other developments is Liverpool.

c) It must also be highlighted that the recent AIL's at Crossgates managed to negotiate the roundabout by straddling the splitter islands once the bollards were removed and avoided extensive works being undertaken.

d) Specific details regarding timing, number of vehicles etc. shall be agreed in consultation with Police, WG, Agents and UA's as appropriate.

- Response dated 22nd March 2017 following an email from Gwilym Davies to Welsh Govt seeking confirmation of whether the matters raised could be addressed by condition as per their position in relation to the recent Bryn Blaen application.

With reference to your recent correspondence, I can confirm that the Welsh Government would be willing to accept the conditions from page 25 onwards [of the Bryn Blaen decision notice].

Natural Resources Wales

- Response dated 22nd December 2014

Thank you for consulting Natural Resources Wales on this application. This letter is NRW's response to the consultation letter dated 18th July 2014.

NRW note that this is a proposed development for 7 wind turbines, 110m to blade tip that lies outside a TAN 8 Strategic Search Area for major wind farms.

NRW agree with the findings of the Landscape and Visual Impact Assessment, which indicate there would be significant landscape and visual adverse effects within 5 km of the proposal over an area extending in an arc clockwise from the North to the South west of the site. We also advise that there would be significant adverse effect upon the viewpoint at Gwaunceste Hill. Therefore, NRW advise that the proposed development would have significant adverse regional effects upon landscape and visual resource. We also note that the LVIA has not considered the impact of infrastructure associated with this scheme namely roads and grid connection. We would have expected this to have been considered in the LVIA.

However, NRW can confirm that no nationally designated landscapes will be impacted by this development.

Natural Resources Wales objects to the application on the grounds of:

- lack of a transparent Habitats Regulations Assessment for the River Wye SAC.

Our detailed comments are set out below in Annex 1.

Annex 1

Two operational small wind turbines 14m to hub height lie at 1km and 2.5km to the south of the proposed Hendy wind farm site and one turbine 21m high to rotor tip lies at 3.5km to the north.

The site of the Pentre Tump wind farm proposal for 3 turbines 110m high to rotor tip, lies 6km to the south east of the Hendy proposal and was dismissed at appeal (Planning Inspector's report January 2014).

Landscape and visual assessment

NRW generally concur with the LVIA methodology and assessment of predicted effects, but are concerned that the LVIA underplays the significance of effects upon views from some locations; the effects upon landscape character as a result of the associated infrastructure of access road, substation and grid connection have not been given sufficient discussion and assessment; the representation of the development illustrated within the photomontages does not include the associated infrastructure or worst case viewing conditions; and the scope of the cumulative impact assessment needs revisiting following the appeal dismissal of the Pentre Tump development.

LANDMAP evaluates the visual and sensory landscape resource of the area to be of local value (Moderate) for the plateau landscape where the site is proposed and of regional value (High) for the high scenic quality of the adjacent upland hills and ridges of Radnor Forest and Gwaunceste Hill. We also consider Llandegley Rocks to the north of the site to be of high scenic quality – higher than assessed by LANDMAP, which in considering a more extensive area of landscape at level 3 assessment, has averaged out and in this case underplays the scenic qualities of the northern extent of this area. These qualities are experienced within views from the A44 and wider public rights of way network to the north east and east.

Irrespective of the overall landscape evaluations - attractive views, tranquil, exposed, remote, wild and spiritual perceptual qualities can be experienced across the area. Traditional upland and lowland farmed rural character, limited landscape change and lack of modern development is both evident within views of the area and also conferred by LANDMAP historic landscape evaluation, which is of national value (Outstanding) in the area of the site and of regional value (High) for much of the remaining area.

There are frequent locations within the area from which local and middle distant views of the development would be possible, including the public right of way network (strong regional recreational network of routes including byways open to all traffic, bridleways, footpaths and open access land); Sustrans National Cycle Trail 825; the A44 (major route used by local communities and visitors to Mid Wales from the English Midlands) and A481 (major route used by local communities). Many of these routes have elevated vantage points, above the

more visually enclosed field pattern of the valleys and would allow open and prolonged views of the development. The scale and prominence of the development would create a new landmark in the landscape, with movement from rotor blades which attract attention and in the worst cases control and command views.

NRW consider the landscape and visual sensitivity of the area, which includes valued perceptual qualities of ridges and uplands of high scenic quality; attractive views, tranquillity and historic landscape integrity across much of the area; and the areas access and openness to views from the public right of way network, open access land, national cycle trail and main roads; is a context within which the proposed development cannot be accommodated without significant adverse regional scale effects.

Ecology

Protected sites (SSSI and SAC)

The ES1 states that “the scheme lies within 3km of one internationally-designated site, the River Wye Special Area of Conservation (SAC), and this raised the requirement to consider the proposal in terms of its effects on the site. Full consideration was given to this and it was concluded that there would be no effect.” However the ES does not give any details of how this conclusion was arrived at. There are watercourses within the site that drain into the River Wye SAC, providing a hydrological link to the SAC.

Due to the proximity to designated watercourses, the project will need to be considered under the Conservation of Habitats and Species Regulations 2010 (as amended). Given the current information available to us NRW would advise that the project is likely to have a significant effect on the European site and a Habitats Regulations assessment is required. The HRA will need to rely on many of the mitigation measures in a Construction Environmental Management Plan (CEMP) and we advise that a draft CEMP is provided at the pre-application stage for comment and to support the HRA.

Caeau Coed Mawr SSSI, Graig Fawr SSSI and Howey Brook Stream Section Sites of Special Scientific Interest (SSSI) are within 3 km of the site boundary. NRW does not consider there is the potential for these SSSI’s to be adversely affected by the proposal because of the distance between the application site and the SSSIs and/or because the features of the sites are not sensitive to windfarm development.

Protected Species

Protected Species Protection Plan

NRW advise that a Protected Species Protection Plan is provided by the applicant predetermination, which could be incorporated into the Construction Environmental Management Plan, to guide the Ecological Clerk of Works.

Regulation 9 (3) of the Conservation of Habitats and Species Regulations 2010 (as substituted) requires public bodies in exercising any of their functions, to have regard to the requirements of the 1992 ‘Habitats’ Directive (92/43/EEC) and the 2009 ‘Birds’ Directive (2009/147/EC) so far as they may be affected by the exercise of those functions. Our advice

is given in accordance with Regulation 9(1) of these regulations under which we are required to exercise our functions so as to secure compliance with the Habitats and Birds Directives.

The presence of a protected species is a material planning consideration under the provisions of Planning Policy Guidance Wales and Technical Advice Note No. 5. The applicant has consequently undertaken survey and assessment to inform the decision making process. We are generally satisfied with the surveys undertaken, which show that the site supports species protected under the provisions of the Wildlife and Countryside Act 1981 (as amended); the EC Habitats and Species Directive (as implemented by the Conservation of Habitats and Species Regulations 2010 (as amended)). In this case bats and great crested newt are the species considered most likely to be affected by the proposal. The proposal has the potential to cause

- (i) Disturbance, killing or injury to newts and/or loss or damage to terrestrial habitats during the construction phase of the proposal; and
- (ii) killing or injury to bats during the operation phase of the proposal

Bats

The surveys confirmed that several bat species were recorded within and in the environs of the application site, In NRW's view, the assessments and conclusions on Myotis species of bat are satisfactory. In respect of assessments, limited contextual information was provided in the ES.

Both Soprano and Common Pipistrelle were recorded. Of these, Soprano Pipistrelle appears to be the species most likely to be affected by the scheme. Relatively low numbers of bats were recorded. However, only limited contextual information was provided in the ecological submission.

Of the species recorded, Noctule bat is considered to be of highest risk in terms of possible impacts.

Noctule bat was recorded at 5 surveillance points and the maximum number of passes was 16. Numbers of passes was suggested as being low. It was further suggested that passes could be a single individual bat. However, typical size of a Noctule roost may be between 20-30 bats and only limited contextual information was provided in order to assess the scheme in terms of impact on conservation status.

NRW advise a condition requiring surveillance, and if impacts are subsequently detected, the requirement of curtailment as a contingency measure or prescription. Bat mitigation measures should be included in the Protected Species Protection Plan, which should also confirm that turbine blade tips are a safe distance from habitat features, in line with current guidance.

Great Crested Newt

Owing to the presence of a population of great crested newt on the application site, we advise that development proceeds under a licence issued by NRW, who is the appropriate authority responsible for issuing licences under Regulation 53(2)(e) of the above Regulations. This licence can only be issued for the purposes of: "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment." Furthermore, the licence can only be issued by NRW on condition that there is: "no

satisfactory alternative”, and that “the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.”

In our view the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of great crested newt, provided that any consent is subject to the imposition of planning conditions or obligations in respect of the following: a. Submission and implementation of an approved reasonable avoidance scheme to the satisfaction of the LPA. We advise this scheme needs to include measures that will be undertaken during the construction phase of the scheme.

Otter

The environmental assessment showed that Otters use the site, particularly the River Edw corridor. The ES does not adequately assess the magnitude and significance of potential impacts on this species. For example, the ES states that it is not considered that there is likely to be any serious disturbance to otter because otter usage of the site is largely after dark. However it is clear that construction activity is intended during hours of darkness. We advise therefore that further mitigation measures are detailed by the applicant, in the Protected Species Protection Plan, to avoid significant effects on otters.

Badger - A badger sett was recorded within the site. According to the ES2, the badger sett is located at least 250m from proposed turbine locations, and access tracks would be located at least 75m from the set. Therefore no significant impacts on badgers are expected as a result of the proposal. NRW advise that the mitigation measures for badgers included in the ES are included in the Protected Species Protection Plan. We would advise that a suitably worded condition is included in any planning permission your authority is minded to grant, for this plan to be agreed with the LPA in association with NRW.

Water Vole - Water voles are given full protection under Part I Section 9 of the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take this animal, damage, destroy or obstruct access to any place that it uses for shelter or protection or disturb it while it is occupying such a place. A licence is generally required before carrying out any activity which could lead to any of the above. Surveys were carried out for water voles but no signs were found. Owing to the protected status of water voles, suitable mitigation measures should be included in the Protected Species Protection Plan.

Birds

Curlew - Curlew was recorded as a breeding species in 2013, in two areas either side of the access track in the southern part of the site, in the vicinity of Pye Corner. Recent research has shown that displacement impacts on breeding curlew occur in particular during the construction phase of windfarm developments (Pierce-Higgins et al, 2012). The 2013 breeding territories were situated just over a km from proposed turbine locations; research indicates that displacement impact can occur up to 800m from construction areas. NRW therefore advise that, in order to ensure curlew are not impacted by the construction phase of the development, that pre-construction survey is carried out in the spring in order to identify the location of breeding curlew. If curlew are found within 800m of any construction areas, further consideration of mitigation measures will be required, focussing on avoidance of construction disturbance during the breeding season.

Other bird Species - Breeding survey visits, following Brown and Shepherd methodology, were carried out in 2012. The results of these surveys show low breeding activity for Barn Owl, Red Kite, Quail, Lesser Redpoll, Tree Pipit, Linnet, Song Thrush, Grasshopper Warbler and Willow Warbler. The ES3 concluded that the quality of the habitat on the majority of the site is poor for breeding birds, with the best areas located on the south-eastern and north-western boundaries and on the felled coniferous plantation.

A specific survey for Red Kites conducted during spring and summer 2012 found that two or three pairs of Red Kite were suspected to be breeding within a 2 km buffer zone from the core study area.

Winter walkover survey following Brown and Shepherd methodology revealed that Lapwing, Golden Plover, Snipe, Jack Snipe, Red Kite, Kestrel, Buzzard, Goshawk, Sparrowhawk and Starling were present on the development site. The latter occurs also as a large winter roost. Vantage point surveys (VPs) were conducted according to Scottish Natural heritage (SNH) methodology and standard risk collision assessment methodology was employed for target species recorded within the collision risk window, these being, Golden Plover, Starling and Red Kite. The risk of collision is considered to be low or very low for all target species and the significance of the impacts on their populations is assessed as Minor (non-significant) 4

The effects on birds as a result of the removal of habitat for the construction of the windfarm infrastructure are anticipated to be negative (moderate significance) 5.

We note that the effects on birds due to displacement through indirect loss of habitat if birds avoid the windfarm area and surrounding land due to turbine operation, maintenance/visitor disturbance, and land use change that may happen as a result of improved access to the site with the construction of new track, have not been considered within the ES.

Pillwort - Pillwort *Pilularia globulifera*, a red data list plant, is present at Sarn Pool in the north of the site. It is a Nationally Scarce plant and is a section 42 species. The UK holds a significant proportion of the world population of this fern, which is endemic to Western Europe. The ES considers the pond therefore to be of County Level importance. Protection of this important plant should be incorporated into the Protected Species Protection Plan, and cover maintenance of the current favourable conditions (including grazing regime and hydrological state).

Biosecurity - Biosecurity is a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non native species (INNS) and diseases. We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA. This assessment should 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 development and restoration.

Site Hydrology and Hydrogeology - Hydrological links between the development site and the River Edw, an important tributary of the River Wye, are identified in the ES. The River Edw supports features of the River Wye SAC, such as white-clawed crayfish. A Habitats Regulations Assessment is required, as discussed above.

The ES identifies the following potential effects on the hydrology and hydrogeology during the construction phase:

- disruption of natural flow pathways;
- damage of soils structures and changes to local soil hydrology;
- increased infiltration rates;
- erosion of exposed ground;
- silt laden runoff entering in surface watercourses;
- pollution due to concrete residues and accidental spillages.

Some of those effects, such as erosion of track surfaces, disruption of natural flow and changes in the run-off characteristics of the site could continue during the operational phase. Potential impacts due to soil erosion, accidental spillages and pollution on surface watercourses are identified and 20 m buffer zones are included in order to avoid works near watercourses. Additionally, Construction Method Statements shall be produced and approved by NRW prior to commencement of the works.

The ES includes the following mitigation measures in order to minimise impacts on hydrology during the construction phase:

- boggy areas will be avoided;
- control of drainage and provision of temporary drainage routes;
- use of silt traps, settlement ponds, implementation of impermeable barriers and installation of cut-off drains;
- suitable urban drainage systems incorporated into the designs of the tracks;
- use of a geotextile base to minimise compaction and drying out of materials;
- construction of suitable passages;
- work will follow SEPA/EA PPG and CIRIA guidance;
- timing of works to prevent working in wet conditions;
- scheduling construction activities to minimise area and period that soil will be exposed;
- revegetation;
- micrositing of turbine locations;
- use of sulphate-resistant concrete;
- use of best working practises.

The potential impacts on the hydrology of the site during the decommissioning phase are expected to be similar to those during the construction phase.

According to the evaluation of significance included in the ES6, all the residual effects after mitigation are assessed as negative non-significant or negative minor significance.

These measures should be incorporated into a Construction Environmental Management Plan and included as conditions in any planning consent given. Natural Resources Wales will advise the appropriate Authority on the adequacy of the final CEMP. It should include all measures taken to prevent detriment to the environment and any contingency plans with particular reference to the minimisation of pollution to watercourses from silt and storage of fuels and other hazardous materials. Current waste management legislation should be adhered to. New roads and tracks should be constructed in a way, and of material, that will ensure suspended soils are not washed off site and discharged into the water environment during heavy rain or storm events. Construction of tracks and turbines and how the control measures will be retained or amended over the lifetime of the development should be included in the CEMP.

Peat

While the site has been shown not to support substantial areas of deep peat, NRW regards any potential damage to peatland habitats and carbon stores to be a significant issue. In line with section 42 (NERC Act 2006) priority species and habitats of conservation concern in Wales, we would expect that disturbance and/or destruction of peat would be avoided as far as possible, and where it was not possible, such impacts would be minimised.

Peat depth maps showing the extent and depth of peat deposits have been produced, which show that the overall depth of peat recorded was found to vary between shallow deposits to localised areas of peat, just over 1 metre deep. The ES states that the assessment of the impacts of the proposal on peat is not necessary because no construction is planned on peaty areas. The access track in the southern part of the site may pass close to deeper areas of peat but the scale of the figure makes it difficult to quantify.

Mitigation and Enhancement Measures

The Environmental Statement includes measures to avoid and mitigate for any significant adverse effects on the environment, including the micro-siting of tracks to avoid sensitive areas and timing of the works outside the main bird breeding season. However, they have not been collated into a Habitat Management Plan for the development, representing a statement of intent for measures that will be implemented. NRW advise that this is required prior to determination. NRW advise that a Habitat Management Plan is produced, detailing measures for enhancement of the site, prior to determination.

Pre-construction surveys for bat, badger and otter shall be carried out to assess changes in the distribution and use of the site. All works shall stop immediately and NRW contacted for further advice if new otter holts and/or badger setts are located near the working areas. A Species Protection Plan shall be agreed prior to commencement of the works, and an EPS license obtained when required.

A minimum distance of 20 metres between construction activities and water courses shall be maintained in order to avoid impacts on watercourses and associated habitats. Exposed pipelines adjacent to watercourses shall be capped at the end of each working day and trenches will be ramped in order to facilitate the exit of any animal that could be trapped in them. The speed shall be limited to 19mph for all construction traffic.

Monitoring and surveillance, during and post- construction

We recommended the inclusion of details of a monitoring programme covering all the natural heritage interests affected by a scheme through construction, operational & decommissioning phases of the development. We note that the ES7 states that a program of monitoring will be agreed with NRW prior to the development being commissioned but further detail is not provided.

Monitoring of the identified ecological features likely to be adversely affected must be linked to appropriate contingency plans and monitoring results should trigger the implementation of the relevant contingency measures identified in the various Environmental Management Plans (EMPs). Monitoring must be related to good quality recent and accurate baseline data

and include controls. Monitoring should be started at an early stage in the project and be carried out over a sufficient length of time to demonstrate positive or negative trends. It may be necessary to amend construction procedures if the monitoring programmes identify adverse impacts linked to construction or post construction activities and NRW would wish to be consulted in such an event.

Natural Environment and Rural Communities (NERC) Act (2006)

Please note that we have not considered possible effects on all local or regional interests. Therefore, you should not rule out the possibility of adverse effects on such interests, which would be relevant to your Authority's general duty to have regard to conserving biodiversity, as set out in section 40 of the Natural Environment and Rural Communities (NERC) Act (2006). This advice includes any consideration of the planned provision of "linear" and "stepping stone" habitats. 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 third sector 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).

ANNEX 2: EUROPEAN PROTECTED SPECIES - LEGISLATIVE PROTECTION

European Protected Species include:

- Great crested newt (*Triturus cristatus*)
- Common otter (*Lutra lutra*)
- all British bats

All European Protected Species and the places they use to rest and breed are legally protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 – the Habitats Regulations. The Habitats Regulations transpose the requirements of the Habitats Directive (Council Directive 92/43/EEC) into UK law.

Under Regulation 41 of the Habitats Regulations: -

A person commits an offence if he or she:

- deliberately captures, injures or kills any wild animal of a European protected species;
- deliberately disturbs animals of any such species;
- deliberately takes or destroys the eggs of such an animal; or
- damages or destroys a breeding site or resting place of such an animal.

Disturbance of animals includes in particular any disturbance which is likely:

To impair their ability to survive, breed or reproduce, or to rear or nurture their young, or,

(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
(b) to significantly affect the local distribution or abundance of the species to which they belong.

Under S.9(4)(b) and (c) the Wildlife and Countryside Act 1981 (as amended):-

A person commits an offence if he/she intentionally or recklessly

- disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or
- obstructs access to any such structure or place.

Where the legal protection afforded European protected species under the Habitats Regulations is likely to be compromised by a proposed development, the development may only proceed under a licence issued by the National Assembly for Wales (NAW). Under Regulation 53(2) of the Habitats Regulations, NAW may issue licences for the purposes of:

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

Furthermore, a licence can only be issued by NAW if the following two conditions are also met:

That there is ‘no satisfactory alternative’ (Regulation 53(9)(a)), and that: ‘the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range’ (Regulation 53(9)(b)).

In addition, Regulation 9(5) of the Habitats Regulations confirms that all competent authorities, in exercising any of their functions, must have regard to the provisions of the Habitats Directive so far they may be affected by the exercise of those functions.

The principle consideration of any scheme that affects a European Protected Species is whether the plan or project is detrimental to the “Favourable Conservation Status” of the affected species. The Habitats Directive (Article 1 (i)) defines Favourable Conservation Status as:

- "the sum of the influences acting on the species concerned that may affect the long term distribution and abundance of its population within the territory" and "favourable" when:
- "the population dynamics data on the species concerned indicate that it is maintaining itself on a long term basis as a viable component of its natural habitats,
- "the range of the species is neither being reduced nor is likely to be reduced for the foreseeable future", and
- "There is, or will probably continue to be, a sufficiently large habitat to maintain its population on a long term basis".

- Response dated 3rd March 2017 and 18th December 2015

We have the following comments to make on the latest submission

Protected Sites:

Habitats Regulation Assessment - The ES states that the proposed development lies within 3 km of the River Wyes Special Area of Conservation (SAC). In our letter dated 22nd December 2014 we objected to the determination of the planning application until a transparent HRA for the Ricer Wye SAC had been prepared.

We acknowledge the updated HRA that has been prepared by ADAS in support of the planning application dated February 2015.

We are satisfied as demonstrated in the HRA, that the proposed development will not have any significant effects on any protected sites providing that the mitigation prescribed in the HRA will be implemented in full.

We consider as previously advised that all the mitigation identified in the latest HRA shall be detailed in the CEMP which shall form subject of a pre-commencement condition of any planning consent given for the development.

Protected Species Protection Plan

Protected Species Protection Plan (PSPP) - The approval of a Protected Species Protection Plan (PSPP) should form part of a pre-commencement condition of any planning consent given for the proposed development.

The PSPP shall include all of the mitigation outlined in the ES to ensure that the development has no detrimental effect of the maintenance of the favourable conservation status of protected species.

Habitat Management Plan (HMP)

The approval of a Habitat Management Plan (HMP) should form part of a pre-commencement condition of any planning consent given for the proposed development. As we have previously advised, the HMP shall include all of the mitigation measures outlined in the ES.

To conclude, NRW does not object to the proposed development. We thank you for consulting with NRW.

NHS Wales

- Response dated 6th August 2014

We have consulted our technical advisors within Public Health Wales and our comments are based on the information contained within the application documentation.

The Health Board recognises that:

- (a) The most common concerns expressed with regard to the siting of wind turbines are related to noise and visual impacts.
- (b) The response to noise may vary within a population and may depend on the characteristics of the sound including intensity, frequency, complexity and duration as well as background noise levels and the perception of noise as a result of being able to see turbines.
- (c) Many people are concerned about the possible effects of noise exposures on health.
- (d) In terms of quality of life and well-being, it is plausible that people can be adversely affected by exposure to environmental noise.
- (e) Whilst exposure to environmental noise from aircraft and road traffic has been linked with annoyance, sleep disturbance, raised blood pressure and, as a consequence, increased risk of coronary heart disease, evidence that environmental noise impacts adversely on mental health is inconclusive. Evidence to suggest there are links

between wind turbine-generated noise exposures and adverse health outcomes is inconclusive.

- (f) It should be noted that the absence of strong evidence on the existence of health effects from wind turbine noise should not be taken as proof that such effects do not/cannot occur.
- (g) Further helpful information relating to the health impacts associated with windfarms is provided in a position statement developed by the Health Protection Agency (prior to it becoming part of Public Health England). This is available at: http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_0/1284473361539

The Health Board requests that the developer satisfies the Local Authority that all necessary actions are taken to mitigate against potential impacts associated with wind farm generated noise. Consideration should also be given to the cumulative impacts from the proposed development and other existing or planned developments.

Ministry of Defence – Safeguarding

- Response dated 7th August 2014

Thank you for consulting the MOD about the above planning application in your correspondence dated 18/07/2014. I write to advise you that the MOD has no objections to the proposed development

The application is for 7 turbines at 110 metres to blade tip. This has been assessed using the grid reference below as submitted in the planning application or in the developers' pro-forma.

Turbine Easting Northing

1 SO 13429 60509
2 SO 12652 60124
3 SO 12539 59737
4 SO 13016 60258
5 SO 12911 59867
6 SO 13450 60005
7 SO 13591 59753

In the interests of air safety, the MOD requests that the turbines are fitted with aviation lighting. The turbines should be fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

Defence Infrastructure Organisation Safeguarding wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

If planning permission is granted we would like to be advised of the following;

- the date construction starts and ends;

- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

This information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

If the application is altered in any way we must be consulted again as even the slightest change could unacceptably affect us.

I hope this adequately explains our position on the matter. If you require further information or would like to discuss this matter further please do not hesitate to contact me.

Cadw

- Response dated 5th September 2014

Thank you for your letter received on 23 July 2014 inviting Cadw's comments on the planning application for the proposed development as described above.

Cadw's role in the planning process is not to oppose or support planning applications but to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled ancient monuments or Registered Historic Landscapes, Parks and Gardens. It is a matter for the local planning authority to then weigh Cadw's assessment against all the other material considerations in determining whether to approve planning permission.

The advice set out below relates only to those aspects of the proposal, which fall within Cadw's remit as a consultee. Our comments do not address any potential impact on the setting of any listed building, which is properly a matter for your authority. These views are provided without prejudice to the Welsh Government's consideration of the matter, should it come before it formally for determination.

GENERAL

According to the size classifications set out in Table 3.1 of the Welsh Government published 'Practice Guidance, Planning Implications of Low Carbon and Renewable Energy' (February 2011) these turbines can be considered 'large' turbines of between 65 and 135m in height. The proposed wind farm is to be located towards the northern side of a wide basin overlooked on all sides by uplands, notably Carneddau to the SW and Llandegley Rocks to the N. Most of this area lies under common and rough or improved pasture.

The advice set out below concerns potential impacts of the development on scheduled ancient monuments within the study area and is based upon the relevant sections of the EIA supplied by the applicant and accessed on the Powys County Council Planning Portal on 15 August 2014. These are: Vol. II (photomontage figures 8.1-12), Vol. III Chapter 8 (Historic Environment Desk Based Assessment (HEDBA)) and Vol. IV (ZTVs and viewpoints 1, 4 and 9). Additional information has been used from the Clwyd-Powys Historic Environment Record (HER), Cadw's own monument records and mapping, and its regional Inspector of Ancient Monuments' knowledge of the individual monuments and the area. Site visits were made to

the monument RD264 and the area to the south of the site boundary between RD147 and RD 112.

SOURCES AND IDENTIFICATION OF MONUMENTS

A total of 53 scheduled ancient monuments (SAMs) have been identified within both the 'Outer' study area of 10km and the ZTV supplied by the applicant, four of which fall within the 'Inner' study area of 1.5km (RD112, RD113, RD147, RD264). The HER also records 104 undesignated assets within the inner study area. Potential impacts on the settings of SAMs within the 'Inner' study area are discussed in detail in HEDBA along with a number of more distant monuments including the motte and bailey RD003 and a series of Prehistoric funerary ritual cairns, barrows and standing stones (RD003, RD008, RD027, RD034, RD069, RD109, RD167, RD238, RD239 and RD240). Potential impacts on the settings of monuments over 5km from the development site were not considered. Cadw is satisfied with the sources consulted in the HEDBA and confirm that the list of SAMs included within the study and listed in Section 7 is accurate.

The EIA reports consultation of a broad range of cartographic and aerial photographic sources and also carried out field visits to several monuments in the study area, yet these investigations do not appear to have identified many new archaeological sites not already recorded in the HER or NMR, with the exception of a field bank within the development boundary. For example the scheduled hillfort RD264 situated on an eastern summit of Llandegley Rocks forms part of a broader complex of possibly contemporary features, including a much larger defended enclosure of potential national importance extending across the adjacent summits to the W, which does not appear to have been identified in the walkover or aerial photo studies. Whilst a number of these sites are recorded in the HER and are included in the study, they form components of a small but archaeologically rich upland landscape which as a group is of arguably of greater collective significance than as assessed in the HEDBA as a series of individual sites.

Paragraph 4.1.3 of the HEDBA notes that site numbered 102 (the hillfort RD112) includes the pillow mounds 90 and 124-9 – 'but are not themselves recorded by Cadw as Scheduled Monuments'. To clarify, these features are located within a scheduled area, are noted in the scheduling description and are therefore designated monuments.

METHODOLOGY

Section 2.9 indicates that the system used to assess the magnitude of indirect impacts on historic assets is adopted from the Design Manual for Roads and Bridges (DMRB, 2007), a methodology that was designed specifically for linear schemes without a vertical element comparable to wind turbines. The predominant archaeological issues raised by the proposed development are indirect impacts on the settings of individual monuments and in this instance the use of a methodology designed specifically for this purpose such as 'The Setting of Heritage Assets' (English Heritage, 2011), which is referenced in Section 7 would have been more appropriate.

The DMRB methodology as set out in Tables 1-3 of Section 2 has direct implications for the assessment of the magnitude of impacts upon the monuments settings, most notably in its classification of the importance of monuments (Table 1). Using this system SAMs are determined to be of 'high' rather than 'very high' importance, which is reserved for World

Heritage Sites, absent from the majority of development areas. This therefore results in the automatic downgrading of the assessment of the significance of impacts on nationally important SAMs the results of which are set out in Table 3. This may have some bearing on the assessment of several SAMs in the study, which in Cadw's view underestimate the magnitude of impact as set out below.

POTENTIAL IMPACTS

There are to be no direct physical impacts on any of the above listed SAMs. The HEDBA however identifies that the turbines have multiple direct impacts on the settings of scheduled monuments. It is a concern that the visual impacts on the settings of scheduled monuments of the stone access tracks, hard standings, substation and other associated infrastructure included within the application are not addressed by the HEDBA, which can therefore be argued not to have comprehensively addressed the full impact of the development.

'INNER' STUDY AREA OF 0.5KM

RD147: Nant Brook Enclosure

This small rectangular earthwork is probably of medieval date and is a well-preserved example of a stock enclosure associated with a possible deserted rural settlement. The monument is almost enclosed within the development site, occupying low ground approximately 500m from the nearest turbine (T3) and 70m to the E of one of the proposed access tracks. Photomontage Fig 8.7 and the setting assessment in paragraphs 5.2.6-5.2.7 of the HEDBA indicate that the whole of Turbine 1 and the blade tips of T2-3 are likely to be visible from the monument, the remainder being screened by rising ground to the N as indicated by Photomontage Fig. 8.8. Paragraph 5.2.7 concludes that the impact of the development the setting of RD147 is likely to be 'moderate' and the significance of this effect as 'moderate / large', arguing that an existing small turbine visible 500m to the SE 'reduces the sensitivity of the monument to change'.

In Cadw's view this assessment underestimates the impact on the monument and it is not appropriate to consider the impact of the existing small turbine at a distance of 500m as being on the same scale as the impact of the much larger, and closer T1 as demonstrated in Fig. 8.7. Whilst this view indicates that T2-3 and the remaining turbines are likely to be only partially visible from the chosen viewpoints within the SAM, no consideration is made of the potential visibility of the turbines behind the monument when viewed from the approaches to the monument from lower ground to the S, E and W. Nor is the additional visual impact of the nearby access track considered in the HEDBA. The presence of the existing turbine should be seen as contributing to a cumulative impact on the monument. Cadw consider that the impact on the setting of this monument is a 'major' one and therefore should have a significance of 'large / very large'.

RD264: Llandegley Rocks Hillfort

This partially quarried hillfort of probable Iron Age date occupies a prominent summit at the eastern end of the Llandegley Rocks escarpment. It directly overlooks the proposed development site, being located 300m to the N of the site boundary and 1.3km to the N of Turbine 5. As requested by Cadw, inter-visibility between RD264 and the broadly

contemporary RD112 has been specifically examined within the assessment and is addressed separately below.

The scheduled hillfort forms an element of a broader series of probably contemporary features, currently undesignated but of potential national importance occupying the north-eastern summits of Llandegley Rocks, including a substantial larger enclosure encompassing two adjacent outcrops, at least one smaller ditched enclosure and a range of other features including, relict boundaries cairns and later house platforms. Whilst a number of these sites are recorded in the HER and have been included in the study, no consideration has been given to the group significance of the monuments or of the small but archaeologically rich upland landscape of which they form part.

Paragraph 5.2.15 of the HEDBA and Photomontage Fig. 8.9 indicate that all seven turbines will, be 'highly visible' from the scheduled hillfort. 5.2.15 concludes that the turbines will have a 'moderate adverse' impact on both the setting of RD264 and its visual relationship with RD112; due to the relative distance of the turbines from the monument, the significance of these impacts has been rated as 'moderate /large'. This assessment underestimates the severity of the impact on the setting of this monument and the adjacent undesignated, but potentially nationally important, group of features. Paragraph 5.2.14 states that the key setting of the hillfort 'is its location in an elevated, prominent position, providing extensive views across the landscape and to other similar sites in the vicinity' such as RD112 Graig Camp i.e. across the basin to the S. Fig. 8.9 clearly demonstrates that the turbines will dominate these significant views and interrupt lines of visibility with RD112, as stated in paragraph 5.2.15. Key views of the hillfort and associated features on the escarpment across what is presently an open landscape to the S are also likely to be significantly affected by the proposed development. Further potential impacts from the extensive stone surfaced access tracks, hard standings and ancillary structures are not considered, although these are likely to appear in views S from this monument and adjacent undesignated features. In Cadw's view the impact on the setting of this monument should therefore be considered a 'major' one and therefore should have a significance of 'large / very large'.

RD112: Graig Camp

This well-preserved hillfort occupies a ridge summit overlooking the development site from the opposite (southern) side of the basin to RD264 and its associated enclosures, approximately 1.3km SE of Turbine 1. As requested by Cadw, inter-visibility between the two monuments has been considered. However, a requested photomontage from within RD112 has not been produced, the setting assessment in paragraphs 5.2.9-5.2.12 and accompanying Plate 8 having been provided from an undisclosed vantage point 'close' to the monument, seemingly on markedly lower ground on one of the nearby public roads. This failure to provide an assessment from within the SAM itself or to consider stone access tracks, hard standings and ancillary elements of the development inevitably places questions on the accuracy of its conclusions.

Paragraph 5.2.9 of the HEDBA states that 'The key setting of Graig Fawr Hillfort is its location in an elevated, prominent position, providing extensive views across the landscape and to other similar sites in the vicinity', paragraph 5.2.12 concluding that the potential impact of the development on the setting of the monument is likely to be a 'moderate adverse' one and considered to be of 'moderate / large' significance.

The central and dominant position of turbines of this scale within the 'key setting' defined in 5.2.9, potential cumulative effects with the smaller turbine 500m to the N noted in 5.2.11 and the unassessed additional impacts of access and ancillary works dictate that the 'moderate adverse'/ 'moderate / large' assessments of the HEDBA are likely to underestimate the significance of such impacts on the setting of RD112.

Inter visibility between RD112 and RD264

As requested at scoping, paragraphs 5.2.8-15 of the HEDBA, along with photomontage Fig 8.9 and to a lesser degree the incorrectly sited viewpoint Plate 8 address potential impacts on the visual relationship between these broadly contemporary hill forts, which face each other across the basin in which the wind farm is to be located. However, as RD112 was not visited during the study Cadw does not consider inter-visibility issues to have been properly addressed from this monument.

Paragraph 5.1.15 notes that all seven turbines will be 'highly visible' from RD264 'interrupting the views from this monument to Graig Fawr Hillfort (RD112)', paragraphs 5.2.12 and 5.2.15 assessing the impact on the inter-visibility of the two monuments as 'moderate adverse'. Whilst the exact cultural, chronological and political relationship between the two monuments is unknown, the views between these broadly contemporary monuments across what may have been shared or disputed lower ground are highly significant ones, and indeed paragraphs 5.2.9 and 5.2.14 identify this lower ground as the key setting for both monuments.

The 'moderate adverse' assessment of 5.2.15 underestimates the scale and significance of the impact. Photomontage Fig. 8.9 clearly demonstrates that whilst inter-visibility will not be entirely obscured, views between the two monuments across this open, undeveloped and predominantly pastoral landscape would be substantially interrupted by the introduction of the proposed turbines. The grouping, scale, contrasting colour and moving blades of the turbines will present vertical and moving interruptions to such views and will therefore instead be considered to have a 'major' impact on both direct and peripheral sight lines between the monuments and therefore should have a significance of 'large/ very large'.

RD113: Cwm-Maerdy Standing Stone.

This Bronze Age standing stone occupies a hollow approximately 1.2km SE of and below T7. Whilst paragraphs 5.2.31 and 5.2.32 state that inter-visibility with the turbines is likely to be limited by its topographic location, this was assessed from a point 110m away from the monument, which may have some bearing on the conclusion of a negligible adverse impact. The conclusion is therefore questionable.

'OUTER' STUDY AREA OF 10KM

The HEDBA assesses in detail potential indirect impacts on 11 SAMS within this radius. Of these, impacts on RD008, RD027, RD034, RD069, RD077 RD109, RD167, RD238, RD239 and RD240 are considered to range from 'no change' to 'no change –negligible' , predominantly due to the relative distances of the SAMs from the development site and the screening effects of intervening topography and vegetation. However, RD008, RD027 and RD238 were not visited during this study, which must call into question the methodology used to reach this conclusion for these monuments. In the case of RD088 (Cefnlllys Castle), a

requested photomontage was not produced as access was not gained to the site, the view Plate 16 being taken from undisclosed point 'close to' but clearly not from the isolated ridge summit on which the castle is sited to command extensive views.

RD003: Castell Crug Eryr

This very prominent motte and bailey of probable Welsh origin and documented by Gilradus Cambrensis in the late 12th century is located approximately 2.1 km E of Turbine 7. Paragraph 5.2.20 states that the setting of the monument and its significance 'derives from its prominent and defensible position in the landscape and its inter-visibility with other major defended sites of the period, Key views from this motte and bailey are extensive, and are likely to have been to the north, west and south, over the downwards sloping landscape.' It is possible that the motte was deliberately positioned at the NW corner of the site to overlook and enhance its visibility from this landscape. Photomontage Fig. 8.11 demonstrates that all of the proposed turbines are to be visible from this monument as prominent features within such key views. However, paragraph 5.2.21 assesses the potential indirect impact of the development on the setting of RD003 as 'minor adverse' with a significance of 'moderate minor', citing distance. This underestimates the magnitude of impact on the monument, the proposed turbines forming dominant features central to the lower ground to the N and W which the castle overlooks; again the potential visual impact of the associated access tracks and infrastructure of the development has not been considered by the HEDBA, nor has the impact of the development in the foreground of more distant views of the castle from the lower ground to the N and W. This impact should therefore be considered 'moderate adverse' and of 'moderate / large' significance.

NON-DESIGNATED ASSETS

Whilst non-scheduled sites largely fall outside of Cadw's remit as a consultee the two-page assessment (paragraphs 5.2.45 -5.2.50) of potential indirect impacts on the settings of the many such sites identified within the study areas is cursory. As noted above, the desktop study has not indicated any sites not in the HER or NMR. The HEDBA therefore fails to fully address the potential impact of the development on the broader archaeological record and in some cases the significance of some of the monuments within it, most notably the hillfort RD264 and the array of physically related features of potential national importance on Llandegley Rocks.

SUMMARY

A number of issues of concern have been identified in the assessment of potential indirect impacts on SAMs within the study area. These include:

1. The use of the DMRB methodology for the assessment of potential indirect impacts of the development on historic assets and its downgrading of the importance of SAMs, which consequently have led to an underestimation of the magnitude of impacts on RD003, RD112, RD147 and RD264
2. The failure to assess the visual impact of access tracks, hard standings and ancillary structures
3. RD008, RD027, RD238 and more importantly RD112 were not visited during the study. The potential indirect impacts on the settings of these monuments and inter-visibility between the contemporary RD112 and RD264 were therefore not fully assessed

4. A limited consideration of impacts on undesignated monuments within the study area, notably the broader context of the scheduled hillfort RD264 and related features including a larger enclosure of potential national importance occupying Llandegley Rocks and sharing the same setting

With the exception of existing small turbine to the S of the proposed development site, the overwhelmingly pastoral landscape which forms the broader setting of the above listed monuments is almost entirely free of other large-scale modern developments, industrial features and major roads. Many of these monuments, notably the hillforts RD112, RD264 and its associated undesignated enclosures, the medieval castle RD003 and the Prehistoric funerary and ritual monuments including barrows, cairns and standing stones (RD034, RD069, RD109, RD113, RD167, RD238, RD239, RD240) are likely to have been deliberately sited in order to command views over or enhance their visibility from and across this landscape. The HEDBA acknowledges the importance of the wide basin of lower ground overlooked by RD003, RD112 and RD264 to the settings of these monuments, and of lines of inter-visibility between broadly contemporary sites such as RD112 and RD264, this basin potentially forming the hinterland between the hillfort, but then fails to reflect this importance in its determination of the impact of the turbines on the setting of the monuments.

The proposed turbines will present a major vertical, moving and light-grey addition to this landscape, which will be further punctuated by other contrasting elements such as over 3km of stone surfaced access tracks, hard standings and ancillary structures. Part or all of the development will form a prominent feature in views from and of RD003, RD112, RD147 and RD264 and will interrupt key lines of sight between RD112 and RD264. The scale of the turbines dictates that the impact of the development is likely to be more than a local one, as demonstrated by the large number of SAMs and undesignated monuments falling within the ZTV.

The information provided demonstrates that the proposed development will have a significant adverse impact on the settings of RD003, RD112, RD147 and RD264 and varying degrees of lesser adverse impact on numerous more distant and undesignated monuments within the ZTV. Cumulative impacts with existing turbines in the area illustrated in Vol. IV of the study should also be taken into consideration. These potential multiple impacts can be viewed collectively as a significant adverse impact on the broader historic environment within the study area.

- Response dated 15th January 2016

I am writing further to your letter of 25 November requesting our comments on additional information from the applicant regarding the above proposal. In their report submitted to Powys Council in March 2015, the applicant has responded to issues raised in our consultation response of 5 September 2014. The applicant has also confirmed that, although it was not explicitly stated in the Historic Environment Desk Based Assessment (HEDSA), their visual impact assessment procedure included consideration of the impact of the site infrastructure (access tracks, hard standings etc.)

Many of the applicant's comments are clarifications in response to our queries about the methodological approach.

Design Manual for Roads and Bridges (2007) - The applicant has provided a response to the concern raised in our consultation response about the application of the Design Manual for Roads and Bridges as the methodology for assessment. We are concerned that the approach presented in the manual is geared towards roads and other linear developments, as opposed to windfarms which present a stronger vertical element in the turbines themselves. However, we accept the applicant's explanation that in the absence of Welsh guidance on evaluating setting, they have drawn on the Design Manual for Roads and Bridges as an acknowledged methodology which they have used for other similar applications. However, the Welsh Government will be consulting on guidance for evaluating the impact of development on the setting of historic assets later this year.

Impact on the setting of Scheduled Monuments - We confirm that the proposed development will have no physical impacts on scheduled monuments. However, the development will impact upon the settings of scheduled monuments, in particular RD147 Nant Brook Enclosure, RD264 Llandegley Rocks Hillfort and RD112 Graig Camp. These scheduled monuments are discussed further below. The applicant has queried our statement that there is a direct impact on setting. This statement was not intended to imply a direct physical impact on the monuments in question.

Assessment of impact of infrastructure - In our response to the consultation we had noted that it was unclear whether the assessors had taken any account of the likely impact on infrastructure on the settings of monuments. As discussed above, the applicant confirms that they had taken this into account, and we are therefore content that this question has been answered.

Scope of the assessment - The applicant's additional information confirms that many of the designated monuments for which impact assessments were required or requested at scoping stage were not visited as part of the study, The explanation given in all cases is that they were on private land and therefore inaccessible. At no point is it suggested that the applicant or their agents made any practical attempts to access these sites and were refused permission. This omission does inevitably reduce the reliability of the impact assessments where site visits were not undertaken.

The further information provided by the applicant also addresses a number of points about individual scheduled monuments identified in our letter of 5 September 2014.

RD147 Nant Brook Enclosure - We disagree with the statement provided by the applicant in their additional information regarding the assessment of cumulative impact for this scheduled monument. The applicant states that since the existing turbine is to the south of the monument and their development is to the north there is no cumulative effect since both cannot be seen in the same direction. However, cumulative effect must be considered from the point of the receptor — the scheduled monument. The introduction of the windfarm turbines will add new vertical elements into a sightline currently uncluttered by such elements with a consequent cumulative impact on the setting of the monument. This cumulative effect needs to be taken into account for the assessment of overall impact. The applicant confirms our view that the presence of the existing small turbine should not be considered to reduce the sensitivity of the monument to change, since it is of much smaller scale and further away than the proposed development and in particular turbine T1.

RD264 Llandegley Rocks and RD112 Graig Camp - Due to their proximity and location, the turbines and associated infrastructure (tracks etc) of the windfarm will impact on the setting of Llandegley Rocks hillfort. The photomontages indicate that all seven turbines will be highly visible from the monument and it is particularly notable that they will be dominant features in the sightline between Llandegley Rocks and RD112 Craig Camp located to the south of the development area. We have previously stated this to be an important historic relationship and key view.

The evaluation system applied by the applicant identifies major impact as 'comprehensive changes to setting' and in the additional notes provides further explanation that this is defined as the situation when the view is "completely obscured" (p11). In the context of a windfarm development it is therefore questionable whether there is any circumstance when this evaluation approach might consider a windfarm to constitute a comprehensive change to the setting of a designated asset.

As we previously stated, our concern is that the windfarm with its large, vertical rotating structures will be an extremely dominant feature within this landscape, affecting the settings of both Llandegley Rocks and Graig Camp hillforts and with potential to substantially interfere with the inter-visibility between them.

RDII3 Cwm-Maerdy Standing Stone - The additional information provided by the applicant confirms our understanding that the assessment of impact on setting of this monument was carried out without the benefit of a site visit to the scheduled monument. No further information has been provided therefore we have nothing to add over and above our previous comments.

Outer study area - As we previously commented, many of the scheduled monuments within the outer study area, and in particular the medieval castle RDOO3 Castell Crug Eryr, were located with the intension of exploiting views of the surrounding landscape, being visible for distances and in some cases, inter-visible with other historic structures. The turbines will therefore impose on the setting of the monuments. We agree with the HEDGA that the level of impact lessens with distance but remain concerned that the assessed level of impact underestimates the effects.

In conclusion, I confirm that our comments concerning the impact of the proposed development on the setting of scheduled monuments remain as stated in our letter of 5 September 2014.

CPAT

- Response dated 12th September 2014

Thank you for the consultation on this large-scale wind farm application. Having read through the submitted ES we have the following comments:

Scheduled Monuments

Cadw are the primary consultee with regard to scheduled ancient monuments, Registered Historic Landscapes and Registered Parks and Gardens and we note their detailed

comments, which have been forwarded to us for information. We have nothing to add to Cadw's comments which are detailed and justified. We agree wholly with the Cadw assessment that there will be a significant adverse visual impact upon the settings of the RDOO3, RD1 12, RD1 47 and RD264 scheduled monuments. The determining authority will need to decide whether this impact is sufficient to refuse the current application in accordance with Planning Policy Wales. Ch.6, WO Circular 60/96 and Powys UUP ENV 17.

Non-Designated Archaeological Sites

The development area within the red line boundary includes a number of existing tracks crossing unimproved pasture, which will be utilized to access the wind farm from the A44 for construction, delivery and ongoing maintenance. The turbines, new access tracks, cable trenches, hardstandings, and compound will be erected almost wholly within improved pasture. Two small sections of access track pass through former commercial forestry which has been ploughed and drained (between turbines 5 and 6) and an area of unimproved pasture (south of turbine 3). The substation is located in semi-improved pasture.

The high level of agricultural improvement within the application area has effectively removed all traces of any visible surface archaeology which may have been present here. Unsurprisingly the walkover survey failed to locate any significant new sites which would be directly impacted.

The improved ground would be receptive to geophysical survey and we consider that this technique could be deployed as a phase of additional evaluative survey to determine whether unrecorded sub-surface archaeology will be impacted by construction. Magnetometry would be the preferred technique in this case using a towed array and a reading resolution of 0.25m. Any anomalies identified by the geophysical survey should be targeted with exploratory trenching to determine their origin, date and function.

The assessment identifies two direct adverse impacts on the Hendy Ford (PRN 55523) and the Hindwell to Penybont Roman Road alignment (PRN's 47702 and 47703). With regard to these two sites we have the following comments:

Hendy Ford (PRN 55523) This former ford site identified on the 1889 1 edition OS is considered to be of low significance. It is now crossed by a modern farm track and we would consider there to be no archaeological impact here. Hindwell to Penybont Roman Road alignment (PRN's 47702 and 47703) This is a predicted alignment with no supporting evidence other than the apparent straightness of the route and possible topographic and earthwork features at the southern end where there is a hedgerow with a slight terrace above. The proposed new southern access route between the A44 and the existing track will cross this predicted Roman road alignment and further evaluation by trial trenching should take place here to determine whether a Roman road exists. Changes to the existing northern access splay are minor and a watching brief should be completed in this area.

We therefore consider that further archaeological evaluation could be completed to support this application with regard to potential impacts within the red line boundary.

In the event that this application is approved without further evaluation taking place the following three-part condition for additional investigation should be used to secure the mitigation of impacts to previously unrecorded archaeology within the application area:

A) No development shall take place until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured

Historic Landscape

The wind farm proposal rests on the northern slopes of Llandegley Rhos flanked by the higher Llandegley Rocks ridge to the north and the Radnor Hills to the east and south with a shallow basin to the south and a broad valley to the east traversed by the A44. The location has broad open views in all directions. The development is not located within any of the TAN 8 SSA areas in Powys where large-scale turbine development proposals should preferably be focused.

The upland ridges are covered in a dense scatter of prehistoric enclosed settlement, prehistoric funerary and ritual activity and medieval and post medieval agricultural and settlement activity. The Llandegley ridge to the north is an area of particularly well-defined landscape retaining much of its character, landforms and cultural palimpsest in semi-improved or unimproved pasture. To the east and south the views are extensive across to the Radnor Hills, which are rich in a broadly similar array of archaeological sites.

The turbines and their infrastructure will introduce a new vertical element into this distinctive landscape and the wide-ranging visual influence of the turbines over the surrounding landscape is ably demonstrated by the submitted ZTV's, wireframes and photomontages. There is a significant adverse impact to components of this historic landscape including designated and non-designated archaeological sites which are visually influenced within the 5km ZTV radius.

We consider that this development will have a detrimental impact upon the historic landscape and the determining authority will need to consider this impact.

Conclusions

In conclusion, we find that there are elements of pre-determination evaluation which could be completed to better understand the potential for previously unrecorded sub-surface archaeology within the development area.

We consider that there will be a significant adverse visual impact upon the historic landscape and the currently identified components of that landscape by this wind farm. The primary visual influence is within the 5km ZTV, but also extends beyond this into the 10km ZTV radius. A high number of nationally important designated sites are visually influenced within the 5km ZTV. A number of these monuments have key shared views blocked by the intervening turbines.

The determining authority should therefore take these significant adverse impacts into consideration when considering the application.

- Response dated 1st December 2015

Thank you for the additional information and we note the ADAS response to the Cadw submission. We have nothing to add at this time based on this new information and Cadw will no doubt respond concerning the scheduled monument impacts. We have had no indication that the additional pre-determination evaluation works we recommended in our response will be completed before determination. Without this additional information we would consider that it is not possible to adequately determine the impact of the proposed scheme on potential sub-surface archaeology in the highlighted areas of interest.

RCAHMMW

- Response dated 8th August 2014

The remit of the Royal Commission permits us to comment only on the historical significance and context of a monument or structure and on the adequacy or otherwise of the record. The proposed turbine construction would take place on open-access land recently examined as part of RCAHMMW's Uplands Project. Findings are available on Coflein, our map-based on-line database. Related development work is scheduled for surrounding farmland and will need to be considered in relation to an archaeological survey of the area.

Campaign to Protect Rural Wales (Brecon and Radnor Branch)

- Response dated 12th August 2014

I am writing on behalf of the Brecon and Radnor branch of CPRW to express our very strong opposition to this proposed scheme. We are shocked and appalled that such a project should have reached this stage in the planning process, since it is flagrantly contrary to the advice in TAN 8 about major wind turbine developments. The proponents of the scheme are clearly aware of this, as is evident from the covering letter from Mr Stuart Vendy to Powys County Council dated 27.6.14. In this letter he claims that the principles set out in TAN 8 are only advisory, which allows for the possibility of constructing wind farms outside a Strategic Search Area 'if there is robust evidence that land outside (but close to) the SSA is suitably unconstrained.' This is a specious argument, based on shameless special pleading, and is in any case irrelevant in relation to this present scheme: the site is not by any stretch of the

imagination close to an SSA (see fig.6.1 in the Planning Statement), and the land is not unconstrained, since it constitutes part of a very special mid-Wales landscape, close to the dramatic and important outcrop of Llandegley Rocks, with their Scheduled Ancient Monument, in a location which would make the enormous turbines, 360 feet to the tip of the blade, visible over huge distances.

We comment in detail on some of the documentation, and refer first to the Supporting Planning Statement (SPS). Section 7.5.14, after a long discussion of visual impact, in particular on the communities at Nant and Hundred House, dismisses this consideration by claiming that it is 'not considered to be of significance', and that the project is therefore in accordance with Policy E3. The Environmental Statement, figures 8.9 and 8.11 in particular, shows how the turbines would dominate an otherwise magnificent landscape, while the ZTV maps show how they would be particularly obtrusive to the west and north of Llandrindod Wells, and across a huge swathe of land from Radnor Forest in the north-east to the outskirts of Builth Wells in the south-west. Section 7.5.14 is patent nonsense, as is the claim on p.x of the Introduction to the Non-Technical Summary that 'due to the confined potential visibility of the development . . . significant effects on the landscape character would be contained and limited.'

We are also deeply concerned about the effects of the scheme on Public Rights of Way, and on Biodiversity and Ecology . We refer again to the SPS, sections 7.8 .3 and 7.9 . The latter refers to the presence of red kites, kestrels, barn owls and great-crested newts, and fig. 7.5 in the Environmental Statement Vol II shows the numerous flight-lines of many relatively rare bird species criss-crossing the proposed site notably fieldfare, grasshopper warbler, red kite, linnets, lesser redpoll, reed bunting and tree pipit; figs. 7.6.a and 7.6. b cover birds of prey and waders respectively, in winter, and 7.9 indicates the very numerous bat transects. There would be very serious danger to many forms of wildlife, and this issue may not be dismissed in the way in which the documentation seeks to do.

There is further evidence of muddled thinking in relation to the financial incentives which the developer would offer to the local community: section 7.5.24 of the SPS correctly acknowledges that these are 'not a planning consideration', yet section 7.9.11 refers to a 'balance' which must be struck between damage to the landscape, to public rights of way and to biodiversity on the one hand, and the benefits of the scheme on the other, viz . energy generation, employment (although not a single permanent local job will be created) and - believe it or not - the injection of money into the local community, despite the earlier admission that this is not a planning consideration. There is no such balance to be struck, and it is entirely improper to enlist the community scheme into the argument.

This is a highly objectionable project, and should be dismissed out of hand. We very much hope that you will recommend refusal in the strongest possible terms.

Health and Safety Executive

- Response dated 30th November 2015

Environmental Impact Assessments are concerned with projects which are likely to have significant effects on the environment.

HSE's principal concerns are the Health and Safety of people at work and those affected by work activities. Therefore HSE cannot usefully comment on what information should be included in the environmental statement of the proposed development. However, if required, environmental statements should not include measures which would conflict with the requirements of the Health and Safety at Work etc. Act 1974 and its relevant statutory provisions.

If this scoping request results in subsequent Planning Applications, then Powys Council should use Planning Advice WebApp to obtain HSE's advice – <https://pa//hsl.gov.uk>

HSE is a statutory consultee for certain developments within the consultation distance of major hazard sites and major accident hazard pipelines, and has provided planning authorities with access to Planning Advice WebApp, an online software decision support tool, through the HSE Extranet website '<https://pa.hsl.gov.uk> for them to use to consult HSE and obtain our advice. Planning authorities can also use Planning Advice WebApp to obtain HSE's advice on a proposed development at the pre-application stage,

I should therefore be grateful if you would arrange for HSE's Planning Advice WebApp to be used to consult HSE for advice on this application, to see if it lies within the GD of a Major Hazard Site or Pipeline.

Should you or your colleagues need any additional help in using the new WebApp to obtain HSE's advice on a proposed development, a central support service is available at lupenquiries@hsl.gsi.gov.uk or by telephone on 01298218159.

Ramblers Association (Radnorshire)

As Ramblers Association representative for Radnorshire, I would like to make the following comments:

There are a number of rights of way in close proximity to the proposed development. Provided that no RoW are closed or obstructed during or after construction we would have no objection to the development. However, should there be any closure or obstruction during or after construction, we would strongly object.

In addition, this development would blight a beautiful area and deter people from using the RoW, and on this basis we would also object.

British Horse Society

On behalf of the British Horse Society I write to comment on this application.

I have visited the site, and have met my fellow BHS County Access and Bridleway Officer Mr Michael Mosse to discuss both the original proposal and subsequent amendments proposed by the agent.

The proposed site intersects CI Byway Open to All Traffic, and it bridleway which is currently obstructed by recent ploughing and fencing (OSGR 31332601). BHS guidelines are that no

wind turbine should be located within three times its height from a bridleway, or 4 times its height from a national route. Neither the original proposal nor the suggested amendments comply with these guidelines.

The BOAT is potentially disrupted by the proposed development, with no proposal for a satisfactory alternative route connecting the eastern and western sections of the BOAT for either horse riders or carriage drivers. Other bridleways in the immediate vicinity could be affected by adverse impact on visual amenity for riders and horses. The more extensive network of bridleways in the general vicinity would also suffer adverse effects on visual amenity.

Considering all these factors, we have not seen, nor can we envisage, offers of mitigation from the developer which would result in a net gain for riders in the vicinity of the proposed development. I therefore recommend refusal of this application.

Radnorshire Wildlife Trust

- Response dated 29th August 2014

Radnorshire Wildlife Trust wishes to object to this proposed development on and around Llandegley Rhos.

Having read the various ecological and environmental supporting information, we do not believe that the ecological assessments have been undertaken in a way that satisfies available guidance produced by Scottish Natural Heritage (and used by statutory agencies across the UK), nor those available from the Chartered Institute of Ecology and Environmental Management.

The search area needs to be widened. This is especially important in an area of tremendous natural, archaeological and landscape value, in order to adequately address the likely impact resulting from this type of development.

Within the application site is a well established and extremely large winter starling roost which is of at least regional importance (Pete Jennings, Radnorshire bird recorder, personal communication).

I am surprised that Radnorshire Wildlife Trust has not been approached by the applicants / agents as part of a scoping exercise which would normally be the case in developing application of this type and scale.

Should the applicants / agents wish to seek the detailed opinion of Radnorshire Wildlife Trust as to our detailed views on the impact of this planning application, we would be happy to oblige. Meantime I would urge you to refuse this application and advise the developers to carry out surveys that adhere to the current guidelines.

- Response dated 5th January 2016

Radnorshire Wildlife Trust (RWT) wishes to object to the proposed installation of seven wind turbines at Hendy. Uandegley.

Our objection is in view of statements made in the Additional information provided by ADAS dated 24th March 2015, in response to selected submissions to the planning application.

RWT is highly concerned by the statement made by ADAS that local records collated by 'Birds of Radnorshire' is largely irrelevant to the proposal. Casual records, verified by county recorders, are highly valuable in forming a local context of wildlife activity, particularly for elusive species. Casual records are commonly the trigger for formal surveys conducted using recognised standards be that for planning applications or conservation projects. To dismiss local records as irrelevant to the proposal degrades and removes information necessary to inform the application.

The comments made by ADAS indicate only data generated by the View Point surveys have been used to inform appropriate responses within the Environmental Statement for goshawk and breeding red kite. Goshawk are known to breed in Radnor Forest and this local knowledge requires further consideration.

It is essential that mitigation to minimise disturbance of Curlew, as a protected, mobile species breeding in the application area, is incorporated into proposed operations.

RWT questions the statement made in view of starling roosts being well known to be transitory. There are numerous long established starling roosts across the UK which contradicts this remark. The roost is significant and ADAS surveys suggests collision risk is low due to flight routes into the site observations of flocking occurring below turbine sweep height. As collision risk is assessed as low further action, such as felling of the plantation is considered inappropriate for what is a valuable local wildlife feature.

Extensive habitat restoration and biodiversity gain within the application site and Llandegley Rhos is strongly welcomed. However RWT questions the potential for this given the common status of Llandegley Rhos and apparent exclusion of large areas of the application site. Restoration and management for biodiversity gain of this area would be highly valuable however detail is needed prior to consent to understand the projects validity.

Should you require any further information please do contact me.

Arquiva

- Response dated 11th August 2014

Thank you for your e-mail consulting us on the above windfarm proposal - Arquiva is responsible for providing the BBC and ITVs transmission network. In responding, we should clarify first that we only address the integrity of our broadcast networks.

This generally involves checking our Re-Broadcast Links (RBL's), and point to point microwave links, essential for network operation.

This is distinct from the separate issue of problems with interference. In other words we only check whether a proposal might detrimentally affect our ability to continue broadcasting

signals from the site. What we do not check is whether there might be interference with the reception of those signals once successfully transmitted from our site to individual properties. Having regard to our network and the lines of sight used by our RBUs, we have no objection or issues to raise based upon the information that you provided.

Welsh Historic Gardens Trust (Brecon and Radnor Branch)

- Response dated 14th January 2016

I would like to strongly object to the proposed windfarm at Hendy. My reasons are that such a windfarm would create a blot on the very special landscape of Radnorshire without actually achieving very much in the way of electricity

Radnorshire County Bird Recorder

- Response dated 11th September 2014

I would like to say that the information on birds contained in the application documents including the ES is a mixture of the superficial, incomplete and the inaccurate.

There are numerous points I could make:

The size of the Starling roost in the conifer plantation is hugely understated. There are usually winter peaks of 130,000 to 180,000 and as yet unverified occasional counts of 2 to 3 times this number. There are also several species of specially protected birds of prey associated with the roost namely Short-eared Owl, Hen Harrier, Merlin, Peregrine, Goshawk, Sparrowhawk, Buzzard and Red Kite. These are all seen regularly taking birds as they go in to roost and as they leave soon after dawn. The behaviour of the huge gathered flock and these predators prior to going down to roost is also highly important with regard to strikes. The roost also includes from time to time up to at least 10,000 thrushes mostly Redwing, Blackbird and Fieldfare.

Peregrine falcons have also nested on Llandegley Rocks in most recent years. The report also fails to recognise the wildfowl and gulls associated with Llanwefr Pool and the important fact that the area lies on a major migratory bird flight path which takes and receives birds from all points north and north east to and from the Edw and thence the Wye valleys.

The coverage of the breeding bird community are also incomplete and superficial.

I have been making bird observations in the area for over 30 years and have recently written The Birds of Radnorshire which includes much of the above information and other records for the area concerned.

There is a great deal more that I could say on the importance of the area for birds. I will be sending in a formal objection later.

Open Spaces Society

- Response date unknown

The Open Spaces Society is Britain's oldest national conservation body and the leading pressure-group concerned with the protection of common land.

We wish to reiterate our strong objection to this application which is largely unchanged from the application which was originally submitted.

The proposed wind-turbines would desecrate an area of natural beauty and high landscape value, which is enjoyed by residents and visitors. These vast turbines would dominate this very special and splendid landscape and would destroy the view of and from the magnificent Llangeley Rocks. There are several public paths crossing the area and users of these routes would be severely affected by the sight and noise of the turbines. People visit the area because of its natural beauty, peace and tranquillity. The turbines could deter them from coming and that would result in a serious loss of tourist income to the community.

The access track to the turbines would be sited on common land. The applicants submitted applications under section 38 of the Commons Act 2006 for works on common land, and under section 16 of the Commons Act 2006 for exchange of common land, both of which were opposed. They have now withdrawn these applications. The replacement land which they proposed was unsuitable since it is in part already access land under the Llangeley Rhos inclosure award. We consider that it is not possible to provide suitable land to compensate for that to be taken and we shall oppose any future applications under the Commons Act 2006.

We urge your council to reject this damaging application.

Open Access Society

- Response dated 5th November 2014

Since the Open Spaces Society sent its initial objection to the application from Hendy Wind Farm Ltd for seven wind turbines and associated development at the above site, further important information has come to light.

The land on which it is proposed to construct at least four of the seven turbines, together with the associated development, is part of an area inclosed by orders made under the Commons Act 1876, for Uandegley Rhos and Hendy Bank. The order provide for a public right of access to the inclosed land: 'a privilege at all times of enjoying air, exercise, and recreation on all parts of the land to be inclosed which shall be unplanted or uncu~ivated for arable purposes ... no injury shall be done to the lands, or to the herbage, or the fences, or to the stock or game or to anything up on such lands.' (Extract from the inclosure awards.)

We recommend that you obtain copies of the awards to check the boundaries and you will see that this is the case.

It could be argued that any development on the inclosed land is unlawful since the awards make no provision for the suspension of access rights upon development.

We therefore submit that the construction of wind turbines on the land which was inclosed by the awards would probably be unlawful and would certainly intertere with the public's legal rights of access there.

We trust you will reject the application.

Wales and West Utilities

- Response dated 1st December 2015.

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

- Response dated 22nd September 2014

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 consider it ESSENTIAL that Natural Resources Wales are satisfied that the proposals will not have any adverse effect on any aquifer, or other water resource, in terms of both water quality and quantity.

We expect the developer to make sure all guidelines and good practice are followed in order to prevent pollution incidents that could compromise the River Wye catchment which is one of our raw water sources.

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 consulted and reserve the right to make new representation.

Glascwm Community Council

- Response dated 11th September August 2014

Please find below a brief summary of the points that were raised in the recent extraordinary meeting of Glascwm Community Council to discuss the Hendy Wind farm planning application.

Over 80 members of the public attended the meeting with a large percentage of the public sharing a sense of opposition to the application. The following were the main concerns raised and reiterated throughout the meeting.

1)The size and number of the turbines is controversial and seen as unacceptable in an area of natural beauty and would have a detrimental impact on the surrounding landscape. The visual impact would be too great.

2)It was stated that the site is not in a strategic search area and therefore not in line with the TAN 8 policy of allowing the application to proceed.

3)There a BOAT running through the site and it was stated that the British Horse Society specifies that a BOAT should be at least 3 times the height of the turbine away each turbine.

4)The issue of possible health problems associated with living within a close proximity to a wind fann was raised.

5)It was stated that under the Unitary Development Plan an application should not be accepted if it has an impact on the landscape.

6)The sound and noise level was also considered a concern and the subsonic effects should also be studied.

7)Concerns were raised that there could be an impact on the surrounding wildlife including 150,000 starlings that roosted nearby.

8)The carbon cost on the production of the site would be great.

There were also a number of residents that were supportive of the application and gave the following reasons:

1)Wind energy is seen as a clean energy and is much safer than alternatives such as nuclear power.

2)There had been a reduction in the number of turbines both in number and height to help reduce the visual impact.

3)The community benefits from such a scheme could be beneficial to the area.

4)Consideration should be given to the feelings of the entire community including those not present at the meeting.

A vote was taken by the members of the Community Council that were able to vote with the results being-

1 member giving support to the application and 3 members opposed to it.

Gladestry Community Council

- Response dated 14th August 2014

I am writing on behalf of Gladestry Community Council to oppose the application to erect 7 wind turbines on land close to Llandegley. The reasons for opposition are as follow:

1. The proposed siting of the turbines falls outside the area designated by the Welsh Assembly in TAN8;
2. The impacts of low frequency noise from the turbines would be detrimental to local inhabitants;
3. The plans do not reflect the fact that part of the proposed site is common land;
4. There is no impact assessment on the probable detriment to birdlife in the area, particularly in relation to the roosting site of starlings;
5. There is likely to be an adverse effect to tourism in the area as a result of the spoiling of an area of great scenic beauty used by walkers, riders and sightseers. Such detriment is likely to be experienced in areas such as that covered by this Council; and
6. Roads in and out of the proposed site are not really suitable for multiple journeys of excessively long load needed to transport turbine parts.

To reiterate the opening statement, Gladestry Community Council wishes to oppose this application.

Old Radnor Community Council

- Response dated 20th August 2014

The Community Council objects to the planning application for the following reasons:

1. The landscape impact would have a detrimental effect on a precious rural area.
2. They will have a significant unwanted visual impact on this rural area.
3. There would be a negative impact on local residents.
4. This area of countryside has very little modern infrastructure on the hillsides and the Community Council are fearful that if approved it would set a precedent and lead to a proliferation of applications for wind turbines
5. The site is outside the strategic search area.

- Response dated 16th December 2015

Please note that Old Radnor Community Council wishes to object to the above application and would like to reiterate its previous comments which it considers are still valid -

1. The proposals will have a detrimental Impact to the landscape in a precious rural area
2. There will be significant unwanted impact visual impact to all
3. There will be a negative Impact on local residents
4. There is presently has very little modern infrastructure on the hillsides and approval of this application would set a precedent and lead to a proliferation of applications for turbines in the area.
5. Welsh Government has already identified areas it considers suitable for the siting of turbines. This site is not within one and is therefore outside the strategic search area.

Llanddewi Community Council

- Response dated 4th September 2014

The council does not wish to comment on both of the above application.

New Radnor Community Council

- Response dated 12th September 2014

I write to confirm that New Radnor Community Council wishes to object to the above application.

The proposed development far exceeds the 5mw maximum capacity for small wind farms outside the Strategic Search Areas defined in Welsh Government document, TAN 8 and should be refused for the following reasons –

- the proximity to nearby bridleways and rights of way, the recommended distance from any bridleway is 3x turbine height, equating to 330m in this case. However the nearest right of way to the turbines is just 200m away, representing a clear danger to all users, not only horse riders but also walkers and cyclists;
- the adverse visual impact on the A 44 and on tourism, a principal leisure route into Wales (a route recognised as having high scenic value in the recent planning inspectorate decision on the turbine application at Pentre Tump) and the resultant effect on tourism;
- sited outside Strategic Search Area, wind farms over 5mw (this site being 17.5mw) should, as indicated in TAN 8, be restricted to Strategic Search Areas or brown field sites. To grant permission for this development would industrialise an area of exceptional
- detriment to the local landscape, the views enjoyed from the site area and from surrounding hills, roads and rights of way would be severely detrimentally affected.
- The Unitary Development Plan for Powys states that a wind farm should only be considered where there is no adverse effect on the landscape;
- damage to local wildlife, in particular the local bird population (the email sent to PCC from the Radnorshire County Bird Recorder details many species which would be affected and analyses the present numbers of those species in the area).

I would be grateful if receipt of this letter could be acknowledged via email.

- Response dated 15th January 2016

I write to confirm that having considered the new information New Radnor Community Council still wishes to object to the above application and would like to make the following comments.

When considering its objection the Community Council had regard to the Powys UDP section SP3 which refers to Natural, Historic and Built Heritage and to E3 12.9.1 which refers to Wind farm Development. It also noted that in the appeal decision for Pentre Tump 28/1/14 Inspector Alwyn Nixon set a precedent for decisions on small wind farm applications, using the Powys UDP in the decision process and re-enforcing the policies contained therein.

Interpretation of the TAN 8 documentation produces a need for enhanced protection of areas outside of those strategic search areas identified for wind turbine developments.

Welsh Government Technical Advice Note 8 states that there is a balance to be struck between the desirability for renewable energy and landscape protection. Powys UDP SP3 requires development to take account of the need to protect, conserve and wherever possible enhance the natural and built heritage. E3 states that wind power development should not adversely affect the enjoyment and safe use of the public rights of way network, especially bridleways.

It is the view of the Community Council that this development would unacceptably and adversely affect the environmental and landscape quality of this part of Powys. It would unacceptably and adversely affect the enjoyment of the public rights of way network, bridleways in particular, thereby rendering the proposal unacceptable to the policy of E3 of the Powys UDP.

Access tracks can in themselves have adverse visual impact and this together with the proposed huge turbines would have a very negative visual impact on those enjoying the countryside on footpaths, bridleways and roads. The proposed site is in an area that is very valued for its attractive and historic landscape.

The Community Council feels that the County Council should be proactively steering wind power developments to areas where they would be most acceptable, and away from landscapes valued so highly for their beauty by both locals and tourists and public opinion is of very high relevance and should be taken into account.

In addition I would like to re-iterate the points made in my original letter submitted in September 2014 -

The proposed development far exceeds the 5mw maximum capacity for small wind farms outside the Strategic Search Areas defined in Welsh Government document, TAN 8 and should be refused for the following reasons -

- the proximity to nearby bridleways and rights of way, the recommended distance from any bridleway is 3x turbine height, equating to 330m in this case. However the nearest right of way to the turbines is just 200m away, representing a clear danger to all users, not only horse riders but also walkers and cyclists;
- the adverse visual impact on the A44 and on tourism, a principal leisure route into Wales (a route recognised as having high scenic value in the recent planning inspectorate decision on the turbine application at Pentre Tump) and the resultant effect on tourism;
- sited outside Strategic Search Area, wind farms over 5mw (this site being 17.5mw) should, as indicated in TAN 8, be restricted to Strategic Search Areas or brown field sites. To grant permission for this development would industrialise an area of exceptional natural beauty;
- detriment to the local landscape, the views enjoyed from the site area and from surrounding hills, roads and rights of way would be severely detrimentally affected. The Unitary Development Plan for Powys states that a wind farm should only be considered where there is no adverse effect on the landscape;

- damage to local wildlife, in particular the local bird population (the email sent to PCC from the Radnorshire County Bird Recorder details many species which would be affected and analyses the present numbers of those species in the area).

I would be grateful if receipt of this letter could be acknowledged via email. In addition the Community Council wishes to send a speaker to the planning meeting to speak against the application. Our representative will be Cllr. Nigel Dodman. Please let me have the proposed date of the meeting as soon as possible.

Llandrindod Wells Town Council

- Response dated 6th August 2014

My council has received the above application during the Summer recess. This application has been considered by members with the following objections highlighted:

- The wind turbines are of a substantial height and it impossible to say whether or not they will be seen by the North ward of Llandrindod Wells.
- An amenity area will be destroyed that is enjoyed not only by the residents of Llandegley but by surrounding locality / community and indeed visitors to the area which relies on tourism. This application will have a visual impact on a wide scale.
- There is a concern that people will not want to holiday in the area when the landscape is full of wind farms.
- The proposal includes access roads etc. not just turbines - which again will have a negative visual impact upon the natural beauty of the area.
- There is a fear that "Mid - Wales will be peppered with wind turbines and the current application for 7 is considered to be inappropriate.

Please could you consider my Council's comments prior to making any decision.

Penybont and District Community Council

- Response dated 12th September 2014

The letter and Planning documents were delivered to our Clerk on 25 July 2014 with a response date of 21 days. We immediately requested an extension and this has been confirmed as 4 September 2014 which is still very little time for an application of this size to be fully evaluated and responded to by volunteer Councillors with little experience of planning in this regard. The fact that this timescale coincides with annual school summer holidays erodes this time further.

Penybont & District Community Councillors resolved unanimously at their meeting on 12 September 2014 to object to this application in the strongest possible terms. In doing so, they have taken account of the overwhelming opposition of the local communities demonstrated at the Open Meeting held yesterday evening, September 11 at Penybont Community Centre and of the Petition bearing 150 signatures which was handed in to them on 9 September (a further 11 signatures being appended since then). We understand a copy of this Petition is also being submitted to the County Council. We set out below our initial response and reserve the right to add further detail in any subsequent submission to be read in conjunction with this letter.

The area of Llandegley Rhos and the valley towards Penybont, as viewed from the Radnor Forest, is classically seen as the "gateway" to Wales. This area of unspoilt beauty is punctuated solely by dwelling and farm buildings of a scale to blend into the landscape. The proposed wind energy development will bring an industrial site into the midst of the area, which is highly valued for its scenic qualities, wildness and tranquillity for recreational interests and opportunities. The size and number of these turbines will be intrusive and have a devastating effect on the panoramic views across the valley and Llandegley Rocks.

1. Planning Policy Wales (Edition 7, July 2014)

5.3.1 Many of the most important areas of landscape quality and nature conservation have been statutorily designated.

Although many of the most important areas of landscape quality and nature conservation are statutorily designated, not all are. The landscape on the south side of the A44 carries no national or local landscape protection designation, it is nonetheless evaluated as of high scenic quality.

2a TAN.8

The Assembly Government has commissioned extensive technical work, which has led to the conclusion that, for efficiency and environmental reasons amongst others, large scale wind developments should be concentrated into particular areas defined as Strategic Search Areas (SSA's). The proposed site does NOT fall into an area identified. The developers argue that TAN 8 should only be given limited weight, but the Planning Policy Wales (Edition 7, July 2014) states both local planning authorities and developers should have regard in particular to the guidance contained in Technical Note 8 (TAN 8).

2b TAN.8

1.13 of TAN 8 states most areas outside SSA's should remain free of large wind power schemes. Local planning authorities may wish to consider the cumulative impact of small schemes in areas outside of the SSA's and establish suitable criteria for separation distances from each other and from the perimeter of existing wind power schemes or the SSA's. In these areas there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst the balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where wind turbines are spread across the whole of the county. As a result, the Assembly Government would support local planning authorities in introducing local policies in their development plans that restrict almost all wind energy developments larger than smW to within SSA's and urban/industrial brownfield sites. It is acceptable in such circumstances that planning permission for developments over smW outside SSA's and other urban/brownfield sites may be refused.

To quote Alwyn B Nixon BSc (Hons) MRTPI Inspector appointed by the Welsh Ministers
Date: 28 January 2014

Outside the SSA's the implicit objective of TAN 8 is to maintain the landscape character i.e., no significant change in landscape character from wind turbine development

We believe that the proposed development would unacceptably adversely affect the environmental and landscape quality of Powys, and would unacceptably adversely affect the

enjoyment of the public rights of way network, bridleways, thereby rendering the proposal contrary to Policy E3 of the Powys LOP.

2. The Access Route

Construction traffic in the immediate vicinity of the site is problematic in that it requires a separate application to the Planning Inspectorate in Cardiff in relation to the Commons Act 2006 Sections 16 and 38: the first application of Hendy Windfarm Ltd having been deemed invalid. The Section 16 application is applying for De-registration of Common Land which will have a serious detrimental effect on the common: an untouched wildlife area subject only to the grazing rights of the commoners which carries restrictions as to numbers of animals which can be allowed to roam freely there. The application will also require removal of ancient hedgerows and trees and the construction of 6 culverts over existing water courses.

3. Byway Open to All Traffic (B.O.A. T.)

The south access track in (3) above is a designated B.O.A. T and cannot be closed to the public because of the requirements of the construction work.

Planning Policy Wales (Edition 7, July 2014)

5.2.1' Common Land is a finite resource and should not be developed unnecessarily. Access to it should not be prevented or impeded unnecessarily.

5. Hydrology

The planning document states that any interference with water courses will be of a minor significance. There are a number of properties relying on spring water in the vicinity of the proposed site. The underground water courses and springs are complex and, without further investigation, it cannot be certain that the installation of these turbines will not affect these water sources.

6a Traffic Management: Abnormal Loads

The Newtown Bypass construction has not even started yet and is mentioned as the main transport route for abnormal loads. The alternative given is the Mochre Link and plans for this were rejected by Powys County Council last year. It is premature of the Applicant to presume they will be able to access it.

6b Traffic Management: Regular Traffic

We consider an 8% to 112% increase in HGV traffic through Penybont to be unacceptable. We do not consider an extra 67 HGV's per day between 7 am and 7 pm in the Penybont, Uandegley, Crossgates areas to be "low" and not of significant impact.

7. Ecology

The ecological studies undertaken by the Applicant seem to be lacking in depth and quality according to Powys County Council Senior Ecologist, Hannah Powell, as well as Radnorshire Wildlife.

8 Tourism

Planning Policy Wales (Edition 7, July 2014)

11.1.1 Tourism is vital to economic prosperity and job creation in many parts of Wales. It is a significant and growing source of employment and investment, based on the county's cultural and environmental diversity. Tourism can be a catalyst for environmental protection, regeneration and improvement in both rural and urban areas.

The Applicant mentions that there are no visitor attractions in the area to be affected by the proposal. Our point is that the very fact that there are no amenities is a significant attraction for tourism in itself.

In conclusion, we formally request that we are represented by a spokesperson for the allowed allotted time when this Application comes before the Planning Committee. We would appreciate your confirmation of this request together with, in due course, details of the Agenda of the relevant Planning Committee Meeting.

- Response dated 13th January 2016

As arranged, the Council now write in response to the Additional Information documents and send their thanks for allowing them extended time for response in order that the matter could be considered at a Council Meeting.

As this application is of strong interest to our community, and that of Glascwm and New Radnor – the meeting was attended by residents from all three Community Councils and time was allowed, before the formal Agenda, for public discussion.

The meeting was of the opinion that there was nothing contained in the Additional Information that materially affected the points made in the original opposition letters. Much of the assertions made by the applicant cannot be proven, or otherwise, until after the turbines are in place – by which time it will be too late.

- particular areas of concern that were discussed encompassed
- noise and resonance levels
- ecological factors
- Transport access: particularly the impact on the communities of Llandegley and Penybont in respect of the initial delivery of turbine parts and, importantly, the truck movements required delivering aggregate. It is noted that trucks will be required to exit the site turning left and, if they actually wish to proceed right – they will have to travel to Crossgates roundabout to turn round and go back along the A44. In practise this will not be “policed” and may well result in large trucks turning by way of the road through Llandegely village.
- The point that underpins everything else is the impact of the industrialisation of turbines on this iconic landscape and there is nothing that the applicants can say or do that will mitigate this. For as long as the turbines, or any subsequent replacements are in situ.
- It is our understanding that local community feeling on applications is to be taken into account in reaching a decision and the Community Council's and residents would point

out that the Planning Committee should be under no illusion that this project is supported by the local population. The applicants went through a “cursory” consultation exercise mounted by a PR company at the outset before the application was lodged. Their information Exercise, publicised to take place over a week in Penybont & District Community Centre never materialised and, indeed, the Community Centre never received a hire booking from them.

- The applicant produced a booklet “Statement of Community Involvement” which was dated 11 June 2014 which was compiled well before the local community had time to fully comprehend the vast amount of documentation that comprised the application, realise the level of opposition that there was and organise themselves for action. The booklet, therefore, takes no account of this and presumes a support that was never there.
- When Mr Radford of Hendy attended the meeting convened by Penybont Community Council – to which the other two Community Councils were invited he was very quickly disabused of interest in the “jam tomorrow” concept of community funding. Penybont & New Radnor Community Councils then resolved to have no more discussions of any sort in respect of this as it represented an unnecessary distraction to the vast amount of work they were having to undertake to mount opposition to both this application and the related, but separate application, to De-register part of the Common Land at Llandegley Rhos.

Following all the discussions and points put forward by the public, a unanimous vote was taken on the proposition that the Council should instruct the Clerk to write to Powys Council Planning Department confirming the above. Councillors then resolved to support this proposition unanimously.

Llanbadarn Fawr Community Council

- Response dated 5th August 2014

At the recent meeting of the Council the planning application above was discussed and the members have asked me to write to you expressing their views.

- a) The size of the wind farm and the height of the turbines was considered to be completely unacceptable.
- b) The logistics of bringing the turbines to site and the extra traffic and possible damage to road from heavy lorries was considered.
- c) The environmental aspect of the turbines was considered to be of great detriment to the surrounding area. Such a project could only distract from what is a beautiful area and the effect of turbines on the wildlife is a concern.
- d) This would be a commercial venture and the Council queried your own criteria when considering such projects.

The Council would ask you to consider these concerns before making your decision.

Cllr. Hywel Lewis

- Response dated 11th August 2014

May I please request an extension for responding to the above planning application as I am only now beginning to get representations from my constituents, due no doubt of the holiday

period. Also I have been unable to access the planning portal properly for weeks therefore have not been able to view the application documents.

If an extension is not possible I have object now to this application for the reasons below. Visual impact, the beautiful landscape of Llandegly Rocks will be seriously compromised, The development would be outside the TAN8 area, - The disruption caused by the haulage of these enormous structures and the potential damage to our roads, - The impact on local inhabitants having to live in the shadow of these turbines, - The negative effect a wind farm in the area would have on tourism.

Representations

Public Responses

6 representations were received in support of the application whilst 186 representations were received objecting to the proposed development. These responses are set out in the application file in full and raise a range of concerns. I summarise the main considerations raised below:

- Conflict with local and national planning policy.
 - The size of the turbines is not in keeping with the locality.
 - Adverse impact on the landscape and associated character.
 - Adverse impact on residential amenity.
 - Adverse impact on the open access land and public rights of way.
 - The applicant's submission does not present an accurate reflection of the benefits and impacts of the proposed development.
 - Adverse impact on the A44.
 - Adverse impact on tourism.
 - Potential health issues associated with noise and vibrations.
 - Construction pollution and local road use damage.
 - Irreversible environmental damage.
- Development would cause the area to be less attractive and enjoyable to live in, to see, to walk, to ride or to drive.

It has also been noted that a number of public meetings have been held to discuss the proposed development.

In addition, considerable material has been received from Mr Geoffrey Sinclair objecting to the proposal who lists 55 people as supporting his objections.

Professional Opinions

The following independent professional opinions have been sought in relation to this application:

- Review of Noise Section of the ES by Dick Dowdler, Acoustic Consultant

- A Review of the Environmental Statement - Landscape and Visual Impact Assessment Chapter prepared by Enplan
- Professional opinion on the acceptability of the cultural heritage impacts of the proposed scheme for Hendy Wind Farm by Atkins

Planning History

No relevant planning history to report.

Principal Planning Constraints Identified on GIS

Public Right of Way
Public highways
Common Land
Scheduled ancient monuments

Principal Planning Policies

Local Planning Policy

Powys Unitary Development Plan (2010)
SP3 – Natural, Historic and Built Heritage
SP6 – Development and Transport
SP12 – Energy Conservation and Generation
GP1 – Development Control
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
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
ENV17 – Tree Ancient Monuments and Archaeological Sites
ENV18 - Development proposals affecting archaeological sites
T6 - Walking and Cycling
TR2 – Tourism Attractions
RL4 - Outdoor Activity and Pony Trekking Centres
RL6 - Rights of Way and Access to the Countryside
E3 – Wind Power
DC9 – Protection of Water Resources
DC12 – Overhead Lines and Pipelines
DC13 – Surface Water Drainage

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

The Powys Local Development Plan has been submitted to the Welsh Government for examination. The public examination of the Plan is underway and its soundness has not been established. The policies relating to wind energy developments are may be material considerations but are currently in a state of flux awaiting the outcome of further background studies before being considered at examination. I therefore consider that the policies contained within the current version of the LDP are to be accorded very little weight at this time.

National Planning Policies

Planning Policy Wales (9th Edition, November 2016)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 6 – Agriculture and Rural Development (2010);
Technical Advice Note 8 – Planning for Renewable Energy (2005);
Technical Advice Note 11 – Noise (1997)
Technical Advice Note 13 – Tourism (1997)
Technical Advice Note 15 – Development and Flood Risk (2004)
Technical Advice Note 19 - Telecommunications (2002)
Technical Advice Note 20 – Planning and the Welsh Language (2013)
Technical Advice Note 23 – Economic Development (2014)
Welsh Office Circular 11/99 – Environmental Impact Assessment

Other policy and guidance

There are a number of national and international agreements and policies relating to the provision of renewable energy and achieving carbon emission reductions. These are material considerations and include:

- 5/93: Public Rights of Way (1993)
- Kyoto Protocol (1997)
- Circular 11/99: Environmental Impact Assessment (1999);
- Energy White Paper (2003)
- Wales Spatial Plan (2004)
- Energy White Paper (2007)
- UK Climate Change Programme (2008)
- Climate Change Act (2008)
- UK Renewable Energy Strategy (2009)
- EU Renewable Energy Directive 2009/28/EC (2009)
- UK Low Carbon Transition Plan (2009)
- A Low Carbon Revolution – The Welsh Assembly Government Energy Policy Statement (2010)
- Written Statement by the First Minister, Welsh Government: Planning for Renewable Energy in Wales (17 June 2011)
- Minister for National Resources letter of 14 August 2015
- Letter by the Minister for Environment and Sustainable Development (John Griffiths) - July 2011
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

- Welsh Assembly Government (2007), Guide to Good Practice on Using The Register of Landscapes of Historic Interest in Wales In The Planning and Development Process.
- Welsh Assembly Government (2011), Conservation Principals, Policies and Guidance for the Sustainable management of the Historic Environment in Wales
- Welsh Office Circular 60/96 Planning and the Historic Environment: Archaeology
- Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas

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.

Climate change & Principle of Development

The Intergovernmental Panel on Climate Change (IPCC) stated in 2014 that *'warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen'*.

The Climate Change Act established a target for the UK to reduce its emissions by at least 80% from 1990 levels by 2050. This target represents an appropriate UK contribution to global emission reductions consistent with limiting global temperature rise to as little as possible above 2°C. The Act established a system of five-yearly carbon budgets, to incrementally achieve this reduction.

To help achieve these increasing targets, there has been a push to increase the proportion of energy generated from renewable sources across the UK. These have been supported by the government in a number of ways including direct financial aid (such as subsidies) and planning policy. Planning policy is clear that there is a need to move towards renewable energy sources to combat climate change.

The need for the development is accepted and the contribution the scheme makes towards meeting that need is material and should be weighed in the planning balance. The proposed development would generate up to 17.5MW, however it is noted that wind farms only typically operate at around 30% of their capacity over the course of a year. The exact load/capacity factor in this instance is unknown but once this is taken into account the proposed development is likely to produce around 5.25MW.

Notwithstanding this, the proposed development would provide a valuable source of clean renewable energy and this should be afforded significant weight in consideration of the application.

Landscape & Visual

The main body of the application area lies at an elevation of between 300m and 340m AOD. The landform of the local context is an eroded upland plateau characterised by the contrast of domed and more rugged uplands with broad, heavily undulating valleys or vales. There is a complexity to the landform of this part of Powys with several identifiable upland areas, interspersed with multiple tributary valleys which independently drain both to the north to the River Ithon and south towards the River Wye. The dramatically steep-sided, round topped and incised edge of the Radnor Forest upland lies to the east of the application site. This is the dominant landform of the study area rising to 650m AOD, although the immediate edge generally rises to just above 500m AOD.

The application site lies within an undulating upland vale which runs very broadly south-west to north-east between the Llandegley Rocks (up to 436m AOD) to the immediate north, Gwaunceste Hill (542m AOD) some 4.5km to the south with the edge of Radnor Forest uplands some 2km to the east. Within the vale there is a band of slightly higher ground, east of Nant, which partially subdivides the area. The application site lies at a watershed within the vale, with waters flowing to the north-east and south-west respectively. In the west the vale is framed north and south by the ridge from Llandegley Rocks, through Gilwern Hill to Castle Hill along its northern side and upland hills from Gwaunceste Hill, through Little Hill to Aberedw Hill to the south amongst others to the south, all of which combine with the other uplands to provide a contained but wide setting for the application site.

The ES considered the likely effects of the proposed turbine on the landscape and visual amenity of the site and surrounding area, in conjunction with the operational wind farms and single turbines in the area. It concludes that due to the contained visual envelope of the proposed development, the significant effects of the proposed Hendy wind turbines would be limited to:

- The character of the landscape of the site and surrounding area encompassing the Upland Moor, north of Hundred House Aspect Area within which the site is located. The character of the landscape of southeast facing slopes of Llandegley Rocks, Bwlchllwyn Bank and higher slopes of Pawl-hir all located within the Rocky Moorland Gilwern Hill AA, a swathe of landscape along the A44 corridor between Castell Crugerydd and Larch Grove within the Rolling Hills central south-east AA, west facing slopes of the Upland Moor Radnor Forest AA at distances of 2.0 - 5.0km from the Hendy turbines, west and north facing slopes of Gwaunceste Hill 3.0 - 5.5km from the proposed turbines within the Upland Moor Glaswem Hill AA, and landscapes immediately west of Gwaunceste Hill within the Improved Upland Radnor Forest AA at distances of 4.0 - 5.0km from the proposed turbines. These significant effects on landscape character would be adverse, direct, individual/ additional cumulative, long-term, temporary and reversible once the proposed development is decommissioned.
- The visual amenity of residents in properties up to approximately 5.5 - 6.0km from the proposed Hendy turbines, with open views towards the proposed turbines. These are limited to a few properties in Nant and Hundred House, and a few individual residential properties in the surrounding landscape. Pye Corner and Hendy Farm are both located within 1km of the proposed turbines. The screening features within the local landscape, partial screening by intervening topography, substantial separation distance from residential dwellings, and the orientation and direction of views from properties will mean in terms of the Lavender test, no overbearing impacts on residential views are expected.

- The visual amenity of users of the local rights of way network within approximately 4.0km of the proposed Hendy turbines including the footpath, bridleways and byway crossing the site.
- The visual amenity of users of the approximately 9km stretch of the Sustrans route 825, The Radnor Ring, between Hundred House and Brynthomas (northwest of the site).
- The visual amenity of visitors to The Pales, Quaker Meeting House.
- The visual amenity of motorists on a short section of the A44 between just beyond Llandegley and The Van, and local roads within 2.0 - 2.5km of the proposed turbines.

In addition, the ES has identified significant cumulative effects as follows:

- Landscape character - through the introduction of both the Hendy and Pentre Tump turbines, significant cumulative changes in landscape character would occur within limited parts of the Rocky Moorland, Gilwem Hill AA, Upland Moor, Glascwm Hill AA and Rolling Hills central south-east AA.
- Visual amenity - motorists and their passengers on the A44 between Walton and Llandegley (significant sequential cumulative effects), cyclists on sections of the Sustrans Radnor Ring cycle route (significant sequential cumulative effects) and users of extremely limited locations on the local PRoW network, such as walkers and horse riders across areas of elevated land such as Gwaunceste Hill and parts of Llandegley Rocks (significant combined cumulative effects).

An independent review of these findings was carried out by Enplan and are set out below

- *The ES LVIA methodology employed is, for the main part, set out with clarity and generally reflects the approaches of the guidance of GLVIA3 and those SNH publications on which it relies. However, we have a number of observations and identified a number of issues with it which we consider lead to the under evaluation of some aspects of the assessment. These latter issues include the failure to use LANDMAP in considering landscape value, the undervaluing of some visual receptors, the inclusion in the assessment criteria and literal use of “other similar structures” and the use of literal applications of precise angles of the view occupied by the wind turbines; all of these could and do reduce the degree of significance of the effects to some extent.*
- *We consider that there are some shortcomings with the selection of representative viewpoints. Those that have been selected are satisfactory but several key scenic locations have not been included and that consequently this affects the assessment. These viewpoints include the BOAT about 700m due west of the turbines, Open Access Land at the summit of Llandegley Rocks about 1.3km from the nearest turbines, Open Access Land within the Radnor Forest area and Open Access Land at Castle Bank, near Camnant.*
- *The access tracks do not feature in the detailed visual impact assessment and do not appear, therefore, to have been taken into account. The access tracks are included within the landscape assessment but we consider the*

assessment to be cursory and which does not consider the effect of the significant earthworks. We note that the design does not show how the BOAT, which is severed three times, would be integrated.

- *There is a fairly high degree of agreement between the detail of the LVIA and with our own assessment. We differ in respect of the level of sensitivity to be applied to certain visual receptors, the value given to certain landscapes and with the individual assessments of magnitude of visual effect for some viewpoints, especially those in close proximity to the turbines. Consequently, we differ in some respects as to the degree of significance of certain effects but we generally agree with the LVIA's judgements in respect of whether an effect is significant or is not significant, in accordance with the meaning required by the EIA regulations. Also, to a large degree, we agree with the LVIA's assessment of where significant landscape and visual effects would extend to. We agree with the residential visual amenity assessment conclusions and with the cumulative landscape and visual impact assessment conclusions.*
- *Where we find particular failing in the LVIA, however, is in the absence of any conclusion as to the landscape and visual consequences of these effects. The conclusion section is simply a summary of the LVIA, it is not a statement of acceptability or otherwise of the proposal in landscape terms. We can, however, draw from the definition of significance provided in the methodology and conclude from this that the significant visual effects up to 5.5-6.0km and the significant landscape effects out to 5km are "of sufficient magnitude to be a material planning matter which should be taken into account in the decision making process", noting that "significant adverse effects are not necessarily unacceptable when weighed in the planning balance". We would go further than this and say that the significant effects on the LANDMAP High overall evaluation VSAs (Upland Moor Radnor Forest and Upland Moor Glascwm Hill) should weigh considerably against the development and that on the Moderate overall evaluation VSAs (Upland Moor north of Hundred House, Rocky Moorland Gilwern Hill and Rolling Hills central south-east) should have some weight. In terms of visual amenity we consider that the significant effects on users of the BOAT, the Open Access Land and Public Rights of Way, particularly of the surrounding upland areas should also weigh considerably against the development. It is for others to consider whether benefits of the scheme outweigh these harms.*
- *In pure landscape and visual terms we consider that the proposals would be unacceptable and recommended that the Council consider refusing this application on the grounds set out above.*

A further landscape assessment has been provided by Geoffrey Sinclair on behalf of local residents, whilst he is not a Chartered Landscape Architect it is noted that he has appeared at a large number of planning inquiries on behalf of objector groups. In his submissions he has also submitted an LVIA prepared by Anthony Jellard Associates for NRW. Both of these assessments largely concur with Enplan's findings that the ES underplays the landscape and visual impacts of the proposed development.

Having been to the site on several occasions I agree with both the ES and Enplan's assessment that there will be significant landscape and visual effects. The development site is located in a largely undeveloped valley setting and despite its undesignated status has

considerable landscape value. It is noted that the impact of the access road, substation and grid connection have not been given sufficient discussion and assessment in the ES as highlighted by several consultation responses but it is considered that the comments from Enplan and others on this matter add to my conclusion of significant landscape and visual effects.

I consider that the impacts identified would render the application contrary to UDP Policies SP12, ENV2, GP1, E3; PPW and TAN 8.

Ecology

There has been a considerable amount of material submitted since the application was originally submitted, particularly correspondence between NRW, PCC Ecology and the applicant on a range of matters but particularly in relation to the impact of the proposed development on SSSI's, the River Wye SAC and the wildlife (including protected birds and reptiles) that live within these areas and the application site. Additional information provided by the applicant comprises:

- Letter from Cunnane Town Planning dated 23rd March 2015 including statement from ADAS consultant ecologist responding to the comments provided by Hannah Powell and Natural Resources Wales
- Appendix A: Hendy VP Summary Revised 170315, prepared by ADAS UK Ltd
- Appendix B: Reptile Survey Area, Hendy Windfarm, Powys, prepared by ADAS UK Ltd
- Appendix C: Hendy Wind Farm Habitats Regulations Assessment Screening Report, prepared by ADAS UK Ltd

This material was considered to cover many of the concerns raised by both NRW and PCC Ecology. NRW's response dated 22nd December 2014 contained an objection due to lack of a transparent Habitats Regulations Assessment for the River Wye SAC. In order to address this a Habitats Regulations Assessment Screening Report produced by ADAS dated February 2015 was submitted. PCC are required by Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) to assess the potential for projects to impacts European Designated sites, as such the information submitted has been used to undertake a Habitats Regulations Assessment Screening has been undertaken for the River Wye SAC. Having reviewed the information provided by the applicant as well as comments received from NRW and other consultees, PCC Ecology has determined that the proposed development would not result in a likely significant effect to the River Wye SAC and/or its associated features.

Whilst I note the concerns expressed by the Radnorshire Wildlife Trust and the bird recorder neither NRW nor PCC Ecology have raised similar concerns and I am satisfied that there is adequate information provided to determine the application.

In light of the information submitted and the results of the Habitats Regulations Assessment it is considered that the proposed development can be considered to comply with the relevant UDP policies in relation to ecology subject to conditions covering the following matters:

- Construction Environmental Management Plan (CEMP) – submission prior to commencement of development The CEMP shall cover the periods of site clearance, construction and the restoration of all work areas and shall include:

- Detailed method statements
 - Contractor arrangements
 - Reporting and liaison mechanisms between the contractor, Ecological Clerk of Works (ECoW), the local planning authority and NRW
 - Monitoring and contingency proposals for implementation
 - Pollution Prevention Plan
 - Invasive Non-Native Species Control Plan
- Protected Species Protection Plan (PSPP) – submission prior to commencement of development. The PSPP will need to include
 - A detailed Pre-commencement Survey Programme including specification for pre-commencement surveys to be undertaken for (but not limited to) bats, otter, curlew, water vole, badger, great crested newt and reptiles and include
 - survey methodology
 - schedule and timing
 - the development of casualty risk models for bats
 - Details of specifications for Mitigation or Reasonable Avoidance Measures including in relation to bats, great crested newts, otters, reptiles, breeding birds, water vole, pillwort and badgers to ensure their protection throughout the pre-construction, construction and operational phases of the development
- Habitat Management and Enhancement Plan – submission prior to commencement of development. This plan will set out detailed nature conservation management and enhancement objectives including the management, restoration or creation of priority habitats and/or species, and a timetable for its implementation. The plan will need to include confirmation of the deliverability of the identified measures.
- Confirmation of appointment of a suitably qualified Ecological Clerk of Works (ECoW) to be employed on the development – submission prior to commencement of development
- Submission of an Ecological Monitoring Plan (EMP) – submission prior to commencement of development. The EMP will need to include details of monitoring of Ecological features through construction, operation and decommissioning of the development, the monitoring will also need to be linked to appropriate contingency plans and identify when results would trigger implementation of relevant contingency measures identified in the CEMP. The EMP shall also include the monitoring arrangements for the Habitat Management Plan (HMP) and Protected Species Protection Plan (PSPP).

Hydrology, Geology & Peat

None of the application site is identified at being at risk from flooding from rivers or the sea but the ES notes at para 10.4.4 that *'high surface water flow on-site may lead to significant flooding off-site, which may impact small communities along the River Edw and Nant Brook'* to the south of the site.

Peat is present on the site and concerns exist about the impacts on it. The site has been shown not to have substantial areas of deep peat and NRW have highlighted that potential damage to peatland habitats and carbon stores are a significant issue. In line with section 42

(NERC Act 2006) priority species and habitats of conservation concern in Wales, disturbance and/or destruction of peat should be avoided as far as possible, and where it was not possible, such impacts would be minimised.

The ES states that the assessment of the impacts of the proposal on peat is not necessary because no construction is planned on peaty areas. The access track in the southern part of the site may pass close to deeper areas of peat but the scale of the figure makes it difficult to quantify. Some concerns have been raised with regard to the methodology used by the applicant in assessing Peat and further information on this has been provided.

Whilst impacts on peat are considered important it is noted that development is located away from areas of deep peat. The applicant has requested a micro-siting policy so that they can ensure impacts on public rights of way are minimised and it is appropriate that this policy takes account of peat to steer development into areas of shallower or no peat. Subject to a suitably worded condition it is considered that the impact on Peat can be minimised so that any impacts would not be considered unacceptable.

Concerns have also been raised in relation to construction activity polluting the local hydrology and the introduction of new tracks increasing surface run-off. Welsh Water have confirmed that the River Wye Catchment is one of their raw water sources and it is essential that this is not polluted. NRW have confirmed that subject to a comprehensive Construction Environment Method Statement being secured by condition and adhered to the risk of pollutants reaching the watercourses is minimal.

Private Drinking Water Supplies

Section 10 of the ES considered the impacts on private drinking water supplies, it shows that local private water supplies are situated 500m or more away from the proposed development and states that they are therefore considered unlikely to be affected by activities carried out during the construction and operation phases of Hendy Wind Farm.

No response has been received from PCC Environmental Health.

Notwithstanding this, due to the unknown nature of the sub terrain it is difficult to predict the exact routing of subsurface flows. Construction activity has the potential to pollute these flows and therefore a planning condition ensuring the quality of private drinking water supplies are maintained during construction is considered appropriate.

Shadow flicker and Reflected Light

Shadow flicker is when the sun passes behind the rotors of a wind turbine and casts a shadow over any neighbouring properties. When the blades (and associated shadows) rotate they move quickly which results in light levels flickering and is most noticeable when the shadow passes across window/door openings.

Only properties within 130 degrees either side of north, relative to the turbines can be affected at the latitudes of the UK – turbines do not cast long shadows on their southern side.

The effect is also mitigated by the size of the turbine and the distance to the receptor. A distance of 10 rotor diameters is generally considered to sufficiently mitigate the impact.

The ES considers that the proposed development would not cause significant shadow flicker effects to any residential property as there are no properties within 820m of a turbine with the closest residential property (Hendy Farm) being circa 960m to the south of turbine T1.

Light reflecting off turbines and the rotating blades can impact dwellings in a similar (but opposite) way to shadow flicker and would primarily impact properties to the south. The applicants have sought to reduce this impact as far as practicable by making the turbines a minimal reflective, off-grey colour with a semi-matt finish. It is considered that the impacts on dwellings as a result of reflective light would be minimal, if at all.

Noise

This proposal will create noise, both during construction and operation.

Construction noise is likely to be audible from the surrounding dwellings. The impact of these works can be controlled by conditions relating to when construction work can take place.

With regard to operational noise, national policy and guidance refers to the need for operational noise levels to fall within the established limits of ETSU-R-97 (The Assessment and Rating of Noise from Wind farms (1997) Energy Technology Support Unit). This guidance sets out indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farms. ETSU-R-97 is supported as an appropriate standard in TAN8.

An independent review of the proposed operational wind farm has been carried out by Dick Bowdler (Acoustic Consultant). His initial assessment concluded that there the ES had erred in its assessment of the impacts and requested further information. This was duly provided by the applicant and Mr Bowdler has confirmed that the proposed noise limits at the various residential properties are considered to be acceptable.

Mr Bowdler has therefore concluded that, subject to appropriate planning conditions, the noise that would be generated by the proposed development will not be harmful to residents.

Cultural Heritage

The proposed development would mainly be situated on a slight depression within the valley landscape. The ES identified that:

- There are no designated heritage assets within the development site.
- There are 53 Scheduled Monuments located within the Outer Study Area (10km). Four of these are located within 1.5km of the Development Site and comprise a medieval enclosure, two hillforts and a standing stone.
- There are two Grade I Listed Buildings within 10km of the Development site, both outside of the ZTV and so are not subject to assessment. There are 11 Grade II* Listed Buildings within 10km of the Development site, four of which are within the ZTV and are subject to appraisal. The turbines would be visible in views of or from two

Grade II* Listed Buildings (The Pales and Church of St Michael) and these are subject to more detailed assessment. The ES concluded that there would be no significant indirect (visual) effects on the significance of any Listed Buildings. However as there will be intervisibility between the proposal and two of the listed building Members will need to apply section 66 of the Listed Buildings Act 1990 (discussed below).

- There are no Conservation Areas within 5km of the Development site.
- There is one Park and Garden of Special Historic Interest (Pencerrig) however this is outside of the ZTV and so is not subject to assessment (as agreed with Powys County Council).

Representations have been received in relation to cultural heritage matters primarily from Cadw, Royal Commission on the Ancient and Historical Monuments of Wales and CPAT. The applicant submitted further information in response to queries and issues raised in their additional information submitted in March 2015.

Atkins was commissioned by PCC to provide a professional opinion on the likely acceptability of the cultural heritage impacts of a proposed wind energy development at Hendy. It highlights that the Environmental Statement and supporting documentation provided in 2015 does not fully report potential impacts and fails to address impacts on non-designated remains of potentially national importance. The report concludes that *'the proposed development would "significantly damage" the setting of at least three and probably more scheduled monuments and other nationally important archaeological remains. Our view reflects that expressed by Cadw and CPAT. If this view is accepted by a decision maker, then PPW requires "exceptional circumstances" to exist before the development can be approved. Whether such circumstances exist is a matter for the decision maker's / planning authority's professional judgement, but the circumstances must be clearly articulated for the decision to have validity in law. As indicated above we would advise that further guidance is sought from Cadw / Welsh Government on the interpretation of this aspect of policy. At this time it is unclear whether the renewable energy policy and delivery situation in Wales provides exceptional circumstances, but our view is that the weight Welsh Government provides some indication that it may.'*

Atkins considered that the proposed development would have a significant impact on the setting four Ancient Monuments (Scheduled Nant Brook Enclosure, Scheduled Graig Camp, Scheduled Llandegley Rocks Hillfort and the Scheduled Crug Eyr Mound and Bailey Castle). Concerns have also been raised with regard to the Scheduled Fedw Stone Circle (despite issues with the degree to which the monument survives), the Scheduled Cwm Maerdy Standing Stone and a number of other scheduled monuments within 5km where the ES has dismissed impacts that potentially should not have been and other unscheduled "nationally important remains". With regard to listed buildings, Atkins concurs with ES in that there will be no significant indirect (visual) effects on the significance of any Listed Buildings,

UDP policies SP3, SP12, E3 and ENV17 all require development to not unacceptably impact important historic features although it is appreciated the wording of each policy differs slightly. Most noticeably in this instance ENV17 states that development will not be permitted if it unacceptably affects the remains of, or setting of, a Scheduled Monument of an archaeological site of national importance. Atkins considered that the proposed development to be in clear conflict with UDP in relation to impact on cultural heritage assets. Furthermore, Circular 60/96 contains a presumption against proposals which would have a significant impact on the setting of visible remains of Scheduled Monuments.

In addition, the harms that would be caused are contrary to the general policy objectives of PPW set out in chapter 6. However, PPW also states at paragraph 6.5.5. *'It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.'*

It is concluded that the proposal will have a significantly damaging effect on the setting of scheduled ancient monuments and therefore in accordance with national policy development should be only permitted in exceptional circumstances. There is a presumption against grant of planning permission. However it is recognised that there is a need for developments of this type and it is for the decision maker to form a judgement on whether that need outweighs the presumption against grant of permission and constitutes exceptional circumstances. It is noted that in the case of Bryn Blaen, the Welsh Government concluded that the need for such a development outweighed harm to the historic environment. However each application presents different and unique impacts and should be assessed on a case by case basis.

Given there will be intervisibility between the turbines and the two Grade II* Listed churches Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 comes into play. This states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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'. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

It is concluded that the proposed development will have significant and unacceptable impacts on the setting of a number of heritage assets in the vicinity of it. These are considered to constitute a *'significantly damaging effect upon its setting'* in PPW terms.

Highways / Transportation

The proposed development would be accessed via a new access from the A44 joining an existing access which would be upgraded to be able to accommodate the large vehicles required for delivery, construction and maintenance.

The ES confirms that during the operation of the wind farm there would be up to two vehicle movements per week by car or light van for maintenance purposes. On occasions there may be a requirement for the delivery of replacement components to the site in the event of a major failure. It is not considered that these movements will give rise to any unacceptable impacts.

The principal impacts on the highway network would be during the construction and decommissioning phase although much of the development remains post decommissioning it is appropriate to assume that there would be a greater amount of construction traffic compared to decommissioning traffic.

The ES confirms that the Port of Entry for turbine components will be Ellesmere Port although it is noted that the Welsh Government as highway authority have commented on the shortage of space at this port. Other ports may be more appropriate.

The ES considers the impact of construction traffic, primarily along the A44, and concludes that there will be no significant impacts.

The concerns of PCC Highways were set out in their letter dated 21 August 2014, this was superseded by a response dated 5th April 2017 that confirmed the details submitted are generally acceptable. They confirm in this response that the details provided show that a safe means of access can be provided to serve the construction of the development. However, full engineering details are still required and these can be dealt with by pre-commencement conditions.

An initial response from the Welsh Government as highway authority dated 16th December 2015 where they directed that the application not be determined until details of required proposed layover / holding areas are provided. A later email dated 22 March 2017 confirmed that the application can be determined if conditions similar to those applied to the Bryn Blaen permission are applied.

In light of this, it is not considered that an objection to this scheme could be maintained on traffic / highway impacts.

Public Rights of Way / Open Access Land

The proposed turbines are located within close proximity of two PRow's, namely the BOAT CR127 and the bridleway LA1218. It should be noted that Landscape and Visual impacts in relation to PRow's are discussed previously in this report and this section considers other potential impacts on public rights of way.

PCC Countryside Services initially objected to the proposed development as they had significant concerns in relation to the proximity of turbines to these routes and the location of the substation. Following this, the applicants have proposed the following measures:

- A new permissive route for walkers, cyclists and horse riders located 200m from the proposed turbines.
- A micro-siting planning condition which would ensure that turbines 2 and 3 would be located further from the public rights of way.
- The substation will not be located on top of Footpath GC1570.
- A condition requiring an Access Management Plan should be attached to any permission to ensure safe public access along the BOAT CR127 during construction.
- The upgrading of various rights of way on land within the applicants control and a contribution of £17,500 (secured by a Section 106 Agreement) towards maintenance

and improvements to the local PROW network to allow users to avoid the wind farm site if they wish.

Subject to the measures outlined above it is considered that the proposed development would not have an unacceptable impact on the PROW network. UDP Policy RL6 supports proposals that improve access to and enjoyment of the countryside by the public. Whilst there may be potential negative impacts on the amenity of users and their enjoyment of the routes improvements to facilitate access should be welcomed.

Overall it is considered that in relation to impacts on the PROW network other than landscape and visual impacts, subject to the proposed mitigation being secured the impacts on the PROW network will be neutral to slightly positive.

Grid Connection

The ES states that power generated from the development will be transferred from the substation via a new 66Kv overhead power line which will connect with existing infrastructure to the south of Llandrindod Wells. The proposed corridor for the connection is illustrated in Figure 1.7 of Volume H.

This new grid connection line will be the subject of a separate application and dealt with by the local electricity distribution company (Western Power Distribution). It is appropriate that any development does not commence until this permission is in place.

Socio Economic & Tourism

The ES confirms that the total capital cost of the development is estimated at £19.1 - 23.3 million (depending on which turbines are chosen). It is assessed that at the development stage, 8% of the direct economic benefits will be retained locally and 41 % will be retained in the wider region. This indicates that the wind farm would bring in total £0.12 - 0.15 million to the local economy and £0.6 - 0.8 million to the Wales economy during development. At the construction stage, it is estimated that the development would bring about £1.2 - 1.4 million to the local economy and £4.9 - 6 million to the Wales economy. During operation of the wind farm it is estimated that the development would generate £0.2 - 0.3 million locally and £0.5 - 0.6 million in Wales per year during its life time. Further indirect benefits would result due to the increased demand for local services including hotels, B&Bs, pubs, restaurants, taxi firms, fuel and repair garages and local shops. In terms of employment it is estimated that the development could generate 3 - 5 full-time equivalent local jobs and 9 - 24 full-time equivalent regional jobs.

I can find no reason to consider that this information is incorrect and note that financial predictions are likelihoods and not fact.

UDP TR2 seeks to oppose development of any kind, which would have an unacceptable adverse effect upon the environmental setting of established tourist attractions. The application site sits in the heart of rural Powys, an area that has a strong tourism industry in a variety of guises although it is noted that many tourists are drawn to the area for its scenic quality and utilise the public right of way network to enjoy the area. Several representations

have been received from local event organisers and businesses, such as the Fforest Fields Caravan and Camping Park and the British Horse Feeds Red Dragon Festival of Endurance raising concerns that the proposed development will be of detriment to local tourism and their livelihoods or events.

It is noted that there are not any promoted local, regional or national routes in the locality.

In addition, a study into the potential economic impacts of wind farms and associated grid infrastructure on the Welsh tourism industry was completed following a recommendation from the Welsh Government's Environment and Sustainability Committee. The *'Study into the Potential Economic Impact of Wind Farms and Associated Grid Infrastructure on the Welsh Tourism Sector by Regeneris Consulting and The Tourism Company'* concluded that there is limited evidence that wind farms impact tourism in Wales. With regard to Powys in particular, the report does state that *'There are examples of certain locations which are more sensitive to wind farm development on account of their landscapes, types of visitor, limited product diversity and proximity to wind farms. This is particularly the case where the key visitor markets are older people visiting for the tranquillity, remoteness and natural scenery offered in some parts of Wales. Remoter parts of Powys are the most notable examples of where this may be the case. In these locations, the study has concluded that the potential negative effect on visitor numbers may still be low overall, but in some circumstances could be moderate. But these findings are still subject to various aspects of uncertainty and need to be explored on a case by case basis for schemes going through the planning system.'*

It is considered that the impact on tourism is hard to prove and cannot be given weight in favour of grant of permission or refusal. Overall, the socio-economic impact is considered to be slightly positive as the development is likely to have a modest positive effect on the economy and employment.

Aviation

The ES confirms that wind turbines have the potential to cause a variety of effects on aviation and radar these range from the generation of unwanted returns on primary radar and affecting the performance of secondary performance radar (SSR), Navigational aids and communication facilities through to physical collision. The ES considers potential impacts of this development in section 12.2.3 and concludes that the development would not result in any issues.

The MOD have confirmed that they do not object to the proposed development subject to:

- the turbines being fitted with aviation lighting (25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point)
- them being notified of:
 - the date construction starts and ends;
 - the maximum height of construction equipment;
 - the latitude and longitude of every turbine.

No other consultation responses have been received in relation to aviation. It is therefore considered that the impacts on aviation are acceptable subject to conditions securing the above measures.

Telecommunications

Arqiva have are responsible for providing the BBC and ITVs transmission network and they have provided a response in relation to the integrity of these broadcast networks. These networks involve point to point microwave links. They have confirmed that they do not object to the proposed development.

Problems with interference is a separate matter. Due to the scale of wind turbines and the moving parts they can disrupt telecommunication signals at receptors (such as residential properties). The ES identifies in Table 12.4 potential impacts on television signal interference, it accepts that interference with the signal is possible at remote properties in the area, at Hundred House and Cregina although it considered interference would be unlikely.

The ES sets out a series of mitigation options in table 12.4 and notes that until the turbines are erected actual interference will not be known. I consider that a condition on any permission to secure mitigation where required would adequately addresses this matter.

Cumulative Impacts

It is important to consider the cumulative impacts of the proposed development with other wind energy developments in the area in accordance with UDP policy E3.

In Landscape and Visual terms, there would be some in-combination cumulative visual effects. Nearby turbines are much smaller and whilst there are some relatively close (Cwmmaerdy 20.4m to tip 0.8km from the nearest turbine and Brynmelys 18.95m to tip 2km from the nearest turbine for example) impacts will be limited. Due to the terrain some stacking will be inevitable in several views but these effects will be limited. It is also noted that Garreg Lwyd is now constructed some 19.2km to the North, the cumulative effects of this scheme in combination with the proposed development have already been assessed within the ES. The assessment within the ES is supported by Enplan's independent assessment. I consider cumulative landscape and visual impacts would be limited and not significant.

With regard to the historic environment, the ES lacks proper consideration of cumulative impacts and only provides an assessment of cumulative effects in terms of visibility (ES Technical Appendix 5.8). It is hard to conclude on cumulative impact with this information but Atkins has confirmed that there *'may be a limited degree of cumulative effects resulting from the proposed development.'*

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 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 Planning (Wales) Act 2015 (Welsh language) 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 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 Wellbeing of Future Generations (Wales) Act 2015 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. The well-being objectives are set out in chapter 4 of PPW and are:

- A prosperous Wales.
- A resilient Wales.
- A healthier Wales
- A more equal Wales
- A Wales of Cohesive Communities
- A Wales of Vibrant Culture and Thriving Welsh Language
- A Globally Responsible Wales

When considering these objectives it is important to recognise that benefits and impacts of the proposed development pull the overall balance in different directions. However, overall and for the reasons I set out in the conclusions to this report it is considered that the

proposed development is in accordance with the sustainable development principle through its, on balance, positive contribution towards the well-being objectives.

Conclusions

Despite the clear progress being made towards meeting current renewable energy generation targets, the targets beyond these are more challenging and there will be a need for more renewable energy projects to meet them. The need for renewable energy development is clear and the proposed contribution of electricity to the National Grid should be afforded considerable weight in the planning balance.

The lack of local support for the scheme is noted but it is considered that the provision of renewable energy to be a UK wide priority and should be given considerable weight. The economic benefits of the scheme are also to be given weight in support of the proposed development.

Having reviewed the application proposals many of the concerns identified have been addressed through the submission of additional information or can be mitigated through the imposition of appropriate planning conditions or Section 106 Agreement. Impacts on ecology, hydrology, peat, private drinking water supplies, noise, highways & traffic, public rights of way, aviation and telecommunications are all considered to be acceptable. Most of these considerations result in neutral impacts as mitigation is required to avoid negative impacts. Accordingly, they have limited impact on the planning balance.

The primary areas of concern relate to cultural heritage and landscape and visual effects where the proposed development will result in significant impacts.

With regard to cultural heritage the proposed development would have a significant impact on the setting four Scheduled Ancient Monuments (Nant Brook Enclosure, Graig Camp, Llandegley Rocks Hillfort and the Crug Eyr Mound and Bailey Castle) alongside the other unacceptable impacts referred to earlier in this report.

With regard to landscape and visual effects, significant impacts have been identified on the LANDMAP High overall evaluation VSAs (Upland Moor Radnor Forest and Upland Moor Glascwm Hill) and there will be impacts on the Moderate overall evaluation VSAs (Upland Moor north of Hundred House, Rocky Moorland Gilwern Hill and Rolling Hills central south-east). In terms of visual amenity, significant impacts will be experienced on users of the BOAT, the Open Access Land and public rights of way.

UDP Policy E3 and other policies within the UDP state that wind energy developments should not unacceptably adversely affect the environmental and landscape quality of Powys nor any buildings or features of conservation or archaeological interest. In light of the above assessments is considered that the proposed development should be considered contrary to this policy and the Powys UDP. In those circumstances in accordance with section 38(6) planning permission should be refused unless the committee accept that material considerations indicate otherwise. The need for renewable energy is capable of being a material consideration that may give rise to a grant of planning permission notwithstanding the fact that the development does not comply with the development plan.

At the national level PPW states (para 6.5.5) that *'It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.'* It is also important to consider Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the local planning authority 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.

As I have set out above, there is a clear need for developments of this type and it is for the decision maker to form a judgement on where the balance lies in this case. It is noted that recent decisions (for example, the Bryn Blaen wind farm for 6 turbines located outside a Strategic Search Areas which was allowed on appeal on 23rd August 2016) have concluded that the need for such renewal development outweighs the harm to the historic environment. However, it is important to consider each application on its individual merits and is for the decision maker to decide whether the strength of the need for renewable energy provides the *'exceptional circumstance'* set out in PPW to grant the proposed development planning permission, and overcome the presumption against grant of permission, despite the identified harmful impacts on the historic environment.

With regard to landscape and visual impacts, the application site is not located within a designated landscape. However, a number significant landscape and visual impacts have been identified following an assessment of the proposed development. These harms are to be given substantial weight against the grant of planning permission.

This is a very finely balanced case. The support for renewable energy projects at national policy expressed through PPW and other policy set out above is clear and the Bryn Blaen decision is an indication of the weight to be given to the need, notwithstanding significant heritage, landscape and visual impacts that were identified. However, each application is to be judged on its individual merits and the impacts need to be carefully assessed.

Recommendation

Environmental information has been taken into consideration when arriving at this recommendation. If members chose to follow this recommendation and grant permission they must ensure that they have taken the environmental information into consideration and record that they have taken it into account.

In this instance I conclude that the balance weighs in favour of the proposed development although in reaching this conclusion I am mindful of the identified significant impacts on a number of Scheduled Ancient Monuments and other heritage assets. In my view the need for renewable energy outweighs the presumption against grant of a planning permission in the Circular and in Section 66, and constitutes exceptional circumstances for such a grant of permission. In addition, the proposals would have significant adverse landscape and visual impacts. Overall, and in weighing up these impacts I consider that the need for renewable energy, together with the economic benefits, outweighs the harms. The recommendation for approval is subject to the planning conditions (to follow in an update report) and Section 106

Agreement to secure the permissive footpath through the site and £17,500 for improvements to public rights of way within and around the application site.

However, as this case is very finely balanced and it is recognised that Members may strike the balance in a different direction and Members may consider that the significant identified heritage, landscape and visual impacts outweigh the renewable energy and economic benefits. If Members did strike the balance in another way then the following are identified as potential reasons for refusal which encapsulate the harms identified above:

1. The proposed development is unacceptable in landscape and visual terms due to the extent and degree of the significant landscape effects on LANDMAP High overall evaluation VSAs (Upland Moor Radnor Forest and Upland Moor Glaschw Hill) and moderate overall evaluation VSAs (Upland Moor north of Hundred House Rocky Moorland Gilwern Hill and Rolling Hills central south-east). The proposed development is contrary to policies UDP SP12, ENV2, GP1 and E3 of the Powys Unitary Development Plan (March 2010), Technical Advice Note 8: Renewable Energy (2005) and Planning Policy Wales: Edition 9 (2016).
2. The proposed development would have a significant effect on users of the BOAT, Open Access Land and Public Rights of Way and thereby contrary to policies UDP SP12, GP1 and E3 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales: Edition 9 (2016).
3. The proposed development would have an unacceptable adverse impact on the setting of Scheduled Nant Brook Enclosure, Scheduled Graig Camp, Scheduled Llandegley Rocks Hillfort and Scheduled Crug Eyr Mound and Bailey Castle. The proposed development is therefore contrary to policies UDP SP12, UDP SP3, ENV17 and E3 of the Powys Unitary Development Plan (March 2010), Welsh Office Circular 60/96: Planning and the Historic Environment: Archaeology (1996) and Planning Policy Wales: Edition 9 (2016).

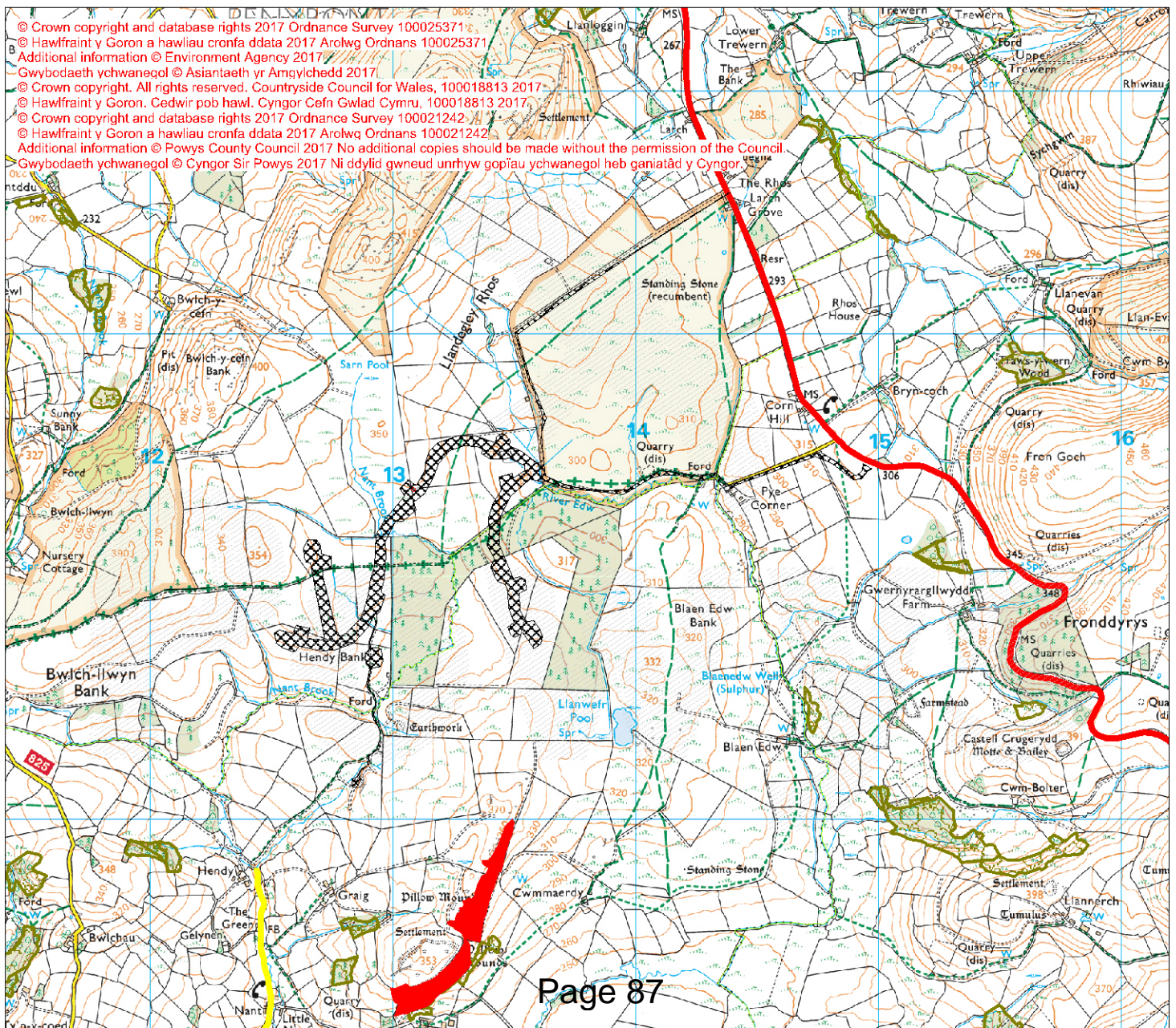
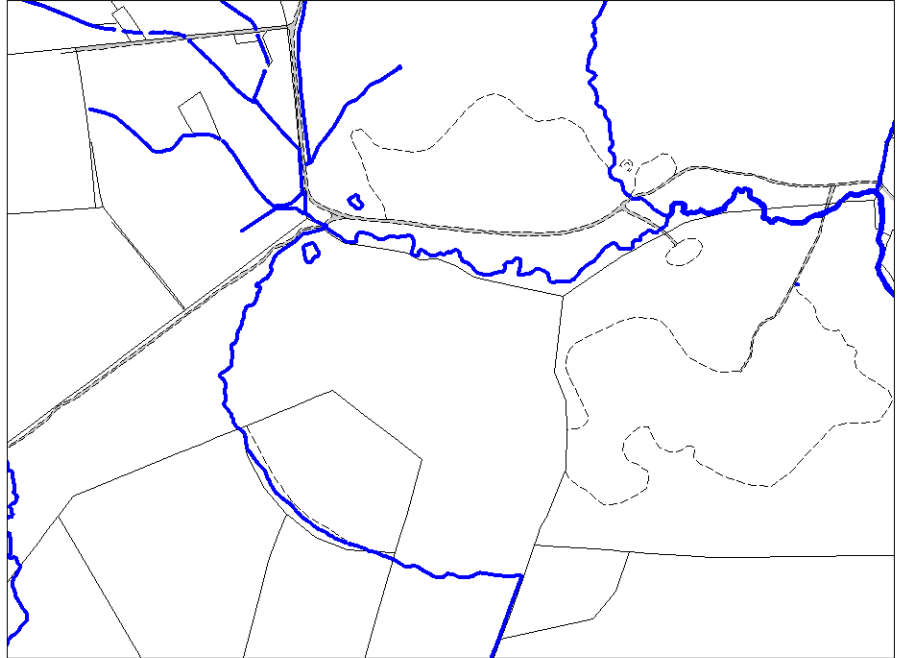
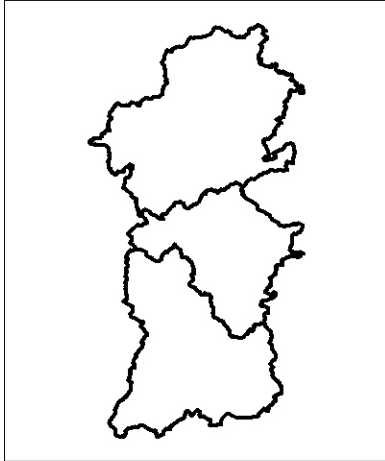
CONDITIONS

Proposed conditions to follow in update report to committee.

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

Applicant: Hendy Windfarm Ltd

Location: Land off A44, SW of Llandegley



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PTLRW46 - 20173

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2016/0803 **Grid Ref:** 315874.33 236213.88

Community Council: Bronllys **Valid Date:** 29/07/2016 **Officer:** Tamsin Law

Applicant: Mr & Mrs G Hopkins C/O Agent

Location: Beacons Edge, Pontithel, Brecon, Powys, LD3 0RY

Proposal: Hybrid planning application comprising the change of use from 3 no dwellings to 1 no dwelling, the change of use of plots 1 and 4 and erection of plots 2 and 5 each becoming single holiday let units in lieu of each comprising 4 individual motel units approved under planning application B6022, the erection of a detached garage, access, parking and associated works (applied for in full), and the erection of 1 no dwelling (applied for in outline)

Application Type: Hybrid Application for Full and Outline Planning Permission

The reason for Committee determination

The application is a departure from the development plan and the applicant is a County Councillor.

Site Location and Description

The site of development

The site of development is within the property known as Beacons Edge. Beacons Edge is situated to the south of the A438 (Brecon to Hereford Road) and is isolated from other properties. The rural settlement of Pont Ithel is the nearest settlement with the larger settlement of Three Cocks being 1.3km to the north east. The site is surrounded by agricultural land and the Afon Llynfi is around 200m to the south east. Beacons Edge has an area of approximately 0.71 hectares.

There are currently two access points to the north east and south west edges of the site to the A438. A third pedestrian access is located in the centre of the property. The site is located directly abutting the A438 and set down from the carriageway level.

The south eastern boundary is relatively open to the adjoining fields and the boundary is marked by a post and wire fence and hedge planting. The northern boundary is made up of hedgerow along much of its length with openings for the access points and where the main property adjoins the highway.

Current development on site

A full description of the current development on site is given in the planning history below. The description of the current development on site comes from the 1991 planning permission reference B/6022, which is given below:

- Main building – Subdivided into 3 units of accommodation and potential for further extension.
- Motel Unit 1 – Completed with variations in design to the 1991 permission and used.
- Motel Unit 2 – Not commenced, with potential for development.
- Motel Unit 3 – Recently completed.
- Motel Unit 4 – Commenced development.
- Motel Unit 5 – Not commenced, with potential for development.
- Motel Unit 6 – Not commenced, with potential for development.

The development proposal

Beacons Edge has a material planning history and this is fully detailed below. This proposed development is to “rationalise” the development on site. The proposal is submitted as a hybrid planning application with part of the application being submitted in outline and part in full.

The application seeks outline consent for a single dwelling with all matters apart from access reserved for future consideration. The outline element of the applications seeks consent for an open market dwelling that will measure 6 – 15 metres in width, 7 – 14 metres in depth, the height to the eaves will measure 5 – 9 metres, and the height to the ridge will measure 7 – 13.5 metres with a 30 – 50 degree roof pitch.

The application seeks full planning permission for the for the change of the existing ‘motel’ building, which currently benefits from three separate residential units, into one dwelling; the change of use of plots 1 and 4 from motel rooms with 4 rooms to individual self-contained holiday lets; the construction of plots 2 and 5 to be individual self-contained holiday lets; the erection of a garage and access, parking and associated works.

Consultee Response

Bronllys CC

P2016/0803 – Hybrid planning application comprising 2 no. Holiday let units and a detached garage, access, parking and associated works (applied for in full) and 1 no dwelling (applied for in outline), Beacons Edge, Pontithel – Planning Application Approved.

Powys Highways

1st Response

The County Council as Highway Authority for the County Class I Highway, A438

Wish the following recommendations / Observations be applied
Recommendations / Observations

It has been noted that the agent acting for the applicant has stated that both P/2016/0803 and P/2016/0804 are to be considered together since the applications are fundamentally interrelated. As such the comments below should be applied to both applications.

The overall proposal, as detailed in the supporting documentation would imply that there could be reduction in the likely traffic generation from the various consents that have been issued and implemented within the site. If this is a correct summation of the planning history and current development proposals then the Highway Authority is likely to be supportive of the two applications.

In the Design and Access statement for both applications it is stated “the existing western access is considered to be inadequate in highway safety terms, and it is proposed to undertake improvements to this access to ensure that the relevant standards in terms of vision splays and radii are met.”

Furthermore, the intention to split the site is noted and that a separate dwelling has been proposed in outline, however, the indicative drawingg, dwg. Nuber 16/4183/3 identifies the site for the dwelling but also includes a note for a new access to serve the eastern side with existing access being stopped up.

Unfortunately, whilst we are supportive of the statement for the improvement of the western access and note the relocation of the eastern access, absolutely no details have been submitted to confirm whether the access proposals would comply with their statement about the improvements being constructed “to ensure that the relevant standards in terms of vision splays and radii are met.” The notes on the indicative drawing are insufficient and we will require that full details are submitted for both access proposals in order to ensure that they meet current standards, as they have stated.

Therefore, until such time that detailed access proposals are submitted for consideration I would respectfully request that these two applications are deferred.

2nd Response

The County Council as Highway Authority for the County Class I Highway, A438

Wish the following recommendations / Observations be applied
Recommendations / Observations

Although both P/2016/0803 and P/2016/0804 are separate planning applications the applicants’ agent has stated within the Design and Access Statement that “Given the ingerently interrelated nature of the applications, the applications should be considered and assessed as whole.” Therefore, we have considered the two proposals in light of the extensive planning history for this site and, in particular, the potential traffic generation that could be generated from the severely substandard western and eastern accesses.

The current proposal, if consented, would see a significant reduction in traffic movements over that which could be implemented from the existing consents. The proposed alteration to the western access, though not fully compliant with current standards, does represent an improvement to that currently in place. Furthermore, the relocated eastern access incorporates changes which will improve highway safety conditions. Therefore, we recommend that the following conditions be attached to any consent that may be issued.

1. Within 5 days from the commencement of the development the accesses and visibility splays as detailed on drawings 0999 001 Rev. B and 0999 002 Rev. B shall be fully completed in accordance with the following specification: a minimum of 250mm of sub-base material 100mm of bituminous macadam base course material, 60mm of bituminous macadam binder course material, to the written satisfaction of the Local Planning Authority.
2. The gradient of the accesses shall be constructed so as not to exceed 1 in 25 for the first 5.5 metres measured from the edge of the adjoining carriageway along the centreline of the access and shall be retained at this gradient for as long as the development remains in existence.
3. Prior to the occupation of any of the units the area of the accesses to be used by vehicles is to be finished in a 40mm bituminous macadam surface course for a distance of 5.5 metres from the edge of the adjoining carriageway to the written satisfaction of the Local Planning Authority. This area will be maintained to this standard for as long as the development remains in existence.
4. 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 400mm in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

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.

SEWERAGE

Since the proposal intends utilising an alternative to mains drainage we would advise that the applicant seek advice from Natural Resources Wales and or the Local Authority Building control Department / Approved Building Inspector as both are responsible to regulate alternative methods of drainage.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

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.

If you have any queries please contact the undersigned on 0800 917 2652 or via email at developer.services@dwrcymru.com

Please quote our reference number in all communications and correspondence

Powys Ecologist

Planning Application Reference	P/2016/0803
Project Name / Description	Hybrid planning application comprising 2 no holiday let units and a detached garage, access, parking and associated works (applied for in full) and 1 no dwelling (applied for in outline) at , Beacons Edge , <u>Pontithel</u> , Brecon, Powys.
Consultation Deadline	23/08/2016

Ecological Topic		Observations
EIA Screening Requirement	No	
Protected Species & Habitats ¹	European Species <input checked="" type="checkbox"/>	<p><u>Bats</u> There is a line of trees adjacent to the existing access at the western end of the development site, including two mature trees that may provide potential habitat for roosting bats. As there are no details of the proposed improvement to the access at this end, it is unclear as to whether any of these trees would need to be removed. If there is a need to remove any of the mature broad-leaved trees at this location, it will be necessary to provide an ecological assessment including an assessment of the suitability of these trees for use by roosting bats. If sufficient suitability is recorded, further surveys and/or mitigation are likely to be required, that could lead to the requirement for a European Protected Species (EPS) license from NRW.</p> <p><u>Dormice</u></p>

		Due to the presence of dormouse records within 2km in the BIS data and some connectivity to mature broad-leaved woodland, it is considered that the hedgerow bordering the road could provide suitable habitat for dormice. Therefore if there needs to be any hedgerow removal, this should be undertaken during the dormouse active season (May to October inclusive) under an ecological watching brief by an ecologist licensed to handle dormice, including a hand search for dormice nests immediately prior to the removal works. Should any dormice or active nests be found, works would have to be postponed until a dormouse license had been obtained from NRW and associated mitigation undertaken.
	UK Species <input checked="" type="checkbox"/>	See European protected species comments above. <u>Nesting birds</u> Trees and hedgerows provide nesting habitat for bird species, and as noted above it is apparent that trees may have to be felled to accommodate the development. Therefore any tree felling should be undertaken outside of the bird nesting season (March to August inclusive). If tree felling is required within the nesting season, a check for nesting birds should be made by a suitably experienced ecologist immediately prior to felling and if nests are found, the felling has to be postponed until that nest becomes inactive.
	Section 7 Species & Habitat <input type="checkbox"/>	See protected species above. It is recommended that bat and bird boxes are erected on proposed and/or existing buildings within the development site in order to represent an enhancement for biodiversity as specified under the Environment (Wales) Act 2016. Also any tree or hedgerow loss should be compensated by planting of suitable native broad-leaved species of local provenance to ensure no net loss of biodiversity.
	LBAP Species & Habitat <input type="checkbox"/>	See comments above.

Protected Sites	International Sites (within 2km) ²	<input checked="" type="checkbox"/>	The River Wye SAC is located approximately 170m to the southeast of the proposed works but is unlikely to be affected due to the distance and a lack of pollution pathways leading to the site.
	National Sites (within 500m) ³	<input type="checkbox"/>	The Afon Llynfi SSSI is located approximately 170m to the southeast of the proposed works but is unlikely to be affected due to the distance and a lack of pollution pathways leading to the site.
	Local Sites (within 500m)	<input type="checkbox"/>	There are no local sites likely to be affected by the proposal.
Invasive Non-Native Species	Unknown		Non-native invasive plant species should be included in further survey for bat potential if required.
Cumulative Effect	Unknown / Unconfirmed		Unlikely.
Summary of recommendations / further assessment or work			<p>It is advised that if any loss of mature broad-leaved trees is required, an ecological <u>survey to</u> include bat potential of these trees must be undertaken following standard CIEEM guidelines regarding methodology in order to assess the need for further survey, mitigation or EPS license. The survey should also note the presence of any invasive species.</p> <p>Nesting bird checks for tree/hedgerow removal within the bird nesting season and also a check for dormouse nests and ecological watching brief will also be required.</p> <p>Bat and bird boxes should be erected on existing/proposed buildings in order to represent an enhancement for biodiversity at the site.</p>
Recommended Conditions			<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p>1) <i>No removal of mature broad-leaved trees shall be undertaken without prior assessment by a suitably qualified ecologist for bat roosting potential and subject to any further survey/mitigation/license as advised by them.</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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p>1) <i>Any hedgerow removal shall be undertaken during the dormouse active season (May – October inclusive) under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for dormouse nests.</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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><u>Informatives</u></p> <p>Birds - Wildlife and Countryside Act 1981 (as amended)</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"> • 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 • <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

	<p>dependent young of such a bird.</p> <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, 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>Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>It is an offence for any person to:</p> <ul style="list-style-type: none"> • 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. <p>Under the Habitats Regulations it is an offence to:</p> <ul style="list-style-type: none"> • 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. <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 bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk</p>
	<p>Dormice - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>It is an offence for any person to:</p> <ul style="list-style-type: none"> • 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: <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 3: Safeguard Biodiversity and Natural Habitats ENV 7: Protected Species</p>
<p>Comments on Additional Information</p>	<p>Click here to enter text.</p>

NRW

Thank you for referring the above application, which we received on 01/08/2016.

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 requirements:

Requirement 1 – Condition – The implementation of the site layout in accordance with the submitted proposed block plan.

Flood Risk

The north-eastern area of the application site lies partially within Zone C2 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms this area to be within the 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Llynfi, a designated Main River.

The submitted site plan indicates all built development is located outside DAM zone C2. We therefore have no objection to this development on matters of flood risk subject to the following the implementation of the following condition:

Requirement 1 – Condition – The implementation of the site layout in accordance with the submitted proposed block plan.

Condition: The site layout is to be in accordance with the submitted Proposed Block Plan (ref: 16/4183/3).

Reason: To ensure the built development is outside DAM Zone C2/the 0.1% fluvial flood extents in accordance with the requirements of TAN15.

Recommendations

Surface Water

We recommend that a condition is imposed to ensure that a scheme to dispose of surface water is submitted to and approved in writing by your Authority, to ensure effective management of surface water run-off resulting from the proposed development. As they fulfil the role of Lead Local Flood Authority, we recommend that you contact your Drainage Department for further advice in relation to this. We advise that any proposed scheme should ensure that run-off from the proposed development is reduced or will not exceed existing runoff rates. Details of adoption and management should also be submitted to ensure that the scheme/systems remain effective for the lifetime of the development.

Foul Drainage

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site.

The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step bilingual guide to registering, is available on our website at the following link <https://naturalresources.wales/apply-for-a-permit/water-discharges/register-your-septic-tank-package-sewage-treatment-plant/?lang=en>.

Waste

The activity of importing waste into the site for use as, for example hardcore, must be registered by the Natural Resources Wales as an exempt activity under 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 the site. Any waste excavation material or building waste generated in the course of the development must be disposed of in accordance with the relevant legislation.

Protected Sites

The proposal is in the vicinity of the following protected sites:

- River Wye/Afon Gwy Special Area of Conservation (SAC)
- Afon Llynfi Site of Special Scientific Interest (SSSI).

The proposal is not likely to affect the features, ecological integrity or functionality of any statutory sites of ecological, geological and/or geomorphologic interest.

Landscape

The proposal site is near and therefore may affect the Mid Wye Valley Historic Landscape Area of Outstanding Historic Interest. While this is not a statutory designation, chapter 6 of Planning Policy Wales (PPW) states that it is a material consideration in the planning process and must be given due regard when reaching a determination. We recommend that the local planning authority may wish to consider any local/regional landscape interests.

Please do not hesitate to contact us if you require further information or clarification on any of the above.

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

The application has been advertised through the erection of a site notice and press advertisement. Objections have been received by one objector and is summarised below;

- Concerns of highway safety in relation to the substandard access and its impact upon accesses opposite the site.
- Lack of clarity within the submission.
- Site is located within open countryside and is contrary to the objectives of preventing unjustified development in the open countryside.
- The application fails to explain the current lawful status of the site.
- Areas of the site lie outside the applicants ownership.
- Proposed access points are entirely substandard

Planning History

Date	Reference	Applicant	Description	Status
1980	B/2142		Siting of residential caravan	Approved 07/03/1980 <i>Personal permission limited for a single year.</i>
1985	Unknown	Unknown	Proposed builders store	Refused 11/03/1985
	B/3853	Landowner 1	Proposed extension and change of use of dwelling to a restaurant / guest house. This proposal involved the creation of a reception area, dining room and a lounge / bar together with an associated kitchen and toilets at the ground floor level with 5 en suite bedrooms at the lower ground floor level.	Approved 07/05/1985 <i>Conditions limited use and access.</i>
<i>Comments: B/3853 considered implemented correspondence on later files and supporting information indicates initial dwelling house use and subsequent conversion to guest House.</i>				
1987	B/4368	Landowner 1	Proposed access and porch	Approved 09/03/1987
	B/4473	Landowner 1	Application to display 3 illuminated signs	Approved 08/06/1987 <i>No consent granted for third sign or for the proposed use of illumination.</i>
1988	B/4961	Landowner 1	Conversion of guest house to hotel / motel and chalets with double garage. This proposal involved the further extension of the building to provide: a. enlarged reception, dining and kitchen areas; b. a function room;	Approved 10/04/1989 <i>Conditions regarding window and door frames, stonework, landscaping, motel units not to be used for permanent residential use, access at western end of site to be closed off before development commences, access to be</i>

Date	Reference	Applicant	Description	Status
			<p>c. associated toilet facilities; d. 12 en suite bedrooms made up of 9 en suite bedrooms, 1 of which is disabled person unit at lower ground floor level and a further 3 en suite bedrooms and lounge at first floor level. e. 7x2 bed chalet type units in two slightly different formats with their own lounge and separate bathroom facilities.</p> <p>Overall this proposal provided for 19 holiday units (i.e. 12 letting bedrooms within the hotel plus 7 chalets each with two bedrooms).</p>	<p><i>constructed as set out in condition 10.</i></p> <p><i>Section 52 agreement limiting the use of chalets to paying guests. No permanent residential use. Dated 13/04/1989.</i></p>
<p><i>Comment: B/4961 considered implemented by the conversion of the main building to a motel / hotel. No conditions precedent preventing conversion. B/98/0231 Committee report for this application indicates use of the property as a motel at the time of this application.</i></p>				
1989	B/5561	Landowner 1	Approval of details for motel units	<p>Approved 15/01/1990</p> <p><i>Conditions regarding use of motel units to guests only, protection of existing trees and hedgerows, access at western end of site in materials to be agreed, access to be as per plan 06.10.88.</i></p>
	B/5584	Landowner 1	Temporary part extension of phase 2 (this appears to be an extension to the "main building").	<p>Approved 12/02/1990</p> <p><i>Conditions regarding doors and window frames, materials to match existing, access at western end of the site in</i></p>

Date	Reference	Applicant	Description	Status
				<i>materials to be agreed, access to be as per plan 06/10/88.</i>
1990	B/5777	Landowner 1	Kitchen extension	Approved 11/06/1990 <i>Conditions regarding window and door frames, stonework, landscaping scheme, retention of existing trees and hedgerows, dark stained woodwork, access at western end of site to be closed off before development commences, access to be constructed as set out in condition 10 of B/88/4961</i>
1991	B/6022	Landowner 1	<p>New design of motel units, extension to function room and provision of private staff accommodation. This proposal involves extending the function room at ground floor level which will be constructed over a “drive through” at lower ground level to provide access from the east to the chalet development. The opportunity is also taken to increase the accommodation at first floor level to provide a 2 bedroom staff flat. While this proposal reduces the number of chalets to 6, each is split into four units thereby creating a total of 24 motel bedrooms.</p> <p>Overall this consent increased the number of letting bedrooms from 19 allowed under</p>	Approved 11/03/1991 <i>Conditions regarding existing trees and hedgerows to be retained, motel units not to be used for permanent residential use, access at western end of site to be closed off before development commences, access to be constructed as set out in condition 10 of B/88/4961.</i>

Date	Reference	Applicant	Description	Status
			<p>planning consent B/4961 to 34 (i.e. 10 bedrooms in the hotel plus 24 bedrooms provided in the chalets).</p> <p>Minor amendment to B/91/6022 was agreed in 2004 see reference in chronology below.</p>	
<p><i>Comment:</i> Legal advice supports the view that this permission B/6022 is implemented through works involved in the erection of Unit 1. Conditions on the planning permission were not viewed to be conditions precedent; therefore any non compliance with the conditions would be a breach of condition and would not impact on the lawfulness of the implementation of development. Paragraph 18 of the 2008 legal advice states that “By way of summary, therefore, the 1991 permission was in my opinion lawfully implemented and is still alive. The owner has the option of completing the development in accordance with the approved plans”. While noting this view development has only been partially completed and some development on site is not in accord with the approved plans, which is discussed within the officer appraisal in detail.</p>				
1992	B/6589	Landowner 1	Raising roof level and extending property to south west. Appears similar to B/6022 with amendments to plans. The plans incorporate a private residential accommodation on the existing plans in the “upstairs” area.	Approved 07/12/1992
1998	B/0231	Landowner 2	Change of use of motel chalet unit 1 to a dwelling and use of main building as dwelling.	<p>Undetermined</p> <p>Draft decision notice on file, following Committee decision on the 14 October 1998, with associated draft section 106 agreement (purpose of section 106 is to prevent further implementation of previous applications).</p>

Date	Reference	Applicant	Description	Status
				No final decision on this application.
<p><i>Comment:</i> The Committee report for B/98/0231 gives a position of acceptance of implementation of previous planning permissions for motel units. Also appears that the main building was in use as a motel / hotel at this time with reference to its use in applicants supporting statements and the Committee report.</p>				
<p>On balance view taken by the Committee. They determined that the limited development proposed was preferable to the full implementation of the chalets. To achieve this aim the local planning authority required “revocation without compensation” of the remaining development through a section 106 agreement to prevent further development authorised under the original planning permissions (References: B.4961 and B.6022). The final correspondence on file dated 17/05/1999 is from Powys County Council legal services advising that the applicant was considering options prior to signing the section 106 revocation agreement.</p>				
1999	B/99/0026	Landowner 2	Alterations to dwelling	Undetermined
<p><i>Comments:</i> Application was validated but not determined, the proposal was considered premature prior to any grant of consent for B/0231 and its associated legal agreement. Letter on file 13/05/1999 advising that application to extend a dwelling could only be considered when there was a planning permission issued for a dwelling.</p>				
2002	Letter from planning consultant ¹ and officer response.	Copied to current land owner	Requested advice / view on lifting the holiday occupancy conditions. Advises that it is intended to implement the planning permissions at the site.	Advice given on the approach necessary to lifting the restrictive conditions, which is that there is a need to market and seek the use of the buildings for tourism holiday use and then consider sale.
<p><i>Comment:</i> This correspondence is contained in a letter from Planning Consultants to the then head of Brecknockshire Development</p>				

¹ On file B/99/0026

Date	Reference	Applicant	Description	Status
Control dated 23/09/2002 and a reply 22/10/2002. Powys County Council Planning Policy Section also provided advice in support of the need to justify any removal of occupancy conditions. Advice given that lifting holiday occupancy conditions would not be accepted by the Local Planning Authority without a thorough justification.				
2004	Letter Requesting Minor Amendment ²	Unknown (Planning agent of current land owner)	It appears that the letter was requesting minor amendments to the bungalow designs proposed to include the minor relocation of windows, porch and increase in the roof pitch.	"Amendment Accepted" 23/02/2004 in responding letter from Brecknockshire Development Control Manager agreeing minor amendments to the plans and seeking that the previous consents conditions continued to be adhered to.
<p><i>Comments:</i> The practice of accepting "minor amendments" through exchange of correspondence was widespread until case law changed Local Planning Authorities approach. The case law in <i>R v Sussex CC Ex p Reprotech (Pebsham) Ltd (2002) UKHL 8</i> and <i>Henry Boot Homes Ltd. v Bassetlaw District Council [2002] EWCA Civ 983</i> and <i>Sage (Respondent) v. Secretary of State for the Environment, Transport and the Regions and others (Appellants) [2003] UKHL 22</i> meant that the approach of agreement between applicant and local planning authority was not appropriate for amending planning applications. Case law highlighted the implications of this approach for planning conditions, which would potentially not be enforceable where a development was built in accordance with a minor amendment. It is noted that implicit in the issuing of this letter is an acceptance by the Local Planning Authority that there was a planning permission which has been implemented and is capable of further development and amendment.</p> <p>The 2008 Legal Advice (paragraphs 18 – 25) supports the view that a minor amendment letter could not authorise development.</p>				

² On file B/99/0026

Date	Reference	Applicant	Description	Status
2005	B/05/0041	Current Landowner	<p>Relocation of six holiday bungalows together with a new access road / drive and associated services.</p> <p>The proposal was to construct 5 x 3 and 4 bedroom self contained holiday units with a new access onto the A438 to the west of the existing access to Beacons Edge, together with additional landscaping.</p>	Uncertain , database shows this application as withdrawn, but there is no correspondence on file to this effect.
<p><i>Comments:</i> There is considerable correspondence on file in relation to the on going development at the site.</p> <ul style="list-style-type: none"> • Applicant's initial position is that new access point is most preferable on site boundary and an improvement over the existing situation. • Notes from case officer that the bungalow on site was being used for holiday letting purposes. • Committee Report dated 10/02/2005 recommends Site Inspection Panel. • Status of "Unit 1" - Appears that the view is that there is "no planning permission" for Unit 1 in the sense that it does not conform to plans. As noted in the 2008 Legal Advice this is potentially not critical to the question of whether it lawfully implements B/6022. <p><i>Correspondence:</i></p> <ul style="list-style-type: none"> • 16/12/2005 Letter – Brecknockshire Development Control Manager to Planning Consultant (Acting on behalf of objector) - States that: "The bungalow/chalet erected on the site is similar to that granted planning permission under B/91/6022 and therefore I disagree that it is B/4961. However I consider that as internal walls have been removed to reduce the block from 4 to 2 chalets and that there is a window in each gable end that was not shown on the approved plans that there is no valid planning permission." Concluded no planning permission for chalet on site. • 16/12/2005 Letter – Brecknockshire Development Control Manager to Current Landowner – States that no planning permission exists for chalet block, in that development is contrary to approved plans but also condition 4 is precedent and not 				

Date	Reference	Applicant	Description	Status
			<p>carried out. Suggests amendment to current application to include existing chalet or make separate application for existing chalet.</p> <ul style="list-style-type: none"> <p>• 24/02/2006 Letter – Solicitors for Current Landowner to Brecknockshire Development Control Manager – Gave the following views:</p> <ul style="list-style-type: none"> (1) B4961 and B006022 have both been lawfully implemented. <ul style="list-style-type: none"> (a) B4961 – implemented by conversion of main building into hotel/motel, consider that no condition attached to the permission was a condition precedent. (b) B006022 – Implemented by construction of chalet. (2) Chalet built in approved location, footprint and outward shape same, and introduction of two small windows is de minimis. (3) Internal layout should not be the concern of development control, in that the subsequent alteration is not development and resulted in no external changes. (4) Suggests that the wording of conditions are not prohibitory, any breach of the conditions on the planning permission are a breach of condition and do not affect the lawfulness of the implementation of the planning permission. Use precedent from <i>R (on the application of Hart Aggregates Ltd) v Hartlepool BC [2005] EWHC 840 (Admin)</i> to support this argument. (5) Western access stopped up, letter from the 12 August 1991 confirms the discharge of condition 7 of B4961. (6) Condition 5 is not considered a condition precedent. <p>• 04/04/2006 – Solicitor PCC legal services to Current Landowners solicitor. Agree that B4961 implemented if the conversion of the main building was undertaken in accordance with the approved plans. B006022 not implemented as not in accordance with approved plans, quote <i>Sage</i> caselaw. Suggests that it is academic to discuss conditions precedent. But suggest that it is whether the condition goes to the heart of the permission or not which is important rather than the wording itself.</p> <p>• 1204/2006 – Current Landowners solicitor to Brecknockshire Development Control Manager. Clients propose to continue to implement B006022. No reply is noted to previous correspondence and the solicitor note that they have concluded that PCC would not seek to resist the resumption of development under B006022. Note that the internal arrangement was in accordance with approved drawings, re-arrangement of accommodation by removal of partitions carried out as subsequent alteration. Client assumes there will be no legal objection to resumption of development.</p> <p>• 21/04/2006 – Memo from Brecknockshire Development Control Manager to Solicitor PCC legal services Requesting views on latest letter.</p> 	

Date	Reference	Applicant	Description	Status
<p>Break in correspondence</p> <ul style="list-style-type: none"> • October 2007 – Site visit by planning officers Considered enforcement action and suggested that the applicant ceases works on site advising that units 3 and 4 were incorrectly sited and at variance to the consented design. (referenced on P/2008/1613) • 08/09/2008 - Letter from Specialist Services Manager to Current Landowner advising that this application should be withdrawn and a further application submitted by the 30 September 2008 otherwise enforcement action would be commenced. <p>No further correspondence on file.</p>				
2006	No planning reference.	Current Landowner	An amended section 106 agreement, the purpose of which was to clarify that the interpretation of the word chalet in the 1989 Agreement shall not apply to the use of the main hotel building.	Completed 21/08/2006
<p><i>Comments:</i> Correspondence is contained on planning application reference B/05/0041 which references this agreement.</p>				
2008	Counsels Opinion		Advice in the Matter of: Unauthorised development at Beacons Edge, Pontithel, Three Cocks, Powys	Received 29/05/2008.
<p><i>Comments:</i> This advice accompanies this report and provides an analysis of the history and development at the site and has been released into the public domain and is contained on the P/2008/1613 planning file.</p> <p>Counsel advises that “the Council invite the owner to submit a planning application to vary the design. He should be given reassurance that the Council will consider the issue of design only, given that the fall-back position is that he can build what has already been approved. The Council should openly state that the reason is so that the same conditions can be attached as were</p>				

Date	Reference	Applicant	Description	Status
attached to the 1991 permission. If he refuses to co-operate, the Council would in my opinion be justified in taking enforcement action in order to protect its position". (Paragraph 30)				
2008	P/2008/1613	Current Landowner	Seeking consent for: a. The amended siting of the two chalet units (units 3 and 4) currently under construction. b. Changes to the consented external design of the chalet units; and The applicants describe this proposal as being for "c. A holiday concept based on two and three bedded holiday bungalows, with integral lounge, bathrooms and kitchens which would reduce the number of holiday units on the site to 17 (i.e. 10 in the main motel building, two in unit 1 and one in each of units 2 – 6."	Pending.
<p><i>Comments:</i> This planning application appears to be a response to the legal advice above and the letter from the Specialist Service manager (08/09/2008) requiring the submission of a new planning application. But it went beyond regularising the development on site and allowing the completion of units. The initial submissions sought to introduce another new access, incorporate additional land and change the form of the development.</p> <p><i>Correspondence:</i></p> <ul style="list-style-type: none"> • 02/12/2008 – Letter from Specialist Service Manager (SSM) to planning agent – Note that notwithstanding the extant planning approval at Beacons Edge and discussions the proposal remains unacceptable in terms of layout, design and access. References to the layout which appears to indicate full time residency and the creation of a new substandard access to one unit. Advise that this will be recommended for refusal at the Planning Committee. • 09/01/2009 – Letter from SSM to planning agent– Reminder letter that the application will be reported to Planning 				

Date	Reference	Applicant	Description	Status
			<p>Committee and recommended for refusal.</p> <ul style="list-style-type: none"> • 19/01/2009 – Amended plans received. • 06/04/2010 – Letter from Town Planning Consultancy acting for current landowner to SSM Amends proposal removing from the application the currently undeveloped units (units 2, 5 and 6). Accept that an application is needed to amend the location of units 3 and 4. Proposes to access the site from the western access, which they consider in line with the extant planning consent and that the 1991 condition has been complied with by the stopping up and subsequent re-opening of the access. Advise that it is their client’s intention to fully implement the 1991 consent if this application is not successful. • 17/06/2010 – Letter from SSM to Town Planning Consultancy acting for current landowner Re-submission of plans is required as the current plans show the two units in the wrong place. Advised that the authority would not consider a proposal based on an access from the western entrance as its usage would be highly prejudicial to highway safety. Cannot accept a further amendment to this application as it would fundamentally change the character of the proposal. Advises that a further application is required and that the current application should be withdrawn. • 2/06/2011 – File Note by new case officer detailing visit to site Case officer met landowner on site. The landowner sought verbal confirmation that the 1991 permission for the holiday chalets and conversion were still valid. Advised that in accordance with Counsel’s opinion the application had been implemented. But the design and positions of the chalets were not in accordance with the permission and therefore unauthorised. Landowner advised that the main building had been extended in accordance with the 1991 permission, but had been converted afterwards with two residential units created. Case officer advised that there may be a case for a Certificate of Lawfulness for these units. On “unit 1” the landowner stated that it was taxed as a holiday let for Council Tax and used in this way at the time of the site visit, but previous to this it had been used as a residential property. Case officer advised that the continuity of full time residential use would have ceased and would not be able to apply successfully for a certificate. The second chalet was undergoing development and heading towards completion. The third chalet had been partly built with no front elevation and no roof. The western access was in place and the main access to the property appeared to have been widened by the removal of gate pillars. • 02/06/2011 – Letter from case officer to Landowners planning consultant (Copied to Landowners) 	

Date	Reference	Applicant	Description	Status
			<p>Suggests that the application is withdrawn. As the current application is unacceptable due to the following:</p> <ul style="list-style-type: none"> - Extends the boundaries of the 1991 consent into adjacent agricultural land; - Does not provide a sufficiently detailed design and layout of the chalets; - Needs to provide much more detailed improvements to the main access to the A438 road located on the north eastern part of the site adjacent to the main house and the permanent closure of the access on the south western corner of the site. - The application would also need to show in detail the layout of any internal access routes from the highway to the chalets as well as details of landscaping and boundary treatment. - The proposal should provide a justification for a tourism facility based on WG guidance and the Powys UDP. <p>28 days given to withdraw or it is indicated the application will be recommended to committee for refusal. .</p>	
			<ul style="list-style-type: none"> • 22/06/2011 –Letter from case officer to Landowners planning consultant (Copied to Landowners) <p>Suggest the withdrawal of P/2008/1613 and the submission of application(s) for the following:</p> <ol style="list-style-type: none"> a. Existing bungalow as a dwelling; b. Two other bungalows as holiday lets; c. Legal agreement to remove previous approvals for holiday bungalows at the site; d. Change of use of small strip of land to the south, now defined by the hedge line, from agricultural to residential / holiday residential land; e. Improvement to main access onto the main road and provision of vehicular through access within the site; f. Removal of any vehicular access, by a barrier, from the site through to the agricultural access to highway on the north western corner of the site. The barrier would need to be a wall with, for example a pedestrian gate; g. The red line area would need to include the field where the three bungalows are, defined by the proposed wall separating from the agricultural access to the west, the hedgeline to the south of the extended field, the route of the internal access road to the main improved highway exit onto the main road. h. The main house would need to be removed from the planning application. From information given by the applicant, the house has been converted into a number of self contained flats more than four years ago. If this is the case, this can be dealt with separately by a certificate of lawfulness. 	
			<p>Noted that this approach is contrary to policy and would need to be advertised and considered as a departure. But considered that it has the advantage of removing the previously extant planning permissions at the site, which have been implemented but not complied with. The resultant development would be of a much smaller scale, arguably have far less impact upon the</p>	

Date	Reference	Applicant	Description	Status
<p>surrounding open countryside than the previously approved.</p> <ul style="list-style-type: none"> <li data-bbox="241 347 2056 563">• 28/06/2011 – 06/07/2011 Emailed correspondence between Landowners planning consultant and case officer Indication given of likely holiday occupancy conditions, concerns raised about the re-submission of the application and likely fee. Case officer gives the view that the existing section 106 is in effect moribund as planning permission was not in accordance with the original approval. Advised that development is not in accordance with the approved plans and the building is used as flats and not a motel. <li data-bbox="241 571 1529 643">• 27/07/2011 Email from case officer to Landowners planning consultant Reminder suggesting that the applicants pursue the route given in the 22/06/2011 email. <li data-bbox="241 651 1357 722">• 31/08/2011 Email from case officer to Landowners planning consultant Further reminder email. <li data-bbox="241 730 1653 802">• 31/08/2011 Email from case officer to SSM Advised that he was not progressing and expressing intention to report to September Committee. <li data-bbox="241 810 1659 882">• 31/08/2011 Letter from case officer to Landowners planning consultant Advised that the application would be reported to for refusal to Planning Committee in September <li data-bbox="241 890 1955 914">• 27/09/2011 Planning services undertake a Habitats Regulation Assessment due to proximity to River Wye SAC <li data-bbox="241 922 2056 1058">• 02/02/2012 Correspondence with Bronllys CC regarding current situation at site Advises that matters are being investigated. Advises that the matter will be reported to Planning Committee (June) and notice given to the CC when the agenda is finalised. Advise of the certificate of lawfulness application has been submitted and is pending determination. <li data-bbox="241 1066 1973 1169">• 24/10/2012 Email from planning agent (original agent) to case officer Email suggests that the Local Planning Authority consider a “minor amendment” which was previously discussed on the 18/10/2012. <li data-bbox="241 1177 2007 1281">• 26/11/2012 Email to planning agent from case officer Advised that a minor amendment was not acceptable and re-iterating the previous comments on the unacceptability of the current planning application. 				
2011	No planning reference (letters etc. on P/2008/1613)	Current Landowner	Letter Referencing new planning application for the following: Erection of 1 holiday chalet, retention of existing	Not validated and returned

Date	Reference	Applicant	Description	Status
			holiday chalet, erection of one bungalow dwelling, extension of boundary, improvements to vehicular access on eastern boundary, separation of site from land containing agricultural access on the Western boundary.	
<p><i>Correspondence:</i></p> <ul style="list-style-type: none"> • 01/11/2011 – Letter from case officer to Landowners planning consultant Application not validated: 1. Lack of fee of £660 2. The site does not have a red line boundary on a site location plan. The agricultural access should be included in the blue land to show that it is under the applicant's control. 3. Elevations are required of chalet 1 as it remains intrinsic to this application. 4. Chalet 3 being fully residential would need to be provided with a curtilage defined on the plan. More information is suggested to be submitted on the blocking up of the agricultural access to the site. Additional residential unit in chalet 3 is noted, suggestion is made that one of the flats if lawful is converted into a holiday letting unit. But this will require clear establishment of the lawfulness of the flats through the issuing of a certificate of lawfulness. • 16/12/2011 Letter from case officer to Landowner Email in response to Landowner who queried why the planning fee had not been cashed – advised that it was due to the application remaining invalid. 				
2012	P/2012/0314	Current Landowner	Certificate of lawfulness Application for CLEUD "For a continuous period of 10 years, the lower ground floor of the application site has been used as two self contained apartments. Therefore the use of the lower ground floor of the application site for such purpose is lawful.	Certificate issued 01/08/2012
<p><i>Comment:</i> This certificate of lawfulness is supported by background evidence which supports a view that three units were in existence in the main building and that the bungalow was in its current form e.g. a dwellinghouse. This is in the form of Council Tax demands from</p>				

Date	Reference	Applicant	Description	Status
2001 for the three units and sales particulars dating from around 2000-2001.				
2013	Counsel Opinion		Legal advice in the matter of development at Beacons Edge.	Written advice received May 2013 which followed a site visit and conference on the 12 April 2013.
<i>Comment:</i> This was further Counsel opinion on development of the advice which was informed by the 2008 Advice and a site visit. This advice is in the public domain and is provided as an annex.				
2014	P/2014/0103	Current Landowner	Full: Regularisation of the design of Unit 3	Refused 09/04/2014
2014	APP/T6850/A/14/2221363	Current Landowner	Appeal against refusal of planning application P/2014/0103	Appeal Allowed and planning permission granted 24/10/14
2016	P/2016/0804	Current Landowner	Section 73 application in relation to variation of condition 2 of planning approval B6022 (to enable the use of unit 3 as an owner/manager's dwelling)	Pending

Principal Planning Constraints

Pipeline buffer
Nat FloodZone 2
Historic Landscapes Register
Outstanding

Principal Planning Policies

National Planning Policy

- Planning Policy Wales (Edition 9, 2016)
- Technical Advice Note 1 - Joint Housing Land Availability Studies (2015)
- Technical Advice Note 2 - Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 23 – Economic Development (2014)

Powys Unitary Development Plan (March 2010)

- SP1 – Social, Community and Cultural Sustainability
- SP3 – Natural, Historic and Built Heritage
- SP4 – Economic and Employment Developments
- SP6 – Development and Transport
- SP8 – Tourism Developments
- SP14 – Development in Flood Risk Areas
- HP3- Housing Land Availability
- HP4 – Settlement Development Boundaries and Capacities
- HP5 – Residential Developments
- HP6 - Dwellings in the Open Countryside
- HP14 – Sustainable Housing
- 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
- ENV7 – Protected Species
- TR4 - Self-Catering Visitor Accommodation
- TR1 – New Tourism Developments
- TR2 – Tourist Attractions
- TR8 – Holiday Chalet and Cabin Developments
- TR3 - Serviced Visitor Accommodation
- TR3A - Existing Hotels
- DC1 – Access by Disabled Persons
- DC11 – Non Mains Sewage Treatment
- DC13 – Surface Water Drainage
- DC14 – Flood Prevention Measures

- SP14 – Development in Flood Risk 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

It is viewed that consideration of this application cannot be divorced from the planning history at the site. The acceptability and capability of the development to “rationalise” the development at the site is considered to be dependent on the view taken on the planning history and fall back position.

Baseline Fall Back Position

The following summarises the main planning matters at the site, for clarity they are separated into Material Change of Use / Breach of Condition and Operational Development.

1. Further development under the 1991 permission
2. Material Change of Use / Breach of condition 2 of 1991 planning permission (Main building)
3. Material Change of Use / Breach of condition 2 of planning permission (Unit 1)
4. Material Change of Use / Breach of condition 2 of planning permission (Unit 3)
5. Material Change of Use of adjoining field and removal of hedge
6. Operational Development (Main Building)
7. Operational Development (Unit 1)
8. Operational Development (Unit 3)
9. Operational Development (Unit 4)
10. Breach of condition stopping up of agricultural access
11. Breach of condition requiring improvements to access

The above issues relate to the baseline fall-back position and are considered further below. References to the 2008 legal advice and 2013 legal advice are to the Counsel’s opinions on the site.

Further development under the 1991 permission

The 1991 planning permission offers the opportunity for considerable development at the site and included the construction of six motel units. This current planning application proposes to rationalise the development at the site and provide highways improvements which is a betterment to the current highways situation at the site. It is therefore considered important to consider the application, in the context of the 1991 permission and establish a view on its

current status. The 1991 permission offers considerable potential for the further development of the site with additional motel bedrooms and a function room to be added to the existing main building.

The status of the 1991 permission and a judgement on whether it remain extant is a significant consideration in determining this application. To establish there are two issues that need to be considered; firstly was the 1991 permission lawfully implemented and secondly is it capable of completion.

It is viewed that the 1991 planning permission represents a lawfully implemented planning permission. The works to erect unit 1 are sufficient to implement the planning permission and this implementation appears to have been lawful, it does not appear that there is a sustainable case that conditions precedent were breached. The reasoning for this view is the same as put forward in the Counsel's advice of 2008, which is a position agreed with in the 2013 Advice.

All development authorised by the 1991 planning permission and future development will need to comply with the conditions imposed on the planning permission. This includes condition 2, which states that the motel units shall not be occupied as independent permanent residential units, they shall only be occupied by guests of the adjoining hotel.

It is therefore considered that the 1991 permission can continue be implemented providing that it offers accommodation in line with that approved and in conjunction with an overall hotel / motel use of the site or a use within class C1 in the Town and Country Planning (Use Classes) Order 1987. This issue is discussed in the 2013 legal advice which states that there is an arguable case that "the existing use of Beacons Edge remains a motel/hotel use with guests occupying the chalet buildings and flats". It is noted that this is expressed as being an arguable case, it is viewed that the advice is being predicated in terms of the arguable and the possible and it would lead to the view that future and existing units are capable of complying with the condition. No contrary case has been put forward by the land owner.

It is viewed that the on-going holiday rental accommodation offered in Unit 1, together with the owner / operator's accommodation in the main building and the overall character of the site which appears to form a single planning unit are sufficient for there to be an on-going C1 use at present. As a matter of planning judgement it is considered that in the current situation further development is capable of occurring under the 1991 permission while complying with condition 2 on the 1991 planning permission. Legal advice considers that the owner/operator accommodation is ancillary to and used in conjunction with the letting of chalet 1 (2013 advice), it is also arguable that there is currently a business of a motel or the letting of rooms / provision of accommodation within class C1 (2013 advice).

To conclude there is a clear view from both Counsels that the 1991 permission is implemented. Further development of this permission will need to comply with the conditions on this permission or it could be subject to enforcement action, but it appears possible that further development under this consent could comply with the occupancy conditions on this consent. Compliance with other conditions on the 1991 permission are considered further below.

Material Change of Use / Breach of condition 2 of 1991 planning permission Main Building

Within the “main building” are three units: two apartments on the lower ground floor and the landowner’s accommodation.

A certificate of lawfulness has granted immunity for the use of the lower ground floor as two self-contained apartments (P/2012/0314). As such the main building currently benefits from three separate residential units.

Material Change of Use / Breach of condition 2 of planning permission Unit 1

Legal advice (2013 advice) supported a position that there may have been no breach of the use of this building and that its use is lawful as guest accommodation in compliance with condition 2 of the 1991 permission. It is noted that the 2013 legal advice was informed by a site visit and discussion. Counsel states that “from the site visit it is clear that chalet 1 has not been used as separate living accommodation as a dwelling house falling within C3 of the Use Classes Order” (2013 advice).

It is not considered that there are outstanding planning matters in relation to the use of Unit 1.

Material Change of Use / Breach of condition 2 of planning permission Unit 3

This building has recently been substantially completed in line with planning application P/2014/0103.

Operational Development Main Building

It is noted in the 2013 legal advice that the main building is not in accordance with the approved plans, but that this is likely to be immune from enforcement action. The building appears to be largely unchanged from the particulars from the sale of the property which appear to date from around 2001 (the date of the photos are not clear). There do not appear to be any changes to the external appearance of the building which are capable of enforcement.

Operational Development Unit 1

The external changes to unit 1 are minor with changes to windows and doors. The agreed position is that these are outside the enforcement time periods for unauthorised operational development. There are not considered to be outstanding planning matters in relation to the construction of Unit 1.

Operational Development Unit 3

This unit has not been constructed in accordance with plans approved in 1991. It is viewed that the building has recently been substantially completed in line with planning application P/2014/0103 which was approved at appeal in October 2014.

Operational Development Unit 4

Unit 4 appeared largely in accordance with the approval in 1991. Development of this unit is at an early stage. Based on the approved plans and a site visit there is no clear reason that development could not continue in accordance with the elevational design approved under the 1991 planning permission. Little development has occurred recently in respect of Unit 4 and it is considered to be little progressed, it is noted that within the planning history concern has been expressed regarding its siting.

Breach of condition stopping up of agricultural access

Within the 1991 permission there was a requirement under condition 4 for an existing agricultural access to be stopped up. This access is currently open and appears to be used. There is strong evidence at some point that this condition was complied with, this takes the form of a letter in August 1991 from the Principal Planning Officer stating that the access had been closed off in permanent materials. This letter was written in the context of the 1989 permission condition 7, but it is accepted that it could equally apply to condition 4 of the 1991 permission. As the 2008 legal advice notes this is persuasive evidence that the condition was complied with. At some point it is apparent that the access was re-opened. This re-opening would not be a breach of condition of the planning permission, but would potentially form a separate breach, by the land owner at that time. It seems clear that any operational development involved in this breach is outside the 4 year time limit for enforcement and immune. The condition appears to have been complied with at some point and would not impact on the completion of development under the 1991 permission. While the view has been taken that this matter cannot be enforced the access appears substandard and dangerous, the lack of the ability to enforce should not be taken as any endorsement or approval of the continued use of this access.

Breach of condition requiring improvements to access

The 1991 planning permission condition 5 required the implementation of an access as approved on planning permission reference B.4961 condition 10; this in turn required an access to be constructed as shown on amended plans received by the Local Planning Authority on the 6 October 1988. The relevant plan contains the following statement: "The access shall be so constructed that there is clear visibility from a point 1.05m above ground level. Nothing shall obstruct the 30.0m visibility described below, additional clear visibility shall be provided such that there is clear visibility from a point 1.05m above and at the centre of the access along the County road measured from the centre of the access along the adjoining edge of the carriageway. Nothing shall be planted, erected or allowed to grow which would obstruct the visibility described above. The area of the access to be used by vehicles is to be metalled and surfaced in bituminous macadam, concrete or paving for a distance of 5.50m from the edge of the adjoining carriageway. Highway verge to be re-instated outside of access area to highway Authority satisfaction and to be at least 2.0m wide min." Further notes are contained on the relevant plan. The dwarf wall at the entrance to the site does not appear to be on the plan but would appear to represent permitted development and would only be a concern if it breached the requirements as detailed, the area around the access appears as open as possible with visibility across the band width of the access. Based on a site visit there is no clear evidence that this condition was not complied with prior to commencement or within the time available to implement planning permission and given the 23 years that have passed since consent was granted it is not clear that there is any breach of this condition.

Baseline position

The above has sought to cover most of the planning matters at the site. In terms of the fallback position, the main building currently has 3 residential units, owners accommodation and two residential units as confirmed by a certificate of lawfulness. As the 1991 consent has been implemented and remains extant the main building can also be substantially extended to provide a function room and ten further holiday letting rooms. With regards to the holiday letting units already constructed/under construction a further 24 holiday letting rooms could be provided once the development is completed. As the western access has been in use for in excess of 10 years this is immune from enforcement action and can continued to be used as access to the 24 holiday letting rooms.

Proposed Development

With the above viewed to be the situation at the site it is considered to be the case that development can continue under the implemented 1991 permission.

Due to the extensive planning history at the site this current application seeks to rationalise the development. Information contained within the application states that the site will effectively be split in two, with a residential area to the east of the site and the holiday let business to the west, each with their own access.

The main building which currently benefits from three open market dwellings will be converted to one single residential dwelling and outline consent has been applied for an additional open market dwelling. A previously approved garage will be moved to the west of the main building to be used in association with the dwelling. As the existing main building currently benefits from 3 residential units there will be no material increase in the numbers of dwellings on the site.

To the west of the site the application seeks planning permission for the change of use of four of the motel units to provide four self-contained holiday lets. Unit 3 which was granted an alternative design through appeal in 2014 will be utilised as a rural enterprise dwelling for the management of the holiday let business. The sixth unit granted consent in 1991 will not be constructed in order to allow for improvements to be made to the western access. This effectively reduces the number of consented motel units from 34 units to 4.

The applicant is also willing to enter in to a Section 106 Agreement confirming that further development of the site in line with previous applications, namely the extension of the motel building, will not occur.

Principle of Development

- Outline dwelling and conversion of motel to single dwelling

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies outside any defined development boundary and as such is considered to be within the open countryside. On this basis, as part of the application seeks outline consent for an open market dwelling the proposal could constitute a departure from the adopted Powys Unitary Development Plan. However consideration also needs to be given to the fact that there is no net gain of a dwelling at the site. Currently there are three residential dwellings within the main building and the proposed development does not seek to increase the number of residential dwellings at the site.

If Members consider the development as a departure they 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.

Whilst the application site is located within the open countryside the site is located approximately 1.3km to the south west of the key settlement of Three Cocks and approximately 1.6km to the north east of the key settlement of Bronllys, both of which have a range of services, including schools and access to public transport. A recent appeal decision has also stated that 2km is not an unreasonable distance to travel for services in a rural area such as Powys. Whilst there are limited opportunities to reduce the use of private vehicles, the site could be considered to be in a sustainable location due to its proximity to the services in Three Cocks and Bronllys.

The existing main building on site currently benefits from three residential units. The conversion of the building to single residential unit would not increase the numbers of residential dwellings in the open countryside and its conversion is considered to be acceptable.

- Holiday Lets

Policy TR4 states that self-catering visitor accommodation outside settlement development limits will only be permitted where they would utilise an existing building not suitable for permanent residential use, or the development would be provided in association with an existing tourist facility, or they would adjoin a farmhouse and be part of a diversification scheme aimed at enabling the operation of an existing farm to continue.

As stated previously in the report the site benefits from extant planning permission for six units each with four holiday letting rooms. In total the site has consent for 24 letting rooms in the six units. The proposed development seeks to convert units 1, 2, 4 and 5 into four self-contained holiday let units. It is considered that whilst not all of the consented units have been completed, given that some are under construction or could be completed due to the extant consent, that the proposed development is in accordance with policy TR4 in that they would utilise existing buildings not suitable for permanent residential use.

Landscape and Visual Impact

Policy GP1 and HP5 of the Powys UDP provides general development guidance and includes overarching principles which seek to safeguard the character and appearance of existing buildings and surrounding area whilst further ensuring that development proposals do not adversely affect the environment, highway safety or the amenities enjoyed by occupants of neighbouring residential properties. These requirements must be satisfied if a proposal is to be considered appropriate in general terms.

No alterations are proposed to the existing main building on site to accommodate its conversion to a single dwelling. As such it is considered that there will be no landscape or visual impact for this element of the proposal.

Holiday units 1, 2, 4 and 5 have previously been given consent and no further alterations are proposed to their external appearance. They remain single storey buildings that sit below the adjacent highway and are screened by an existing hedgerow. As such it is considered that the completion of these units along with their conversion to single holiday lets would not have a detrimental landscape or visual impact.

With regards to the outline application for a single dwelling, whilst Officers acknowledge the addition of a dwelling in to the countryside location, this does form part of a rationalisation of the whole site. The existing main building can currently be extended significantly to provide additional holiday letting rooms and a function room. This would extend the main building further to the south and at first floor level. As part of this consent the applicant is willing to enter into a legal agreement stating that this element will not be constructed.

Officers consider that the consented extension to the main building has a detrimental landscape and visual impact on the surrounding area. The consented extension would be seen as an incongruous feature in the landscape for those travelling along the adjacent road, detrimental to the character and appearance of the area. Officers consider that the legal agreement would provide assurances that the consented scheme will not be further implemented to the benefit of the landscape.

The addition of a single dwelling will be the only addition into the landscape of this scheme. Whilst Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating a single dwelling without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties.

As the dwelling is located in a countryside location, in order to ensure that any future development is in keeping with the surroundings Officers consider that permitted development rights for extensions and outbuildings should be removed.

In determining the application, Members will need to balance the provision of a dwelling against the willingness of the applicant to not further implement the motel extension, which Officers consider to have a greater detrimental impact on the landscape than a single dwelling. Members are advised that on balance, Officer do not considered that the proposed development will have an unacceptable adverse impact on existing character and appearance and therefore is considered to be in accordance with policies HP5 and GP1 of the Powys UDP.

Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004). The proposed dwelling will be sited to the east of the main building on site which is to be converted to a single dwelling.

Officers consider that sufficient distance is maintained between the proposed dwelling and the existing building to be converted that it will not impact on their amenities or privacy. No other dwellings are located in close proximity to the site.

Having carefully considered the proposed development, it is considered that the scheme fundamentally complies with the above UDP policies and the Powys Residential Design Guide.

Highways

Policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking.

Two points of access are gained directly from the A438 which is located to the north of the site. These accesses are established and have been discussed earlier in the report. Highway considerations have historically been a concern in the development of this site, in particular the western access which is currently substandard and is immune from enforcement action. Due to its immunity the western access can be used for the holiday let part of the site with no further alterations. As part of this application highways improvements are proposed to provide a betterment over the current access at the site.

In considering highways issues the use of the site and the amount of traffic generated must be considered. The consented scheme allows for 34 holiday letting rooms which could generate a large amount of traffic and vehicular movements. The proposed scheme would reduce the number of holiday let units on site to four with two dwellings. Considered under a separate application is the variation of occupancy condition of unit 3 to change the occupancy from holiday let to managers' accommodation, controlled by a rural enterprise condition.

Following consultation with the Highways Authority it is acknowledged that the proposed development offers a significant reduction in traffic movements over that which could be implemented from the existing consents. The Highways Authority acknowledges that the submitted scheme is not fully compliant with the required highways standards however does not object to the proposed development as it represents improvements over the accesses currently provided at the site to the overall benefit of highway safety.

As such, subject to the imposition of conditions requested by the Highway Authority, the proposed development is considered to comply with policy GP4.

Biodiversity

Policies ENV4, ENV5 and ENV6 indicates that development proposals should preserve and enhance biodiversity and features of ecological interest. Specific guidance within UDP policy ENV4 confirms that development proposals should not significantly affect the achievement of the conservation objectives for which a SAC is designated either individually or in combination with other proposals. In addition to the above, policy ENV5 confirms that there will be a presumption against proposals for development likely to damage either directly or indirectly, the nature conservation interest of national nature reserves or sites of special scientific interest.

The proposed site of development is located within approximately 170 metres of the River Wye SSSI and Special Area of Conservation (SAC). The Powys Ecologist was consulted on the application and stated that the SSSI and SAC would unlikely be affected due to the distance and a lack of pollution pathways leading to the site.

NRW have also commented that the proposal is not likely to affect the features, ecological integrity or functionality of any statutory sites of ecological, geological and/or geomorphologic interest.

Policy ENV7 of the Powys UDP, TAN5 and PPW seek to safeguard protected species and their habitats. The Powys Ecologist has raised concerns if any trees or hedgerows are to be removed then survey work would be required. However the application confirms that no trees or hedgerows within or adjoining the site will be affected or removed by the development. As this was the only concern raised it is considered that the proposed development would not have a detrimental impact on protected species.

In light of the above, it is considered that the proposed development is in accordance with policies SP3, ENV3, ENV4, ENV 5, ENV 6 and ENV 7 of the Powys UDP, Technical Advice Note 5 and Planning Policy Wales.

Foul Water

Policy DC11 requires that where a connection to the public sewerage system is unavailable that sufficient information is submitted to ensure that any proposed private system would be capable of accommodating the development.

Confirmation was received from the agent that it is proposed to use the existing 3 septic tanks which discharge to reed beds located within the site. The agent has confirmed that adequate storage capacity for the proposed development in line with the capacity requirements outlined in Building Regulations Approved Document H.

As such, it is considered that the proposed development complies with policy DC11.

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:

Having carefully considered the proposed development and the extensive planning history, Officers consider that the proposal broadly complies with planning policy. The recommendation is therefore one of conditional approval subject to conditions and a legal agreement securing the non-further implementation of the extant consent.

It is 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:

Condition in respect of outline element

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 and documents stamped as approved.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no extensions to the dwelling or alterations to the roof (including the introduction of roof lights or dormers), or the erection of garages or sheds shall be undertaken without the prior express consent of the local planning authority.
6. No other development shall commence until the eastern access and associated visibility splays as detailed on drawings 0999 001 Rev. B and 0999 002 Rev. B have been fully completed in accordance with the following specification: a minimum of 250mm of sub-base material 100mm of bituminous macadam base course material, 60mm of bituminous macadam binder course material, to the written satisfaction of the Local Planning Authority.
7. The gradient of the accesses shall be constructed so as not to exceed 1 in 25 for the first 5.5 metres measured from the edge of the adjoining carriageway along the centreline of the access and shall be retained at this gradient for as long as the development remains in existence.
8. Prior to the occupation of any of the units the area of the accesses to be used by vehicles is to be finished in a 40mm bituminous macadam surface course for a distance of 5.5 metres from the edge of the adjoining carriageway to the written satisfaction of the Local Planning Authority. This area will be maintained to this standard for as long as the development remains in existence.
9. Before any other development is commenced 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 400mm in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site 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 in respect of outline element

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 a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan.
6. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)
7. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)
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9. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)
10. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)

Condition in respect of full element

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.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no extensions to the dwelling or alterations to the roof (including the introduction of roof lights or dormers), or the erection of garages or sheds shall be undertaken without the prior express consent of the local planning authority.
4. The holiday let units hereby permitted shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of. An up to date register shall be kept at the holiday accommodation 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 accommodation, their main home addresses and their date of arrival and departure from the accommodation.
5. No other development shall commence until the western access and associated visibility splays as detailed on drawings 0999 001 Rev. B and 0999 002 Rev. B have been fully completed in accordance with the following specification: a minimum of 250mm of sub-base material 100mm of bituminous macadam base course material, 60mm of bituminous macadam binder course material, to the written satisfaction of the Local Planning Authority.

6. The gradient of the accesses shall be constructed so as not to exceed 1 in 25 for the first 5.5 metres measured from the edge of the adjoining carriageway along the centreline of the access and shall be retained at this gradient for as long as the development remains in existence.

7. Prior to the occupation of any of the units the area of the accesses to be used by vehicles is to be finished in a 40mm bituminous macadam surface course for a distance of 5.5 metres from the edge of the adjoining carriageway to the written satisfaction of the Local Planning Authority. This area will be maintained to this standard for as long as the development remains in existence.

8. Before any other development is commenced 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 400mm in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site 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 in respect of full element

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 a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies GP1 and ENV2 of the Powys Unitary Development Plan.
4. To comply with Powys County Council's Unitary Development Plan Policies TR4 and GP1.
5. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)
6. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)
7. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 2016)
8. To comply with Powys County Council's UDP Policy GP4 in relation to highway safety and to meet the requirements of TAN18: Transport and Planning Policy Wales (9th Edition 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.

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

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

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

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.

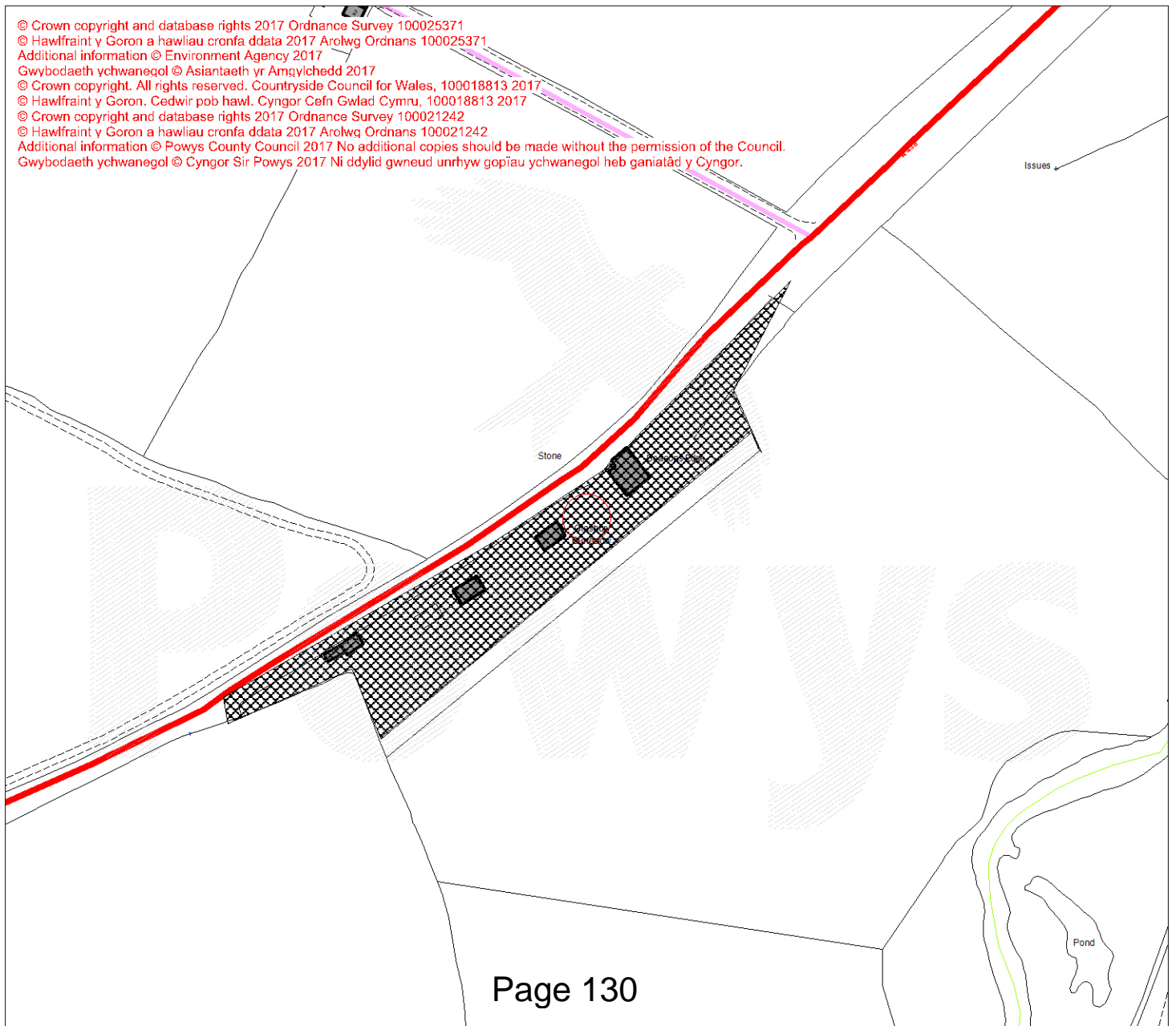
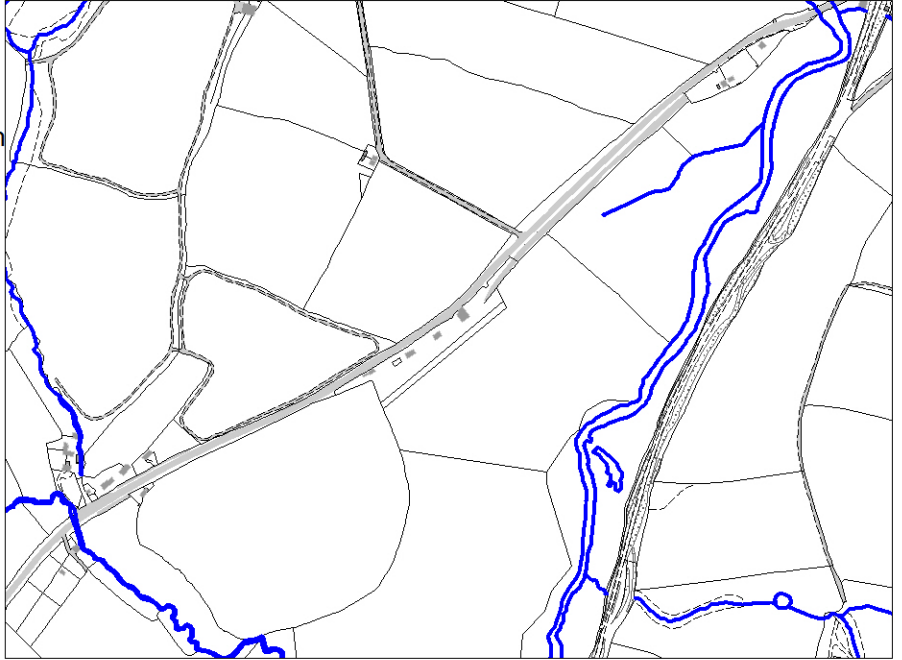
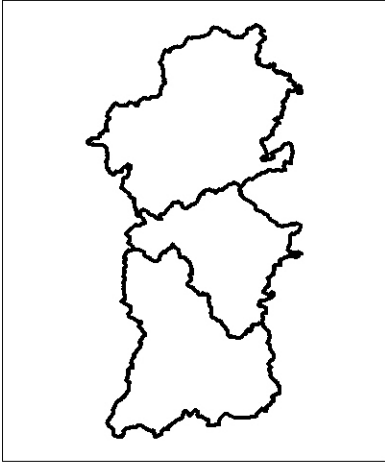
The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence 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.

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 & Mrs G Hopkins

Location: Beacons Edge, Pontithel, Brecon



PTLRW46 - 20174

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: DIS/2016/0247 **Grid Ref:** 291676 281370

Community Council: Llangurig **Valid Date:** 08/12/2016 **Officer:** Gemma Bufton

Applicant: Mr Radford, Bryn Blaen Wind Farm Limited, c/o Agent.

Location: Blaen y Glyn, Llangurig, Llanidloes, Powys, SY18 6SL.

Proposal: Discharge of conditions 4, 22, 23, 25, 27, 28 and 32 of planning approval P/2014/1102.

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

The reason for Committee determination

The application comes before Members of the planning committee as Cllr Graham Jones requested it is called in due to it being potentially controversial and in the wider public interest.

Site Location and Description

Conditional consent was granted under appeal by the Planning Inspectorate for the construction of 6 wind turbines with a maximum tip height of 100 metres and maximum hub height of 59 metres together with ancillary development comprising substation, control building, new and upgraded access points and tracks, new alternative recreational track, hardstanding and temporary compound and associated works.

This application seeks to discharge conditions 4, 22, 23, 25, 27, 28 and 32 of planning consent P/2014/1102. Application P/2014/1102 was accompanied by an Environmental Statement and therefore environmental information has been taken into consideration when determining this application.

Condition 4 states:

Site Recording

No development shall commence until all areas that will be disturbed by the development have been photographically recorded and these photographs, alongside a plan detailing the precise location and bearing of these photos have been submitted to the Local Planning Authority in writing.

Condition 22 states:

Highways and Transport

Prior to the commencement of development works, a scheme to provide for the remediation of any incidental damage directly attributable to the development to the parts of the highway network which will be utilised during the construction of the development including street furniture, structures, highway verge and carriageway surfaces shall be prepared in consultation with the Welsh Government as Welsh trunk road highway authority and Powys County Council as the local highway authority and submitted to and approved by the Local Planning Authority. The scheme shall be implemented as approved throughout the construction phase of the development.

Condition 23 states:

Highways and Transport

AILs associated with the development shall be delivered strictly in accordance with a AIL Traffic Management Plan (AILTMP). In this respect, the AILTMP shall be prepared in consultation with the Welsh Government as Welsh trunk road highway authority and Powys County Council as the local highway authority prior to the commencement of any works. The AILTMP shall include:

- (a) proposals for transporting AILs from their point of entry to the Welsh trunk road network to the site that minimise any impact on the safety and free flow of trunk road traffic;
- (b) management and maintenance of layover areas, passing places and welfare facilities while AIL deliveries take place;
- (c) details of temporary signage;
- (d) details of any alterations to any works that are carried out to enable AIL movements proposed to be implemented after such movements;
- (e) management of junctions and crossings and any other public rights of way while AIL deliveries take place;
- (f) evidence of trial runs that mimic the movement of the worst case AILs along the access route;
- (g) number and size of AILs, including loaded dimensions and weights;
- (h) number and composition of AIL convoys, including anticipated escort arrangements;
- (i) methodology for managing trunk road traffic during AIL deliveries, including identification of passing places and holding areas as necessary;
- (j) convoy contingency plans in the event of incidents or emergencies;
- (k) estimated convoy journey durations and timings along the route, including release of forecast traffic queues;
- (l) swept path analysis modelling the movement of the worst case AILs at all potential horizontal and vertical constraints along the access route;
- (m) proposals for the temporary or permanent modification of any affected street furniture along the access route and details of how this would be managed;
- (n) plans for the reinstatement of any temporary works after completion of the construction phase;
- (o) land ownership must be clarified on all drawings showing proposed highway modifications. The developer shall be responsible for the acquisition and reinstatement of all third party land including re-instatement of boundary features;
- (p) proposals to liaise with all relevant stakeholders (including the relevant highway and planning authorities, Police, members of the public and local communities, hauliers, developers and landowners) prior to the submission of notifications for AIL deliveries and applications for special orders for AIL deliveries;

- (q) consideration of the cumulative impact of other wind farm schemes proposing to use all of part of the same access route and coordination with those schemes where possible;
- (r) the appointment and role of a transport coordinator to administer the abnormal indivisible load delivery strategy;
- (s) means of control of timing of delivery of AIL movements;
- (t) temporary traffic diversions and traffic hold points; and
- (u) details of banksmen and escorts for abnormal loads.

Condition 25 states:

Highways and Transport

No development works shall be undertaken until full details of any highway works associated with the construction of layover areas, passing places and highway improvements including:

- (a) the detailed design of any works;
- (b) geometric layout;
- (c) construction methods;
- (d) drainage; and
- (e) street lighting;

have been prepared in consultation with the Welsh Government as Welsh trunk road highway authority and Powys County Council as the local highway authority and submitted to and approved in writing by the Local Planning Authority. The highway works shall be completed in accordance with the approved details prior to the commencement of any AIL deliveries to the development site.

Condition 27 states:

Highways and Transport

Full details of the highway works associated with any new access onto the trunk road including the detailed design, geometric layout, construction and drainage, shall be prepared in consultation with the Welsh Government as Welsh trunk road highway authority and submitted to and approved by the Local Planning Authority prior the commencement of any works on the site.

Condition 28 states:

Highways and Transport

No development shall commence until full construction details, detailed design drawings and calculations for the foundations and access track have been prepared in consultation with the Welsh Government as Welsh trunk road highway authority and submitted to and approved by the Local Planning Authority.

Condition 32 states:

No construction works shall take place on site until a Construction Traffic Management Plan (CTMP) for non-abnormal indivisible load vehicles has been submitted to and approved in writing by the Local Planning Authority. The Traffic management plan shall be implemented as approved and will include, but not be limited to:

- (a) construction vehicle routing, including specific measures to ensure that construction traffic uses the proposed haul road and proposals for dealing with any infraction;
- (b) means of monitoring vehicle movements to and from the site including the use of liveried construction vehicles displaying the name of the developer, the vehicle number and a telephone number for complaints to be logged. The procedures for dealing with complaints must be provided to the Local Planning Authority;
- (c) timing of vehicle deliveries to the site;
- (d) proposals for appropriate management of junctions and crossings of highways and other public rights of way on site and between the site and the trunk road network;
- (e) contractual arrangements for the control of construction traffic offsite and to ensure that complaints and breaches of the TMP requirements are able to be remedied;
- (f) a travel Plan aimed at maximising the use of sustainable travel by the construction workforce associated with the development;
- (g) vehicle movements during the Royal Welsh Show;
- (h) communications with members of the public and local communities; and
- (i) provision for pre-commencement update surveys for protected species which must include a provision requiring consultation with NRW, including the issue by it of written advice, and provision for the identification of avoidance and mitigation measures.

Consultee Response

PCC Highway Authority

Consultation response received 29/12/2016

Having viewed the documents the extent of works on the PCC Highways is approx. 2/3 percent. The vast majority is all on Transport Wales Network or on private land contained within the applicants site.

The only comments I would wish to make is that they mention within condition 32 CTMP that gates would be set-back only 2.5 metres from the edge of the highway for the C2176. That is far too short and was not agreed at the appeal. I assume this can be picked up at condition 33.

I would point out that we require definite signing at the junction of the A44/C2176 by the Blue Bell Public House instructing all wind farm traffic to go straight on and that no traffic associated with the wind farm is to use the C2176 up past the pub. This will be a clear short cut for traffic coming from the Aberystwyth/Rhayader direction. So they need to include additional signing there. There also needs to be some clear statements on the consequences/actions taken by the developer for abusing this instruction.

Finally, the signing at the crossroads on the C2176 is not correct and again can be picked up by condition 33.

Consultation response received 13/03/2017

I recommend that the highway conditions can now be discharged.

Welsh Government Trunk Road Agency

Consultation response received 07/04/2017

The Welsh Government as highway authority for the trunk road network advises that the above conditions can be discharged.

Public Representations

One public representation of objection has been received.

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.

Discharge of Conditions

Welsh Government Trunk Road Agency and Powys County Council's Highways department have been consulted on the discharge of conditions 22,23,25,27,28 and 32 as indicated above.

In light of the above consultation responses received from Welsh Government Trunk Road Agency and Powys County Councils Highway Authority, it is recommended that conditions 22,23,25,27,28 and 32 of the application P/2014/1102 can be formally discharged as the information as provided is considered to be acceptable.

The Local Planning Authority has also reviewed the information submitted with regards to condition 4. Information submitted provides a photographic record of views taken at specific points of interest detailing the current state, form and features of the site. The locations of the points of interest have also been identified on maps. It is considered that sufficient information has been submitted and it is therefore recommended that condition 4 of the application P/2014/1102 can be formally discharged.

RECOMMENDATION

It is considered that sufficient information has been submitted to discharge conditions 4, 22, 23, 25, 27, 28 and 32. It is therefore recommended that conditions 4, 22, 23, 25, 27, 28 and 32 are discharged.

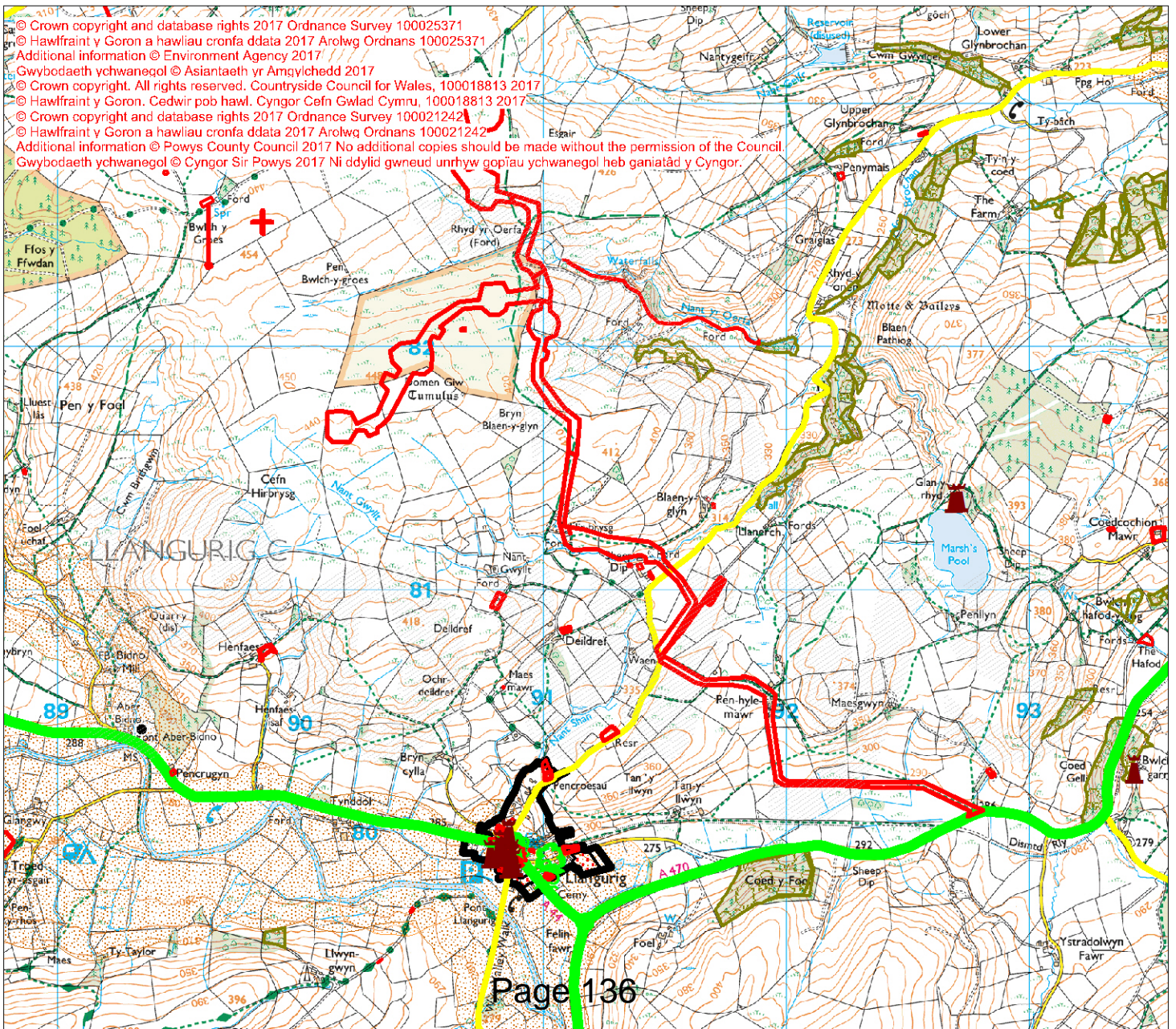
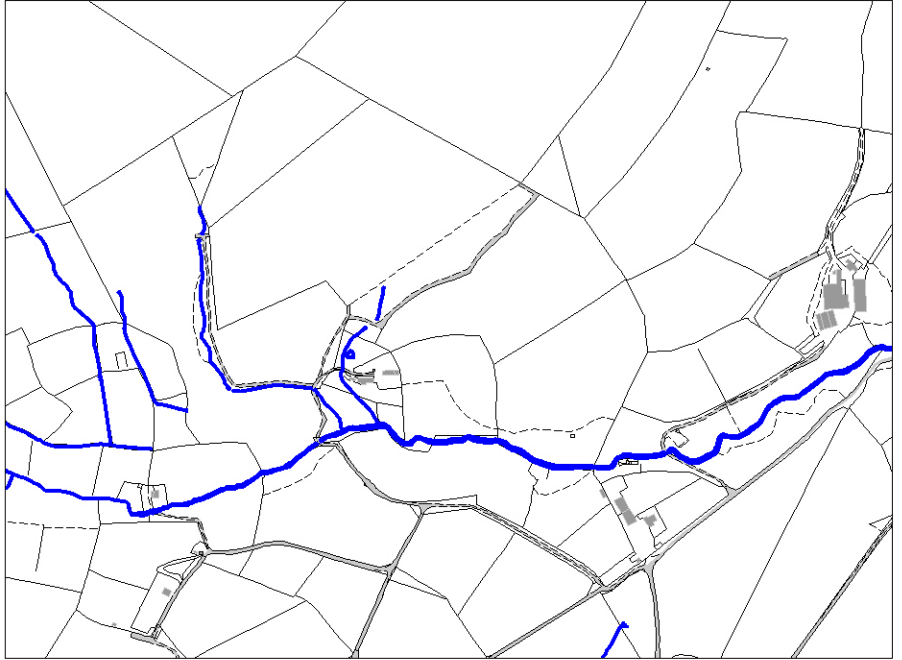
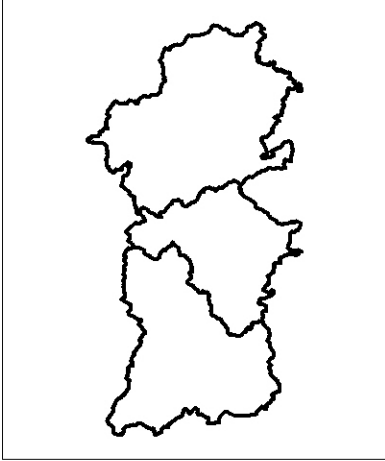
Environmental information has been taken into consideration when determining this application (DIS/2016/0247).

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: Brynblaen Windfarm Ltd

Location: Blaen y Glyn, Llangurig



PTLRW46 - 20175

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	DIS/2016/0258	Grid Ref:	291676 281370
Community Council:	Llangurig	Valid Date:	Officer: 04/01/2017 Gemma Bufton
Applicant:	Mr Radford, Bryn Blaen Wind Farm Limited.		
Location:	Blaen y Glyn, Llangurig, Llanidloes, Powys, SY18 6SL.		
Proposal:	Discharge of conditions 9, 33, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 56 & 60 of planning approval P/2014/1102.		
Application Type:	Application for Approval of Details Reserved by Condition.		

The reason for Committee determination

This application comes before Members of the planning committee as Cllr Graham Jones requested it is called in due to it being potentially controversial and in the wider public interest

Site Location and Description

Conditional consent was granted under appeal by the Planning Inspectorate for the construction and operation of 6 wind turbines with a maximum tip height of 100 metres and maximum hub height of 59 metres together with ancillary development comprising substation, control building, new and upgraded access points and tracks, new alternative recreational track, hardstanding and temporary compound and associated works.

This application sees to discharge conditions 9, 33, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 56 and 60 of planning consent P/2014/1102. Application P/2014/1102 was accompanied by an Environmental Statement and therefore environmental information has been taken into consideration when determining this application.

Condition 9 states:

Development Micro-siting

No development shall commence until a micro-siting protocol has been submitted to and approved in writing by the Local Planning Authority. It shall set out a protocol for deciding on micro siting of all development to minimise the development's impact on environmental constraints. The protocol shall be implemented as approved and include, but not be limited to, the following criteria:

- (a) Take account of peat, blanket bog habitat, curlew, protected species, watercourses, public and permissive rights of way, heritage asset, bats, health and safety and any other identified environmental or engineering constraint.
- (b) Turbines, crane pads and directly associated infrastructure may be located up to 30m from the positions shown on the approved plans.

- (c) Access tracks may be located up to 20m from the positions shown on the approved plans.
- (d) Notwithstanding the above allowances, the substation and track adjacent to it shall be constructed in the location shown on the approved plans to avoid areas of deep peat.

Condition 33 states:

Highways and Transport

No development shall take place until detailed plans of all highway works on the C2176 have been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include:

- (a) drainage details;
- (b) road markings and signage proposals;
- (c) a programme for the implementation of the works; and
- (d) the works shall be implemented in accordance with the approved details.

Condition 39 states:

Bat Protection Plan

No development shall commence until a pre-construction bat survey has taken place.

Condition 41 states:

Badgers

No development shall commence until pre-construction badger surveys have been carried out at all development infrastructure locations. The results of the surveys and any necessary mitigation measures shall be prepared in consultation with NRW and submitted to and approved by the Local Planning Authority before any development commences.

Condition 42 states:

Badgers

If any badger setts are located within 30 metres of any development infrastructure, the infrastructure shall be moved. If infrastructure cannot be moved then a plan to construct replacement setts shall be prepared in consultation with NRW and submitted to and approved by the Local Planning Authority. Alternative setts shall be constructed at least six months prior to exclusion.

Condition 43 states:

Great Crested Newts

No development shall commence until environmental DNA surveys to determine the presence of great crested newts on the site have been undertaken and provided to the Local Planning Authority and NRW. The results of the surveys and any necessary mitigation measures shall be prepared in consultation with NRW and submitted to and approved by the

Local Planning Authority before any development commences. The approved mitigation measures shall be implemented as approved.

Condition 44 states;

Dormice

No development shall commence until surveys to determine the presence of dormice on the site have been undertaken and provided to the Local Planning Authority and NRW. The results of the surveys and any necessary mitigation measures shall be prepared in consultation with NRW and submitted to and approved by the Local Planning Authority before any development commences. The approved mitigation measures shall be implemented as approved.

Condition 45 states:

Schedule 1 Birds

No development shall commence until a pre-construction survey on Schedule 1 birds has been undertaken and the results and any suggested mitigation have been prepared in consultation with NRW and submitted to and approved by the Local Planning Authority.

Condition 46 states:

Schedule 1 Birds

If the pre-construction survey identifies that construction will occur during the breeding season of any Schedule 1 bird then a buffer shall be adopted to ensure that construction does not take place within the vicinity of any Schedule 1 bird nest sites until the chicks have fledged or breeding has failed. The size of the buffer must be approved in writing by the Local Planning Authority subject to prior consultation with NRW and the buffer must remain in place until written confirmation is given by the Local Planning Authority that construction can take place within the buffer.

Condition 47 states:

Curlew

No development shall commence until a two year Pre-Construction Curlew Survey has taken place.

Condition 48 states:

Curlew

No development shall commence until the results of the Pre-Construction Curlew Survey and Breeding Bird Protection Plan have been prepared in consultation with NRW and submitted to and approved by the Local Planning Authority.

Condition 49 states:

Curlew

If the pre-construction survey identifies that construction will occur during the curlew breeding season then an 800 metre buffer shall be adopted to ensure that construction does not take place within the vicinity of any curlew nest sites until the chicks have fledged or breeding has failed. The buffer must remain in place until written confirmation is given by the Local Planning Authority that construction can take place within the buffer.

Condition 50 states:

Otters

No development shall commence until a Pre-Construction Otter Survey has taken place. The methodology for the Pre-Construction Otter Survey is to be prepared in consultation with NRW and submitted to and approved by the Local Planning Authority.

Condition 51 states:

Otters

No development shall commence until the results of the Pre-Construction Otter Survey and an Otter Protection Plan prepared in consultation with NRW have been submitted to and approved by the Local Planning Authority. The otter protection plan shall include:

- (a) updated construction drawings and plans showing otter holts and resting places within 100 metres of specific working locations;
- (b) details of proposed mitigation including:
 - i. construction activities will be 100 metres outside of known holts for otters and 30 metres of known resting places to minimise disturbance and risk to species;
 - ii. appropriate exclusion zones will be created around holts and resting places, using temporary fencing or some similar method to delineate and highlight the area;
 - iii. construction activities involving heavy machinery and blasting within 100 metres from a resting place / holt will not commence until one hour after sunrise, ceasing one hour before sunset;
 - iv. all open excavations will be ramped to enable easy exit by otter;
 - v. culvert pipes stored on site will be capped or if caps are not available, stored vertically, to prevent entrapment;
 - vi. work on culverts will only take place during the day and at the end of each working day the watercourse will be cleared of any construction material so otters can pass through unobstructed;
 - vii. design of any permanent or temporary lighting will be such that it will be directed away from watercourses;
 - viii. all felling and construction personnel will be provided with an emergency telephone contact for the ecological clerk of works; and
 - ix. a site speed limit of 19 mph for all construction traffic will be imposed across the site.

Condition 56 states;

Cultural Heritage

No development shall take place until a scheme of works in relation to the Dolen Giw Cairn (Scheduled Ancient Monument No.MG267) has been approved by the Local Planning Authority. The scheme of works shall include:

- (a) realignment of the modern post and wire fence that currently runs across the top of the mound so that the whole mound can be explored;
- (b) a non-intrusive survey of the mound and surrounding area using geophysics;
- (c) details of a signboard to be erected nearby to explain the archaeological/cultural context and significance of the mound to visitors; and
- (d) A timetable for the completion of the approved scheme of works.

Condition 60 states:

Community Liaison

No development shall commence until a community liaison scheme for the construction and decommissioning period has been submitted to and approved by the Local Planning Authority. The community liaison scheme shall be implemented as approved and include:

- (a) details of developer liaison with the local community to ensure residents are informed of how the construction or decommissioning of the development is progressing;
- (b) a mechanism for dealing with complaints from the local community during the construction or decommissioning of the development; and
- (c) a nominated representative of the developer who will have the lead role in liaising with local residents and the relevant planning authority.

Consultee Response

Natural Resources Wales

Consultation response received 27/01/2017

Thank you for referring the above application, which we received on 09/01/2016. NRW does not object to the discharging of conditions 9, 39, 41, 43, 44, 45, 46, 47, 48, 49, 50, & 51 of planning approval P/2014/1102. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed.

NRW has reviewed the following documents:

- 'Pre-construction Survey for Badger at Bryn Blaen Wind Farm' by ADAS referenced 'CEN4157' dated October 2016.
- 'Bat Protection Plan at Bryn Blaen Wind Farm' by ADAS referenced 'CEN4157' dated November 2016.
- 'Pre-construction Survey for Otter at Bryn Blaen Wind Farm' by ADAS referenced 'CEN4157' dated October 2016.

- 'Species Protection Plan for Otter at Bryn Blaen Wind Farm' by ADAS referenced 'CEN4157' dated November 2016.
- 'Pre-construction Monitoring Methodology for Dormouse at Bryn Blaen Wind Farm' referenced 'CEN4157' dated November 2016.
- 'Great Crested Newt Survey Bryn Blaen Wind Farm, Llangurig, Powys' by ADAS dated May 2016.
- 'Breeding Bird Protection Plan at Bryn Blaen Wind Farm' by ADAS referenced 'CEN4157' dated November 2016.
- 'Bryn Blaen Protocol to take account of the effects on peat, blanket bog, habitat, curlew, protected species, watercourses, public and permissive rights of way, heritage asset, and bats.'

Protected Species

Badgers

Badgers are protected under the Protection of Badgers Act 1992.

The survey and assessment are considered to be satisfactory. It is noted that third parties have raised a badger sett issue in respect of the access road. The developers should be made aware of this. This matter can be addressed under licence issued by NRW.

Bats

Bats and their breeding and resting places are protected under the Wildlife and Countryside act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended), and are a material consideration for planning.

The submission is considered to be satisfactory for the purposes of informing the micro-siting. The post construction plans are considered to be satisfactory.

Otters

Otters and their breeding and resting places are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended), and are a material consideration for planning.

The otter survey and assessment are considered satisfactory, and the conclusions are considered appropriate.

Dormouse

Dormice and their breeding and resting places are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended), and are a material consideration for planning.

The surveys and assessments submitted are considered to be satisfactory. The conclusions and recommendations are considered to be appropriate. The pre-construction monitoring methodology for dormouse is also considered to be appropriate.

Great Crested Newts

Great Crested Newts and their breeding and resting places are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended), and are a material consideration for planning.

The surveys and assessment are considered satisfactory, and therefore we conclude with the conclusions.

Breeding Birds

The submitted Breeding Bird Protection Plan is considered to be satisfactory.

It is therefore considered the proposals in respect of habitat protection, creation, enhancement and management, and monitoring proposals to be appropriate.

Informative for the developers

It is advised that the data collected as part of the ongoing monitoring work for protected species are made available online and are made available to national and local record centres.

Micro-siting Protocol

The micro-siting protocol has been reviewed. The protocol is satisfactory, and therefore we have no further comments to add.

PCC Ecologist

Consultation Response received 03/02/2017

I have reviewed the information submitted by the applicant to discharge this condition which consists of:

- Bryn Blaen Windfarm – Micro-siting Protocol to take account of the effects on peat, blanket bog habitat, curlew, protected species, watercourses, public and permissive rights of way, heritage asset, and bats.
- Bat Protection Plan at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated November 2016
- Pre-construction Survey for Badger at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated October 2016
- Great Crested Newt Survey Bryn Blaen Wind Farm, Llangurig, Powys by ADAS (Chris Forster Brown) dated May 2016
- Bryn Blaen Wind Farm Hazel Dormouse Survey Report (ref no. CEN4157) by ADAS (Chris Forster Brown) dated December 2016
- Breeding Bird Protection Plan at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated November 2016
- Breeding Curlew and Schedule 1 Birds 2016 Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated 26th September 2016
- Pre-construction Survey for Otter at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated October 2016

- Species Protection Plan for Otter at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated November 2016

Having reviewed the information submitted with regards to Condition 9, I consider that the measures identified and information submitted are appropriate and sufficient to comply with the requirements of the conditions, in addition NRW have identified in their response dated 27th January 2017, that they consider the micro-siting protocol to be satisfactory. I therefore consider that sufficient information has been submitted to enable discharge of Condition 9.

Condition 39 requires a pre-commencement bat survey to be undertaken, Section 2 Bat Protection Plan at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated November 2016 states that due to revising the location of T6 30m west of the area of valley mire it is considered that there is no purposes in undertaking a pre-construction survey as all possible avoidance measures will have been deployed. Whilst I do not disagree with the statements provided in the report regarding the need for bat activity surveys following micro-siting of the turbine away from the valley mire area, the wording of the condition is such that unless a pre-commencement bat survey is undertaken then the requirements of the condition will not have been complied with.

Conditions 41 and 42 relate to badgers, a pre-commencement survey has been undertaken and submitted, this report states that no active badger setts were identified within 50m of any infrastructure. Additional information has been submitted to the LPA from third parties stating that there are in fact active badger setts within 30m of the infrastructure – a badger sett within 10m of the access track has been referred to – no specific location has been provided. Given the additional information received regarding the presence of badger setts within 30m of the windfarm infrastructure which contradicts with the submitted report it is recommended that further information is required prior to discharge of these conditions.

Having reviewed the information submitted with regards to Condition 43 I consider that the information submitted and measures identified are appropriate and sufficient to comply with the requirements of the conditions, in addition NRW have identified in their response dated 27th January 2017, that they consider the surveys and assessment to be satisfactory. I therefore consider that sufficient information has been submitted to enable discharge of Condition 43.

Having reviewed the information submitted with regards to Conditions 45, 46, 47, 48 & 49 I consider that the information submitted and measures identified are appropriate and sufficient to comply with the requirements of the conditions, in addition NRW have identified in their response dated 27th January 2017, that they consider the Breeding Bird Protection Plan to be satisfactory. I therefore consider that sufficient information has been submitted to enable discharge of Conditions 45, 46, 47, 48 & 49.

Having reviewed the information submitted with regards to Conditions 50 and 51 I consider that the information submitted and measures identified are appropriate and sufficient to comply with the requirements of the conditions, in addition NRW have identified in their response dated 27th January 2017, that they consider the surveys and assessment to be satisfactory and the conclusions are considered appropriate. I therefore consider that sufficient information has been submitted to enable discharge of Conditions 50 & 51.

Consultation response received 13/04/2017

Subject to approval for the amendment of the wording I would also therefore consider that sufficient information has been provided with regards to condition 39 of planning permission P/2014/1102 (appeal reference - APP/T6850/A/15/3133966) in relation to DIS/2017/0258 to enable the condition to be discharged.

In my previous response with regards to the application to discharge planning conditions in relation to planning permission P/2016/1102 I requested further information to provide clarity with regards to condition 41 - this was due to conflicting evidence being provided by various parties with regards to badgers and the results of the pre-commencement survey submitted to discharge this condition.

Following this a site meeting was held on Monday 10th April in attendance were representatives from the Windfarm developer, Ecological consultants from ADAS and Julian Brown Consultancy Ltd, NRW, the Badger Group and the Wales Wildlife Crime Officer.

The site meeting's aim was to provide clarity over the assessment of the badger setts in the locality and the appropriateness of the mitigation measures identified to discharge condition 41.

Condition 41 Requires that -

No development shall commence until pre-construction badger surveys have been carried out at all development infrastructure locations. The results of the surveys and any necessary mitigation measures shall be prepared in consultation with NRW and submitted to and approved by the Local Planning Authority before any development commences.

In addition to the site visit the following information has been submitted by the applicant to discharge this condition:

- Pre-construction Survey for Badger at Bryn Blaen Wind Farm (ref no. CEN4157) by ADAS (Chris Forster Brown) dated October 2016
- Badger Sett Assessment Report by ADA dated January 2017
- Badger Activity Assessment Report by Julian Brown Consultancy Ltd dated 14th February 2017
- Letter from Aaron and Partners Solicitors (Reference DAH.KM.JPT.NJO2.8) dated 6th March 2017

In addition a report was submitted by the Dyfi Badger Group dated March 2017.

During the site visit details of the monitoring that had been undertaken and results and conclusions regarding the status and appropriate mitigation was discussed. Following this meeting and discussions with NRW I am satisfied that the survey undertaken and mitigation measures proposed are appropriate and achievable and provide sufficient information to enable the discharge of condition 41.

With regards to condition 42 which requires that:

If any badger setts are located within 30 metres of any development infrastructure, the infrastructure shall be moved. If infrastructure cannot be moved then a plan to construct replacement setts shall be prepared in consultation with NRW and submitted to and

approved by the Local Planning Authority. Alternative setts shall be constructed at least six months prior to exclusion.

As stated in the Letter from Aaron and Partners Solicitors (Reference DAH.KM.JPT.NJO2.8) dated 6th March 2017 this condition applies throughout the construction phase of the development and it is therefore not necessary or appropriate to discharge the condition at this time. Should an active badger sett be identified during the course of construction then the requirements of condition 42 will need to be complied with either through the moving of infrastructure or through closure of the sett under licence from NRW and the provision of a replacement sett.

In addition it has also been brought to my attention that my response dated 03/02/2017 did not confirm whether the information submitted to discharge condition 44 with regards to dormice was appropriate. I did review the submitted information but my assessment of the suitability to discharge the condition was missed out of the response in error.

Condition 44 Requires that –

No development shall commence until surveys to determine the presence of dormice on the site have been undertaken and provided to the Local Planning Authority and NRW. The results of the surveys and any necessary mitigation measures shall be prepared in consultation with NRW and submitted to and approved by the Local Planning Authority before any development commences. The approved mitigation measures shall be implemented as approved.

I have reviewed the information submitted by the applicant to discharge this condition which consists of:

- Bryn Blaen Wind Farm Hazel Dormouse Survey Report (ref no. CEN4157) by ADAS (Chris Forster Brown) dated December 2016

Having reviewed the information submitted with regards to Condition 44 I consider that the information submitted and measures identified are appropriate and sufficient to comply with the requirements of the conditions, in addition NRW have identified in their response dated 27th January 2017, that they consider the surveys and assessment to be satisfactory. I therefore consider that sufficient information has been submitted to enable discharge of Condition 43.

PCC Highways Department

Consultation response received 13/03/2017

I recommend that the highway conditions can now be discharged.

CPAT

Thank you for the various attached documents relating to condition 56.

I can confirm that all aspects of condition 56 (a-d) relating to archaeology have been submitted and approved and the condition has been fully complied with and can now be discharged.

Public Representations

Six public representations of objection have been received at the time of writing this report. The objections relate to and can be summarised as follows:

- Incorrect information relating to Badgers
- Insufficient information relating to Ecology

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.

Discharge of Conditions

Ecology

Natural Resources Wales and Powys County Council's Ecologist have been consulted on the discharge of conditions 9, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 which relate to protected species, biodiversity and ecological matters.

In light of the above consultation responses received from Natural Resources Wales and Powys County Council's Ecologist, it is recommended that conditions 9, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50 and 51 of the application P/2014/1102 can be formally discharged as the information provided is considered to be acceptable and sufficient to discharge the above conditions.

Highways

Additionally, Powys County Councils Highways department have been consulted on the discharge of condition 33 as indicated above.

In light of the consultation response received from Powys Highways Department, it is considered that the information as provided is acceptable.

Cultural Heritage

CPAT have been consulted with respect to the discharge of condition 56 which requests for a scheme of works in relation to the Scheduled Ancient Monument be submitted to and approved in writing by the Local Planning Authority.

CPAT have reviewed the information and have confirmed that sufficient information has been submitted to satisfy condition 56.

Community Liaison

The Local Planning Authority has also reviewed the information submitted with regards to condition 60. Information submitted provides details regarding representatives of the developer to contact to deal with complaints, liaising with local residents to keep them informed of how the development is progressing. It is considered that sufficient information has been submitted and it is recommended that condition 60 of the application P/2014/1102 can therefore be formally discharged.

RECOMMENDATION

It is considered that sufficient information has been submitted to discharge conditions 9, 33, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 56 & 60. It is recommended that conditions 9, 33, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 56 & 60 are therefore discharged.

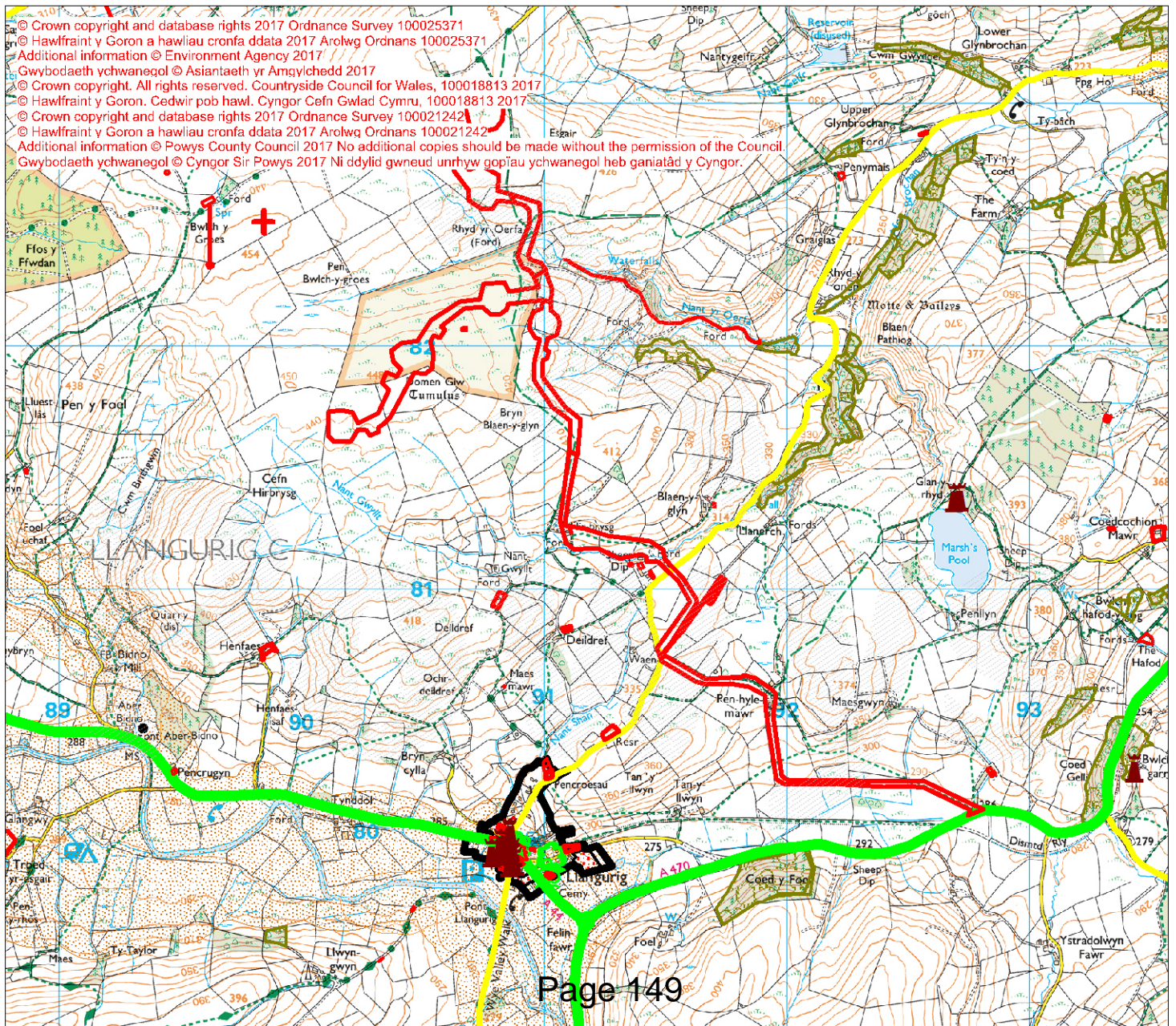
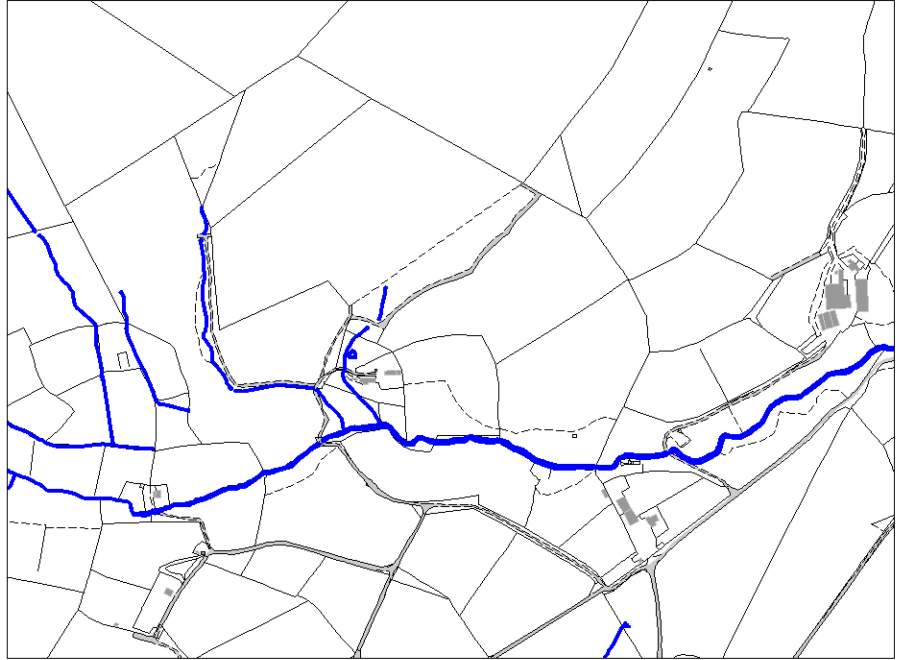
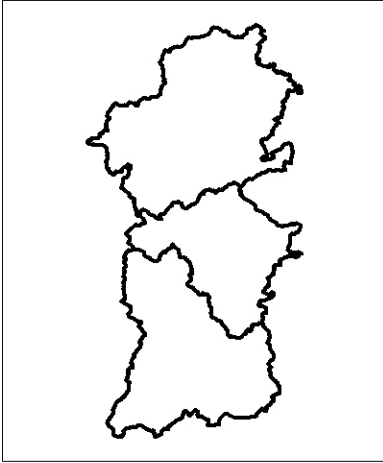
Environmental information has been taken into consideration when determining this application (DIS/2016/0258).

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: Brynblaen Windfarm Ltd

Location: Blaen y Glyn, Llangurig



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Delegated List

10/04/2017

19/04/2017

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/2016/0153 FULL	08/02/2016	REFUSE	11/04/2017	Change of use from sui generis (former telecommunications station) to one residential dwelling C3	Shortwave B Criggion Back Lane Shrewsbury SY5 9BE
P/2016/1327 OUT	29/12/2016	CONSENT	11/04/2017	Outline - all matters reserved: Residential development of 4 dwellings and associated works.	Land at Llwynmelyn Crossgates Llandrindod Wells LD1 6RE

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0183 FULL	23/02/2017	CONSENT	11/04/2017	Full: Change of use of butcher shop and storage area to additional residential accommodation	Cwmgiedd, 43 Heol Giedd Ystradgynlais SA9 1LP
P/2017/0194 FULL	17/02/2017	CONSENT	11/04/2017	Full: Erection of a dwelling	Old School Field Howey Llandrindod Wells LD1 5RE
P/2017/0196 HOUS	17/02/2017	CONSENT	11/04/2017	Householder: Demolition of existing rear sun room and erection of new rear extension. Conversion of garage	26 Churchill Drive Weston Newtown SY16 2LQ
P/2017/0209 HOUS	17/02/2017	CONSENT	11/04/2017	Householder: Installation of a 1000 litre oil tank	1 Glandwr Llansantffraid SY22 6AR
P/2017/0206 CLA2	20/02/2017	REFUSE	12/04/2017	Section 192 for a lawful development certificate for a proposed use in relation to rendering of side elevation of house including chimney stack and partial frontage	Guilsfield 6 Belan Fields Welshpool SY21 9NW

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0256 FULL	10/03/2017	CONSENT	12/04/2017	Extension to current grain store	Walton Farm Walton Presteigne LD8 2PH
P/2017/0270 HOUS	09/03/2017	CONSENT	12/04/2017	Erection of extension to create a residential annexe	Tir Canol Lower Cwmtwrch Swansea SA9 2QQ
P/2016/0728 FULL	13/07/2016	CONSENT S106	18/04/2017	Change of use from C2 residential insitutions to C3 - Formation of 6 residential apartments.	Vyrnwy Academy Ltd. Vyrnwy House SY22 6AU
P/2017/0237 HOUS	06/03/2017	CONSENT	18/04/2017	Householder - Conversion of attached garage as extension to existing dwelling and erection of new garage	Ty Cwn Llansantffraid SY22 6TE

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Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 15/2/17
Ymweliad â safle a wnaed ar 15/2/17

gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI
Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12.04.2017

Appeal Decision

Hearing held on 15/2/17
Site visit made on 15/2/17

by Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI
an Inspector appointed by the Welsh Ministers

Date: 12.04.2017

Appeal A Ref: APP/T6850/A/16/3158750

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2014/0632, dated 12 June 2014, was refused by notice dated 18 March 2016.
- The development proposed is the 'Erection of 4 No. dwellings and formation of associated access'.

Appeal B Ref: APP/T6850/A/16/3161920

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2016/0902, dated 19 August 2016, was refused by notice dated 25 October 2016.
- The development proposed is the 'Erection of 4 No. dwellings and formation of associated access'.

Appeal C Ref: APP/T6850/E/16/3158754

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2014/0633, dated 12 June 2014, was refused by notice dated 16 March 2016.
- The works proposed are the 'demolition of existing wall to provide new vehicular access in connection with P/2014/0632'.

Appeal D Ref: APP/T6850/E/16/3161930

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2016/0901, dated 19 August 2016, was refused by notice dated 25 October 2016.
- The works proposed are the 'Demolition of an existing wall to provide new vehicular access in connection with P/2016/0902'.

Decisions

1. Appeals A & B are dismissed.

Application for Costs

2. At the Hearing an application for costs was made by Mrs Julie Trimble of Trimwright Homes Ltd against Powys County Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appellant submitted two listed building applications to the Council for determination. Prior to the Council's determination of the first application the appellant disputed that the works covered by that application did in fact relate to a listed structure associated with Ivy House, a grade II listed building; this stance has been sustained during the course of the Council's consideration of the second application and the appeal process.
4. Therefore the parties do not agree on the listed status of the wall that is proposed to be partially demolished by schemes A & B. Whether an existing structure in proximity to a listed building is deemed to be curtilage listed is a matter of fact and degree. Having reviewed the evidence, including the historic maps and more recent photographic evidence contained within the submitted Heritage Impact Statement (HIS), relevant case law, and what I heard during the appeal and saw on site, it appears to me that the western boundary wall that is proposed to be partially demolished is not a curtilage listed structure.
5. The appellant accepts that the stone wall that runs along the historic access that serves Ivy House and which exits out onto a minor road known locally as Mount Bank, is curtilage listed and that the western boundary wall which it connects into has, at least in its northern section, a direct connection to the listed dwelling. However simply because this wall then connects onto the rest of the western boundary wall, it does not follow that the rest of the wall is curtilage listed, even if it were attached at the time of listing. To my mind, the rest of the wall i.e. from approximately a line just south of the existing pedestrian doorway down towards the A458 derives its provenance from the remnants of earlier structures that bordered the appeal site in bygone years, and which also appear to have been subject, at least in part, to a degree of rebuilding; these structures have no functional or historical connection to Ivy House. The appellant accepts that a small area of the site around the pedestrian

doorway formed part of the historic residential curtilage, however based on the submitted evidence and my observations on site, it appears to me that whilst the appeal site has had a long association with Ivy House, that association for the majority of the area concerned has been as a paddock/orchard area as opposed to domestic use; the Council provided no significant evidence to the contrary.

6. Bearing the above in mind, a listed building consent application is not required for the works as proposed; it follows that there is no valid appeals for determination and therefore I shall take no further action in regards to appeals C & D.
7. I note the name of the appellant and description of site address differs slightly on the joint planning application/listed building consent form for the various appeals. At the Hearing it was confirmed that the appellant is Mrs Julie Trimble of Trimwright Homes Ltd which is reflected in the banner headings above. The description of the site address as advertised and stated on the Council's decision notices for appeals A & B, and copied into the banner headings above is more accurate and concise; it is on this basis that I have determined the appeals.
8. Appeals A & B relate to the erection of 4 dwellings and a new vehicular access onto Mount Bank. In broad terms the difference between the proposed schemes relates to the treatment of the access to the site, with appeal A retaining more of the stone wall along Mount Bank and a resultant narrowing of the adjacent carriageway; in addition the site as edged in red between the schemes varies slightly along the eastern boundary with Ivy House. Bearing in mind the similarities of the appeals, I have combined my consideration of them, referring to any differences as required.
9. I note that Planning Policy Wales (PPW) Edition 9 was issued on 17/11/2016 and replaces PPW Edition 8; consequently I have dealt with the appeals on the basis of the revised PPW. Both parties were afforded the opportunity to consider the implications this may have had for their cases; the appellant responded with additional information which I have taken into account in my determination of the appeals.

Main Issues

10. Bearing the above in mind, I consider the main issues to be the effect of the proposed development on the setting of Ivy House and on highway safety with particular regard to the narrowing of the highway.

Reasons

11. The appeal site is roughly rectangular in shape and is sited near to the junction of the A458 trunk road and Mount Bank within the settlement of Middletown; land levels rise gently northwards from the A458. The majority of the site has historically been used as a paddock/orchard, however latterly it has been grazed with livestock. The site is bounded to the north by a stone wall that separates it from an access drive that serves the adjacent Ivy House, the only listed building within the settlement; this wall links into a further stone wall that runs the length of the western boundary of the site along Mount Bank. The southern/A458 facing boundary to the site has mature landscaping in the form of trees and hedges, whilst the eastern boundary is delineated for the majority of its length by a mature conifer hedge, beyond which lies the garden associated with Ivy House.
12. Ivy House is a two storey country house and dates from the early to mid-19th century and appears to have been built for a Benjamin Thomas, a farmer, who according to

the HIS was 'clearly a man of means'. The main part of the house is characterised by the use of a pebbledash finish on the exterior walls and a slate roof, with the front elevation being late Georgian in appearance. The appearance and style of the front facing Georgian elevation is very pleasing to the eye and even from the nearby public highway architectural details such as the ornate scalloped bargeboards can be seen; the rear of the building has been remodelled over the years and utilises a mix of building materials. To the rear can be found a cobbled courtyard and outbuildings, whilst to the front and sides of property facing onto the A458 is an informally laid out garden, which unlike the majority of other properties in the vicinity is very spacious. The property is accessed by vehicular traffic from Mount Bank; a pedestrian access to the house is found onto the A458. Whilst set back from adjacent roads, nonetheless Ivy House can be glimpsed from various vantage points. Collectively these features make up a large proportion of the significance of Ivy House as a designated heritage asset.

13. The wider area to the north, west and south around the site is characterised in the main by relatively modern residential development set within modest plots, whilst to the immediate east adjacent to open land associated with Ivy House lies All Saints Church.

Effect on Listed Building

14. Section 66(1) of the Act¹ require the decision-maker, in considering whether to grant planning permission for development affecting a listed building, or its setting, 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; PPW reiterates this stance.
15. The appellant refers to the Powys Unitary Development Plan adopted in 2010 (UDP) being 'out of date'. Whilst the UDP plan period expired in December 2016, nonetheless policies GP1 & ENV14, which seek to protect heritage assets, are broadly consistent with recent national planning policy in PPW.
16. Contrary to the appellant's view I do not consider the significance of Ivy House is limited to its date of construction, façade detailing and its relationship to the rear outbuildings. The Welsh Government publication 'Conservation Principles for the sustainable management of the historic environment in Wales' defines setting as 'the surroundings in which an historic asset is experienced'. The HIS clearly establishes a historic relationship between Ivy House and the ground forming the appeal site, with the land most likely to have been used as a paddock or orchard associated with the house. The land associated with Ivy House, including the appeal site, sets it apart from the relatively undistinguished dwellings that surround it and to my mind serves as a visual reminder of the property's original higher status and forms part of the setting to the house. Whilst I appreciate that the existing stone wall and vegetation restrict views of Ivy House, nonetheless it can be glimpsed in views looking across the appeal site, with specific detailing such as the slate roof, brick chimney stacks and ornate scalloped bargeboards being evident from a number of vantage points locally. The appeal site despite its central location within the settlement has a tranquil, verdant and visually open spacial quality to it. For these reasons the appeal site

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990

makes a positive contribution to the setting and therefore significance of the heritage asset.

17. As referred to above, the HIS indicates that historically there were buildings bordering part of the appeal site, however it appears these were demolished in the mid part of the 20th century, with the remnants highly likely to have formed, at least in part, the western boundary wall. It is clear to me that for approximately 60 years, Ivy House has been seen as a relatively large dwelling adjacent to an area which is open and generally devoid of built structures, and would have been seen in this context particularly so at the time of listing. In addition, the interior of the site appears to have always been devoid of development.
18. The proposed development would result in a development of four 2 storey dwellings; a terrace of three and one that is detached, that would extend along the side gable and in front of Ivy House, and occupy a significant footprint within the site. The proposed dwellings are contemporary in design. I appreciate the land levels on the site may allow for a development that is lower than Ivy House, nonetheless based on my site observations, the proposed two storey dwellings would be highly likely by virtue of their scale, siting and form to be a visually dominant feature within the setting of the listed building.
19. The proposed dwellings would have a significant detrimental impact on the open spacial/visual relationship that has existed for many years and on the historic function and relationship of the land to the listed house; little of the sense of that historic relationship would remain. In addition the existing partial and filtered views of Ivy House would be highly likely to be either obscured completely or significantly compromised, particularly when viewed from nearby vantage points.
20. As referred to previously, the proposed development would result in the partial demolition of the western boundary wall to form the proposed access into the site. Scheme A would result in a modest indent section of the wall being demolished, whilst scheme B would result in the same indent being removed in addition to the demolition and rebuilding of modest sections of the wall to provide for visibility splays. I appreciate the proposed access would result in the loss of an interesting indent feature; nonetheless the demolition works in either scheme are limited and restricted to sections of a non-listed wall that owe their origins to other structures which had no functional or historic connection to Ivy House. I also appreciate the proposed access works would reduce in part the site's sense of enclosure, however this would not be significant bearing in mind the majority of the boundary wall is to be retained or rebuilt. Therefore the works to the boundary wall in itself would not be unduly detrimental to the setting of the listed building, nor justify refusal of the proposed development in either scheme.
21. I do not consider the detailed design of the proposed dwellings would be unduly detrimental to the setting of Ivy House. The contemporary detailed design of the proposed dwellings avoids being pastiche and reflects in part a connection to the listed building by the use of slate, render and stone. Notwithstanding my views on the detailed design of the proposed dwellings and the materials to be used, these would not overcome the more fundamental aspects of the scheme in regards to its dominating scale, siting and form on the adjacent listed house.
22. I accept that the setting of Ivy House has been compromised to a degree by surrounding modern residential development, particularly to the north; nonetheless,

this cannot justify additional development that would further erode its setting, particularly as that development is within land that has historically been associated with the house, and would be prominently located along the side, and forward of the front elevation of the listed property.

23. The Council does not have a 5 year supply of residential land as required by PPW and advocated by policy HP3 of the UDP. Clearly the lack of a 5 year supply is a significant material consideration that weighs in favour of the proposal. Technical Advice Note 1: Joint Housing Land Availability Studies 2015 (TAN 1), states that the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national policies. However for the reasons given previously the benefits from the proposal in terms of the contribution to housing land supply do not outweigh the considerable conflict with the development plan and national planning policy which seeks to safeguard heritage assets.
24. I appreciate the proposed development is located within an existing settlement and would offer the opportunity for future occupants of the site to avail of means of transport other than the private car, and would be likely to contribute to a cohesive community, however these sustainable benefits, either individually or combined with any other benefits associated with the proposals, would not outweigh the harm identified to the heritage asset.
25. One of the Council's refusal reasons as detailed in the decision notices for appeals A & B refers to the removal of a section of wall contrary to paragraph 106 of Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas. Paragraph 106 deals with the issue of granting listed building consent; bearing in mind my findings on the wall, I don't propose to address this reason for refusal any further.
26. Overall, I therefore conclude that the proposed development would materially harm the setting of a listed building, contrary to the Act, PPW and policies GP1 & ENV 14 of the UDP, which collectively seek to protect heritage assets.

Highway Safety

27. The essential difference in highway terms between scheme A & B is that scheme B did not involve the narrowing of the highway to facilitate the proposed access, consequently the Council did not object to this scheme on highway grounds. As regards scheme A the proposed works would allow for appropriate visibility to be achieved; the Council confirmed at the Hearing that it raised no objections to appeal scheme A in terms of the visibility being provided.
28. Mount Bank serves approximately 70 properties from various cul de sacs, in addition to a quarry, and also allows access to an area of Common Land to the north; in the vicinity of the appeal site it varies in width from approximately 5.28 m to the north, 6.0 m opposite the proposed access, and 5.48 m to the south and has footpaths either side. The proposed development would result in the highway opposite the access being reduced to 5.4 m by the use of a dropped kerb arrangement; the dropped kerb would allow for an overrun area. The appellant states the quarry runs a one vehicle in and one vehicle out policy; the Council confirmed at the Hearing they had no evidence to the contrary. The HGV movements associated with the quarry are therefore likely

to be very limited, and I have no substantive evidence before me that this is likely to change anytime soon.

29. The Council maintain that the narrowing of the highway would be detrimental to highway safety especially when two HGV's meet, however, provides little in the way of substantive technical evidence to support their stance. The overrun area effectively maintains the overall width of the road thereby allowing larger vehicles to pass each other, and therefore the proposed works do not materially alter the highway situation which currently exists.
30. There is no evidence to indicate that the proposed works would result in the existing footway being mounted by traffic meeting in the vicinity of the works; the only area that would be mounted by traffic in such a situation is the overrun and this would be designed for that purpose. In addition there is no evidence to indicate the overrun areas would interfere with pedestrian desire lines as the existing footway is being retained, nor unduly affect any other road user.
31. Concluding on this issue, there is no compelling evidence to indicate that the proposed development would be detrimental to highway safety, nor be contrary to Policy GP4 of the UDP, TAN 18, or PPW, which collectively seek to safeguard highway safety.

Other Matters

32. A third party raised concerns in regards to impact of the proposed development on the ecology of the area with particular regard to Slow Worms which are known to reside on the site, however, I note the Council raise no objections in this regard and based on the submitted ecology reports I have no reason to take a contrary view.

Conclusion

33. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.
34. After taking account of all the evidence before me, and for the reasons given above, the proposal would have a detrimental impact on the setting of a listed building. On this basis the proposal falls contrary to the Act, PPW and the development plan. I therefore conclude that appeals A & B should be dismissed.

Declan Beggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Niall Blackie LARTPI	Solicitor
R K Morriss MA (Hons) MSocSc	Richard K Morris & Associates Historic Building Consultants
A Goff	Woodsyde Developments Ltd
G Hickman	Gareth Hickman Architectural Ltd
J Trimble	Appellant

FOR THE LOCAL PLANNING AUTHORITY

L Evans	Principal Planning Officer
D Lewis	Built Heritage Conservation Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's notification letter and list of those notified
2. Revised Highways Statement
3. Suggested conditions as submitted by the appellant
4. Copy of listing description for Ivy House
5. Appellant's written submission regarding an application for costs



Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 15/2/17
Ymweliad â safle a wnaed ar 15/2/17

gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 12.04.2017

Costs Decision

Hearing held on 15/2/17
Site visit made on 15/2/17

by Declan Beggan BSc (Hons) MSc DipTP
DipMan MRTPI

an Inspector appointed by the Welsh Ministers
Date: 12.04.2017

Appeal A Ref: APP/T6850/A/16/3158750

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 County Planning Act 1990, sections 78, 322 and schedule 6, and the Local government Act 1972, section 250(2).
- The appeal is made by Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2014/0632, dated 12 June 2014, was refused by notice dated 18 March 2016.
- The development proposed is the 'Erection of 4 No. dwellings and formation of associated access'.

Appeal B Ref: APP/T6850/A/16/3161920

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 County Planning Act 1990, sections 78, 322 and schedule 6, and the Local government Act 1972, section 250(2).
- The appeal is made by Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2016/0902, dated 19 August 2016, was refused by notice dated 25 October 2016.
- The development proposed is the 'Erection of 4 No. dwellings and formation of associated access'.

Appeal C Ref: APP/T6850/E/16/3158754

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and schedule 3, and the Local Government Act 1972, section 250(5).
- The appeal is made by Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2014/0633, dated 12 June 2014, was refused by notice dated 16 March 2016.
- The works proposed are the 'demolition of existing wall to provide new vehicular access in connection with P/2014/0632'.

Appeal D Ref: APP/T6850/E/16/3161930

Site address: Ivy House, Middletown, Welshpool, SY21 8EL

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 Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and schedule 3, and the Local Government Act 1972, section 250(5).
- The appeal is made by Mrs Julie Trimble of Trimwright Homes Ltd against the decision of Powys County Council.
- The application Ref. P/2016/0901, dated 19 August 2016, was refused by notice dated 25 October 2016.
- The works proposed are the 'demolition of existing wall to provide new vehicular access in connection with P/2016/0902'.

Decision

1. I allow the application for an award of costs in the terms set out below.

The submissions for Mrs Julie Trimble of Trimwright Homes Ltd against Powys County Council

2. The costs application was submitted in writing and was augmented orally on the day of the Hearing. It refers in particular to paragraphs 8, 9 & 10 of Annex 3 of Circular 23/93¹ which relates to unreasonable behaviour by a Council in dealing with a planning application. The Applicant refers in particular to the Council's grounds for refusal relating to heritage as being insufficient in terms of the impact on the heritage asset, and that the applications were not considered properly in the light of the development plan and other material considerations, with one of the refusal reasons not being necessary at all. The Applicant maintains the applications were submitted following positive pre-application advice and that the listed building consent applications were only submitted because the carrying out of works without such consent, if required, would have resulted in a criminal offence. The Applicant also asserts the Council's refusal with regards to highway matters in relation to appeal A was absent of any evidence to defend the stance taken. A full award is sought in respect of all appeals.

The response by Powys County Council

3. The response was made orally at the Hearing. The Council asserted that it had not acted unreasonably in its consideration of the applications and that both issues of impact on the heritage asset and highways involved matters of subjective judgement. The Council maintains any pre-application advice was given on an informal basis and at that time it was understood the stone wall central to appeals C & D would remain; it is argued in any event that the decisions of the Council are not bound by the informal views of officers' of the Council.

Reasons

4. Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who have behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

¹ Circular 23/93 Award of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings

5. Consideration of planning applications and appeals involves matters of judgement which at times are finely balanced. Paragraph 8 of Annex 3 to Circular 23/93 makes it clear that in any appeal proceedings, the Local Planning Authority will be expected to produce evidence to substantiate each reason for refusal by reference to the development plan and all other material considerations.
6. The Council's first reason for refusal on appeals A & B related to the impact of the proposed development on a heritage asset and was supported by evidence both written and oral which had substance. I was persuaded that the Council's stance was appropriate and reasonable, and based on local and national planning policies; albeit I didn't agree with every aspect of their case. Each case must be decided on its individual merits, and the Council was not unreasonable in placing less weight on the provision of housing than the weight attributed to policies relating to protection of heritage assets; the Council's stance in this regard was therefore a matter of planning balance as set out in paragraph 8 of Annex 3 to Circular 23/93.
7. The Council's second reason for refusal detailed in the decision notices for appeals A & B refers to the removal of a section of wall contrary to paragraph 106 of Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas. Paragraph 106 deals with the issue of granting listed building consent and states that local authorities should not authorise demolition to make way for new development unless it is certain that new development will proceed; this can be achieved by way of a planning condition ensuring a contract of works has been made, and that planning permission has been granted. Bearing in mind the Council were refusing the proposed development on heritage matters, I see little justification or reason for their second refusal reason. However whilst there is a degree of unreasonable behaviour in this regard, nonetheless, in terms of the planning appeals, the Applicant has been put to no meaningful unnecessary or wasted expense because of the inclusion of the second refusal reason.
8. As regards issues relating to the listed building appeals, irrespective of the reasons for doing so, the Applicant of her own volition submitted two listed building applications seeking consent for the works identified in appeals C & D. During the course of the first application she disputed that the works covered by the application did in fact relate to a listed structure; this stance was sustained during the course of second application and the appeal process.
9. As regards the listed status of the western boundary wall, any assessment of this is based on fact and degree, and having considered the relevant evidence the Council were of the view that the wall was curtilage listed and that the works would harm the identified heritage asset; the Council then proceeded to refuse listed building consent due to a lack of justification for the works. Whilst I took a contrary view to the Council on the listed status of the wall and on its impact on the setting of the listed building, nonetheless, the Council's stance was a matter of interpretation and planning balance, and is not necessarily in the circumstances to be regarded as unreasonable behaviour. As regards the listed status of the wall and the impact of its demolition, the disagreement on the merits of both cases was a matter that ultimately could only have been determined by way of an appeal.
10. As regards to the pre-application discussions that took place before the first set of applications were submitted, the Council is not bound by informal advice given by its officers prior to a formal determination, especially when that advice as, explained at the Hearing, was given on the understanding that the western boundary wall was to

be retained; consequently in this regard I find no unreasonable behaviour in the subsequent approach taken by the Council after the applications were submitted.

11. Pulling the threads of the above together, in terms of matters related to the heritage reasons for refusal on all four appeal applications, an award of costs in this instance is not justified.
12. As regards the Council's refusal reason referred to in appeal A relating to highway matters, the Council failed to provide any substantive or compelling technical evidence to demonstrate that the proposed development would be detrimental to highway safety. The Council's behaviour in this regard has been unreasonable and has resulted in the Applicant incurring unnecessary and wasted expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has been demonstrated and that a partial award of costs is justified.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Powys County Council shall pay to Mrs Julie Trimble of Trimwright Homes Ltd, the costs of the appeal proceedings, described in the heading of this decision, limited to those costs incurred in adducing evidence in relation to effect of the proposal on highway issues raised as part of the Council's reasons for refusal in appeal A.
14. The Applicant is now invited to submit to Powys County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Declan Beggan

INSPECTOR