

Planning, Taxi Licensing & Rights of Way Committee

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

Meeting Date
Thursday, 20 July 2017

Meeting Time
10.00 am



County Hall
Llandrindod Wells
Powys
LD1 5LG

For further information please contact
Carol Johnson
01597826206
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13th July, 2017

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

Planning

2.	DECLARATIONS OF INTEREST
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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.

3.	PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE
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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)

3.1. **Updates**

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

3.2. **P/2017/0315 Land adj to Bwlch yr Laen, Dolfach, Llanbrynmair, Powys, SY19 7AG**

(Pages 7 - 28)

3.3. **P/2017/0219 The Stables, Llandefalle, Felinfach, Brecon, Powys, LD3 0UN**

(Pages 29 - 48)

4.	DECISIONS OF THE HEAD OF REGENERATION, PROPERTY AND COMMISSIONING ON DELEGATED APPLICATIONS
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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 49 - 54)

Rights of Way

5.	DECLARATIONS OF INTEREST
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To receive any declarations of interest in respect of the following item.

6.	PUBLIC PATH ORDERS – PROPOSED ABANDONMENT
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To consider the report in respect of:
Public path creation Order, bridleway LG964(A) and public path extinguishment Order, bridleway LG964, community of Llangunllo

(Pages 55 - 74)

Committee training

Training

After the formal Committee meeting, the Committee will receive training on the determination of “corrective” applications under Sections 19 and 22 and schedule 2 of the Commons Act 2006.

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Planning, Taxi Licensing and Rights of Way Committee
22nd July 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/2017/0315</p> <p>Llanbryn-mair</p> <p>291351.89 301721.3</p> <p>23/03/2017</p>	<p>Outline – Residential development for 2 dwellings including formation of a vehicular access and associated works</p> <p>Land adj to Bwlch yr Laen, Dolfach, Llanbryn-mair, Powys SY19 7AG</p> <p>Mr RW Morgan, Dolfach Caetwpa, Llanbryn-mair, Powys</p> <p>Recommendation: Conditional Consent</p>
<p>P/2017/0219</p> <p>Felin Fach</p> <p>310392.68 235106.66</p> <p>03/03/2017</p>	<p>Full: Change of use of stables to residential dwelling to include removal of of lean to, installation of solar panels and ground source heat pump</p> <p>The Stables, Llandefalle, Felinfach, Brecon, Powys LD4 0UN</p> <p>Mr & Mrs Freer Spreckley, Castle Barn, Snodhill, Herford, HR3 6BH</p> <p>Recommendation: Refusal</p>

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3.2

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0315	Grid Ref:	291351.89 301721.3
Community Council:	Llanbrynmair	Valid Date:	Officer: 23/03/2017 Eddie Hrustanovic
Applicant:	Mr RW Morgan, Dolfach Caetwpa, Llanbrynmair, Powys		
Location:	Land adj to Bwlch yr Laen, Dolfach, Llanbrynmair, Powys, SY19 7AG		
Proposal:	Outline - Residential development for 2 dwellings including formation of a vehicular access and associated works		
Application Type:	Application for Outline Planning Permission		

The reason for Committee determination

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

Site Location and Description

The application site is located within village of Dolfach, along A470 Trunk Road which is south of the site, and a small cluster of dwellings east of the site together with a small estate access road. Dolfach is classified as a Rural Settlement within Powys Unitary Development Plan. The application site forms a part of a larger field currently in agricultural use which is bounded by post and wire fence facing the Trunk Road. There are number of properties opposite the application site with intervening highway between. Village of Llanbrynmair is approximately 1 mile northwest from the site.

The application is submitted in outline with access to be considered at the outline stage. The originally submitted scheme proposed development of up to nine dwellings; however this has been now reduced down to two at the request of Development Management.

The access will be gained of Bwlch yr Laen Lane, opposite the existing dwellings leading to a private drive providing access, turning and parking facilities for each dwelling.

The length of properties will vary between 8-15m and width ranging from 6-12m. The ridge heights will vary between 5.5m to 8.5m. The revised application site has an area of 0.17 hectares.

Consultee Response

Llanbrynmair CC

No reply received

PCC Highways

Wish the following recommendations/Observations be applied

HC1 Prior to the occupation of the dwelling any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC10 The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC14 Any internal side-road junctions shall have a corner radii of 6 metres.

HC15 The centre line radii of all curves on the proposed estate road shall be not less than 20 metres.

HC19 No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.

HC20 The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.

HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

HC31 The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety.

Welsh Government Highways

I refer to your consultation of 12th June 2017 regarding the above application and advise that the Welsh Government as highway authority for the A470 trunk road does not issue a direction in respect of this application.

Wales and West Utilities

You will note the presence of our intermediate/High Pressure gas main(s) in proximity to the site. No excavations are to take place above or within 10m of the confirmed position of these mains without prior consultation with Wales & West Utilities.

Severn Trent Water

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

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

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

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

PCC Environmental Health

Thank you for your consultation in respect of this application. I note that the applicant is intending to connect to the main sewer and I therefore have no objection to this application.

PCC Ecologist

Ecological Topic		Observations
EIA Screening Requirement	No	The site area is understood to be 0.39 hectares and includes up to 9 dwellings. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application	No	<p>No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service.</p> <p>The application site appears to be located within an agricultural field grazed by sheep and is bounded by a hedgerow to the west and south. The majority of these hedgerows would appear to be retained by the proposal, but a small section of the southern hedgerow would be removed to create a footway access point.</p>
Protected Species & Habitats ¹	European Species <input checked="" type="checkbox"/>	<p>Historic records of European protected species from the vicinity of the site are sparse, but there are records of a brown Long-eared bat roost to the west and an unknown bat species from the north of the site. No bat roosts or potential bat roosts would appear to be lost as a result of the proposals. However, the western and southern hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species.</p> <p>Given the proximity of development works to surrounding hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works.</p> <p>If additional lighting is required I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>It would seem likely that the creation of the new footway</p>

¹ Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		access point would require the removal of a small section of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.
	UK Species <input checked="" type="checkbox"/>	<p>There are historic records of badger and nesting bird species from the vicinity of the site; the boundary hedgerow to the west and south offers suitable habitat for a range of nesting bird species.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>
	Section 7 Species & Habitat <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Hedgerows are a Section 7 Priority Habitat and those present within the site are to be retained, except for a small section that would be removed for access. I have recommended that these hedgerows are protected during the construction phase and that the small section of hedgerow removed for footway access is translocated to a suitable location within the site.</p> <p>The proposed new hedgerow planting and tree planting within the site is welcomed and should consist of native, locally-occurring species.</p>
	LBAP Species & Habitat <input checked="" type="checkbox"/>	See previous observations.
Protected Sites	International Sites ² <input type="checkbox"/>	None within the search area.

² Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

	National Sites ³ <input type="checkbox"/>	None within the search area.
	Local Sites (within 500m) <input type="checkbox"/>	None within the search area.
Invasive Non-Native Species	Unknown	No ecological information has been submitted with the application.
Summary of recommendations / further assessment or work		<p>The western and southern hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species and other wildlife. Given the proximity of development works to surrounding hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works.</p> <p>If additional lighting is required I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>It would seem likely that the creation of the new footway access point would require the removal of a small section of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>The proposed new hedgerow planting and tree planting within the site is welcomed and should consist of native, locally-occurring species.</p>
Recommended Conditions		<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into</i></p>

³ Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

consideration shall be submitted for written LPA approval.

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

Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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

Informative

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

	<p>disturb the 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>
Relevant UDP Policies	<p>SP3 Natural, Historic and Built Heritage</p> <p>ENV 2: Safeguard the Landscape</p> <p>ENV 3: Safeguard Biodiversity and Natural Habitats</p> <p>ENV 6: Sites of Regional and Local Importance</p> <p>ENV 7: Protected Species</p>
Comments on Additional Information	N/A

Cllr Dai Jones

Requested that the application is determined by the Members (*please note that following elections Cllr. D Jones has now been replaced by Cllr. D Jones-Poston*).

Representations

11 letters of objection and a petition from the local residents has been received in respect of this application.

In summary the objections relate to:

- No need for addition housing in the area,
- No local or employment facilities in Dolfach,
- Increase in traffic movements,
- Poor drainage at the site,
- Loss of view and devaluation of private properties,
- Inadequate public transport provision in the area,
- The proposal is speculative development and not in interests of community.

Planning History

None recorded.

Principal Planning Constraints

- Rural Settlement
- A470 Trunk Road

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1: Joint Housing Land Availability Studies (2015)
TAN 2: Planning and Affordable Housing (2006)
TAN 5: Nature Conservation and Planning (2009)
TAN 6: Planning for Sustainable Rural Communities (2010)
TAN 12: Design (2016)
TAN 15: Development and Flood Risk (2004)
TAN 18: Transport (2007)

Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management

Welsh Office Circular 13/97 - Planning Obligations

Local Planning Policy

Powys Unitary Development Plan (2010)

UDP SP1 – Social, Community and Cultural Sustainability
UDP SP2 - Strategic Settlement Hierarchy
UDP SP5 – Housing Developments
UDP SP6 – Development and Transport
UDP GP1 – Development Control
UDP GP2 – Planning Obligations
UDP GP3 – Design and Energy Conservation
UDP GP4 – Highway and Parking Requirements
UDP GP5 – Welsh Language and Culture
UDP ENV1 – Agricultural Land
UDP ENV2 – Safeguarding the Landscape
UDP ENV3 – Safeguarding Biodiversity and Natural Habitats
UDP ENV7 – Protected Species
UDP CS3 – Additional Demand for Community Facilities
UDP HP3 – Housing Land Availability
UDP HP4 – Settlement Development Boundaries and Capacities
UDP HP5 – Residential Developments
UDP HP6 – Dwellings in the Open Countryside

UDP HP9 - Affordable Housing in Rural Settlements
UDP HP10 – Affordability Criteria
UDP TR2 – Tourist Attractions and Development Areas
UDP DC10 – Mains Sewerage Treatment
UDP DC13 – Surface Water Drainage

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) Approved September 2010 Updated July 2011

Powys Residential Design Guide (2004)

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

Officer Appraisal

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

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

Principle of Development

The development site is located within the settlement of Dolfach which is designated in the Powys Unitary Development Plan as a rural settlement. The proposal is for two detached dwellings. In such circumstances policy HP9 – affordable housing in rural settlements is applicable. This policy permits single affordable units providing that they are integrated within the settlement, the occupants would comply with the appropriate eligibility criteria (contained within policy HP10) and the dwelling would comply with the scale requirements set out for affordable housing (contained within policy HP10 and the affordable housing SPG). The proposed development would result in construction of two open market dwellings within designated rural settlement and would therefore be contrary to the Unitary Development Plan.

Housing land supply

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

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

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be

taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2016) states as follows:

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

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

Principle of sustainable development

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

The public representations are acknowledged and it is accepted that Dolfach lacks of basic services, nevertheless the village is only approximately 1 mile away from Llanbrynmair which is classed as a large Village in Powys UDP that is served by a range of community service, such as shops, post office, garage, and primary school.

In this instance it is also important to note that Dolfach is located on a regular bus route serving Machynlleth - Newtown via Llanbrynmair and vice versa (every two hours). Having clarified with the bus operator the Officers understand that the bus operating on this route will also stop in Dolfach on demand and other places along the route depending on demand of the passengers. Therefore, on balance Officers consider that proposal for up to two additional residential units in this instance would accord with the provisions of Planning Policy Wales as it is considered to be a sustainable location.

Design and layout and impact upon surrounding area – landscape and visual impacts

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area. Whilst design and layout are reserved and will be dealt with at the reserved matters stage, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The indicative layout and scale indicates two, two storey dwellings, with garages sited off the adoptable road. The layout demonstrates that the site can accommodate two dwellings and detailed design would follow at reserved matters stage, if this outline application receives consent which would provide the opportunity to ensure that the dwellings have an acceptable appearance and design. The immediate surrounding properties consist of a mixture of one and two storey detached properties with a mixed palette of materials; including brick, render

and timber. Therefore, the proposed scale of two storeys is not considered to be out of character with the locality.

In terms of landscaping, the submission indicates that the proposal would provide an opportunity to provide additional native landscaping which would assist in mitigating visual impact. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

A number of the public representations have expressed their concerns regarding the visual impact of the proposal on the area. It is acknowledged that the site would be visible from public vantage points including the public highway and that the proposal would result in a visual change in comparison to the current agricultural use of the open field. Taking into account the location opposite the cluster dwellings at Dolfach and along the approach road to the Village, the development is considered to be acceptable. Furthermore, taking into account the character of existing development in the locality, and that landscaping measures would reduce the visual impact, the proposed scale for up to two dwellings is considered to reflect the character of the development that has already occurred along the highway at Dolfach. It is therefore considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area. As such, the proposal is considered to comply with UDP Policy ENV2.

Public Right of Way

The site is not crossed by any designated Rights of Way.

Residential amenity

Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

The site is located opposite number of properties with intervening A470 trunk road between at a distance of approximately 10 metres from the southern boundary of the application site and adjacent bungalow on eastern elevation. The existing dwelling is also set back from the trunk road but adjacent to existing estate road leading towards the terraced properties at Bwlch yr Laen, with intervening hedge between.

The Residential Design Guide states that the acceptable distance between front elevations should normally be determined by character of road widths in the area. Whilst the layout is indicative to demonstrate that two dwellings can be achieved on the site and as such the detailed layout will be considered at reserved matters stage. Given the separation of the site by the highway from the cluster of dwellings opposite the site, it is considered that there is sufficient distance across the intervening highway to ensure the protection of amenities enjoyed by the existing and proposed occupants. In addition, further consideration can be given to this element when the detailed design is considered.

In terms of overshadowing, the Residential Design Guide advises that where new development is less than 40 metres from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected, the height of new development should generally be set below a line of 25 degrees taken from the nearest

habitable room of adjoining existing property at a height of 2 metres. Whilst this distance is less than 40 metres in this instance given the separation of the site by intervening highway (properties to the south of the site), however careful design should take into account adjacent bungalow to the east of the site in order to avoid possible overshadowing. This aspect could be further controlled at the reserved matter stage.

Taking into account the character of existing development in the locality and the highway, it is considered that the indicative layout demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide.

Highways and Infrastructure

Access would be gained via newly created access point to east side of the application site which is to be directly gained off Bwlch yr Laen, and the indicative plan demonstrates that adequate highway access including visibility, turning and parking would be provided within the site in accordance with UDP Policy GP4.

The Highway Authority has not objected to the proposal and has recommended a number of conditions. Furthermore, Welsh Government Highways have not objected to the scheme. Taking into account the consultee responses, subject to the use of conditions, it is considered that the proposal would make adequate provision for highway access, parking and turning in accordance with UDP Policy GP4.

Foul sewage disposal

It is proposed to connect to the public sewerage system which is the preferred method of disposal. Severn Trent Water has advised that they have no objection to the development and therefore Development Management is satisfied that the sewage disposal system has sufficient capacity to accommodate the additional flows generated as a result of the development. Severn Trent Water has advised that a condition should be attached to any consent granted to require the details of the foul drainage and as such it is recommended that such a condition should be attached to any consent granted to ensure a satisfactory means of drainage in accordance with UDP Policy DC10.

Surface water disposal

UDP Policy DC13 requires proposals to make adequate provision for land drainage and surface water disposal. The submission states that surface water would be disposed of via soakaways but no further details have been provided at this stage.

The site is classed as Greenfield. Therefore, proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – Development and Flood Risk and good practice drainage design. The use of soakaways and or other infiltration techniques should be investigated in the first instance for surface water disposal. If soakaways are not feasible, drainage attenuation to limit the discharge rate from the site no greater than the Greenfield run-off rate should be applied. This is generally controlled via planning conditions with full details of a drainage scheme coming in at reserved matters stage or prior to commencement of development.

In order to ensure that adequate provision for surface water drainage would be made, a condition must be imposed on any consent granted to require the submission and implementation of a satisfactory drainage scheme.

Ecology

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

The application site appears to be located within an agricultural field grazed by sheep and is bounded by a hedgerow to the west and south. The County Ecologist notes that the majority of these hedgerows would appear to be retained by the proposal, but a small section of the southern hedgerow would be removed to create a footway access point.

Historic records of European protected species from the vicinity of the site are sparse, but there are records of a brown Long-eared bat roost to the west and an unknown bat species from the north of the site. No bat roosts or potential bat roosts would appear to be lost as a result of the proposals. However, the western and southern hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species.

Given the proximity of development works to surrounding hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. The Officers also note that if additional lighting is required it is recommended that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.

Subject to the use of appropriate conditions as advised by the ecologist, it is considered that the proposal would comply with the relevant nature conservation and biodiversity policies of the UDP and the objectives of Planning Policy Wales and TAN 5: Nature Conservation and Planning.

Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land. The land is not known to fall within grades 1, 2 and 3a and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

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. Given the scale of the development it is considered that there would be no unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

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

Recommendation

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries significant weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent

Conditions

1. 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 in accordance with the plans stamped as approved on xxxx in so far as the extent of the application site is drawn and the access point onto Bwlch yr Lane (drawing no: RPP/TW/JOB13-03-Rev C).
5. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and retained in perpetuity.
6. Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted and approved in writing by the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
7. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
8. Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
9. All landscape works shall be carried out in accordance with the details approved at the reserved matters stage. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
10. Prior to the occupation of the dwellings any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
11. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the

edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

12. Prior to the occupation of any dwellings, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

13. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

14. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

15. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

16. No storm water drainage from the site shall be allowed to discharge onto the county highway.

17. An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed prior to the commencement of development. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (a contaminated land specialist with proven experience within the contaminated land industry) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This shall be conducted in accordance with DEFRA and NRW's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of land affected by contamination: a guide for developers' 2012. Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

18. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the Local Planning Authority.

19. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.

20. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the above conditions.

21. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).

6. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
8. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
9. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the natural environment, visual amenity and privacy in accordance with Policies GP1, ENV2, ENV3 and SP3 of the Powys Unitary Development Plan (2010), Technical Advice Note 5: Nature Conservation and Planning (2009) and Planning Policy Wales (Edition 8, 2016).
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
14. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
15. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
16. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
17. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
18. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
19. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

20. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

21. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

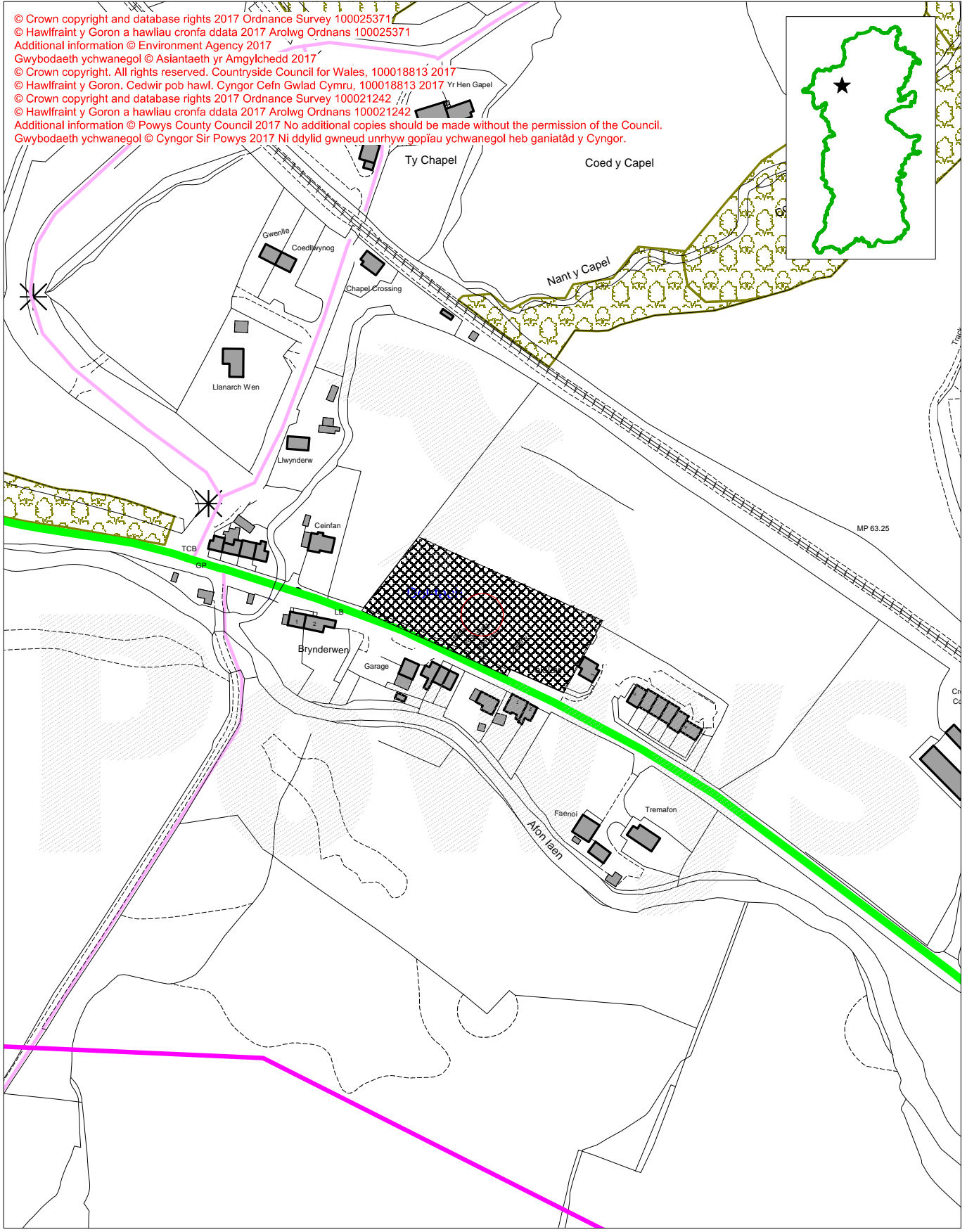
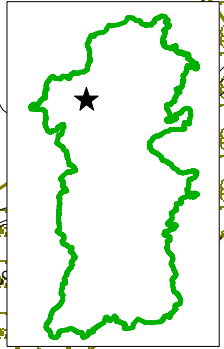
The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually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

Gas mains

You will note the presence of our intermedeate/High Pressure gas main(s) in proximity to the site. no excavations are to take place above or within 10m of the confirmed position of these mains without prior consultation with Wales & West Utilities.

Case Officer: Eddie Hrustanovic- Swyddog Cynllunio / Planning Officer
Tel: 01938 551231 E-mail: edin@powys.gov.uk

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3.3

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0219	Grid Ref:	310392.68 235106.66
Community Council:	Felin-Fach	Valid Date:	Officer: 03/03/2017 Thomas Goodman
Applicant:	Mr & Mrs Freer Spreckley, Castle Barn, Snodhill, Hereford, HR3 6BH		
Location:	The Stables, Llandefalle, Felinfach, Brecon, Powys, LD3 0UN		
Proposal:	Full: Change of use of stables to residential dwelling to include removal of lean to, installation of solar panels and ground source heat pump		
Application Type:	Application for Full Planning Permission		

The reason for Committee determination

Cllr Tony Thomas called the application in to be determined at Committee.

Site Location and Description

The proposed development is located within the open countryside as defined by the Powys Unitary Development Plan (2010). The application site is bound by agricultural land located to the north and east. To the south is a neighbouring residential property whilst running to the west is the County Class III highway, C0067.

Consent is sought for the change of use of a stable block to a residential dwelling to include the removal of a lean to and the installation of solar panels. The existing stable block measures approximately 24.2 metres in length and 12.9 metres in width. The unit measures approximately 8.4 metres to the ridge height and 5.2 metres to the eaves. The walls are finished in painted render under a slate roof.

The conversion will include the following alterations:

- Removal of veranda to the south east elevation;
- Creation of a porch to the south west elevation;
- Inclusion of solar panels;
- Timber cladding to the entire south east elevation and parts of the north west elevation;
- Alterations to existing openings throughout.

Consultee Response

Felinfach Community Council

If the planning department is satisfied with the policy GP6 conditions being met, we do not wish to comment, however we would like to be kept informed of developments/changes to the application.

PCC-Highways (South)

The County Council as Highway Authority for the County Class III Highway, C0067

Wish the following recommendations/Observations be applied
Recommendations/Observations

The Highway Authority recommends that the following conditions be attached to any consent granted.

HC1 Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 25 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC21 Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

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

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

PCC- Building Control

This scheme will require the benefit of a building regulation application to be submitted.

Wales & West Utilities

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

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

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

As the applicant intends utilising a septic tank facility we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. 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

PCC - Environmental Health

Consultation response received 17/03/2017:

The following matters are recommended:

1 - The construction period working hours and delivery times to be restricted as follows:

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

0800 - 1800 hrs Monday to Friday

0800 – 1300 hrs Saturday

At no time on Sunday and Bank Holidays

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

2 - It is Government policy that, where practical, foul drainage should be discharged to the mains sewer. If this is not possible and the applicant proposes to install a sewage treatment plant then consent must be obtained from the NRW for the sewage discharge to a watercourse.

However if the sewage treatment plant is to discharge to a drainage field, or should a septic tank be utilised, then prior to any planning permission being granted the applicant/agent should submit percolation test results (including calculations) in order to demonstrate that the ground conditions are suitable for the foul drainage soakaway. This should be carried out in accordance with document H2 of the Building Regulations.

Environmental Protection to be advised, via the Planning Authority, when the testing is carried out so a site visit can be made to examine the exposed ground and percolation test holes which must be left undisturbed until inspected.

In addition Welsh Government has advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered with Natural Resources Wales. More information, including a step by step guide to registering can be found at the following link: <http://www.naturalresources.wales/media/2879/septic-tank-registration-guidance.pdf?lang=en>.

Consultation response received 24/03/2017:

The application is for the conversion of a stables which according to the supporting statement has no amenities and although the block plan shows an existing septic tank there is no indication that the stables or the proposed 4 bedroom house is, or will be, connected.

Therefore my request for further information regarding the suitability and sufficiency of the foul drainage system and its soakaway (or connection to a watercourse) remain.

Consultation response received 02/06/2017:

The agent has stated that the building is connected to an existing septic tank but no further information regarding the tank and its soakaway has been provided. Therefore I am unable to comment further regarding the suitability of the sewerage arrangements although the agent has commented that the building was subject to Building Regulation approval.

Consultation response received 08/06/2017:

Having regard to the information below, as provided by the agent, I do not require any further information.

PCC - Ecologist

The proposals involve refurbishment of an existing building and therefore do not constitute a Schedule 1 or Schedule 2 development according to the criteria provided in The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.

No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery, the submitted plans and planning statement and historical biodiversity records provided by the Powys Biodiversity Information Service.

The application site appears to involve refurbishment of a redundant barn building involving removal of a lean-to roof along the south-east elevation. The proposals also involve installation of solar panels on the roof of the building and installation ground source heat system, the pipes for which would be placed in a field which is adjacent to the property to the west and currently appears to be used for grazing. A hedgerow currently appears to form part of the boundary between the property and the adjacent highway, however it's not expected that the hedge would be altered to accommodate the access to the property. No other vegetation removal is expected as part of the proposals.

There is a historical record of various bat species and dormice within 2km of the application site, but none within the vicinity of the proposed development itself.

Bat roosts are often associated with roofs, both internally using the loft void and externally, particularly utilising suitable roosting opportunities associated with the ridge and edges of the roofs. Areas of the existing building which are likely to be disturbed by the proposed works.

No ecological information has been submitted with the application. Even though the fabric of the existing building is of recent construction it is considered that there is a reasonable likelihood of bat roosts being present given the proximity of surrounding trees and hedgerows including the tree-lined watercourse to the south, and the fact that the property has not been in use during recent years. Therefore, it is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application.

In order to assess the potential impacts to roosting bats, a preliminary assessment of the building for its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat access or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.

The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the Powys Bat Survey Guidance and the standard survey methodology published by Bat Conservation Trust.

As discussed above no vegetation removal is required as part of the proposals and therefore no effects upon commuting and/or foraging bats or dormice are expected as a result of the proposals.

There are historic records of reptiles from within 2km of the site and several historic records of nesting bird species, although none from within the vicinity of the site.

Considering the nature of the proposals and the lack of disturbance to surrounding semi-natural habitats it is considered that there is a low likelihood of effecting reptiles or nesting birds. The developer should be mindful of encountering bird nests beneath the eaves of the building which could potentially be disturbed during refurbishment works.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

As discussed above the limited effects upon surrounding vegetation is minimal and it is not expected that priority habitats or species could be adversely affected by the proposals.

As a biodiversity enhancement to the site I recommend that native, locally-occurring plant species are included in any landscaping associated with this application and a species list for the landscaping should therefore be provided for approval prior to commencement of development. Other possible enhancements could be achieved by the installation of bat and bird boxes and sowing of wildflower seeds within the grassed areas, all of which would be welcomed.

The River Wye SAC is located approximately 1.2km north of the proposed development. No effects upon the integrity of this site or its features would be expected to occur as a result of the proposals.

Pont-y-Bat Wood SINC is located approximately 350m to the south of the proposed site. No effects upon this site would be expected to occur as a result of the proposals.

It is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application. In order to assess the potential impacts to roosting bats, a preliminary assessment of the building for its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat access or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.

The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the Powys Bat Survey Guidance and the standard survey methodology published by Bat Conservation Trust.

Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:

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

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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

Informatives

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

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.

Consultation response received 08/05/2017:

We provided ecological observations on this application on 23/03/17. Additional information provided subsequent to these comments include a Preliminary Bat Assessment undertaken by Laurence Brooks (02/05/17)

Comments made following receipt of this information are included in bold text below. Otherwise the original observations remain valid.

The proposals involve refurbishment of an existing building and therefore do not constitute a Schedule 1 or Schedule 2 development according to the criteria provided in The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.

These observations are based on an interpretation of available aerial and street imagery, the submitted plans and planning statement, historical biodiversity records provided by the Powys Biodiversity Information Service and the Preliminary Bat Assessment supplied as additional information to the original application.

The application site appears to involve refurbishment of a redundant barn building involving removal of a lean-to roof along the south-east elevation. The proposals also involve installation of solar panels on the roof of the building and installation ground source heat system, the pipes for which would be placed in a field which is adjacent to the property to the west and currently appears to be used for grazing. New wooden cladding across the whole of the south east elevation is also proposed under the current plans. A hedgerow currently appears to form part of the boundary between the property and the adjacent highway, however it's not expected that the hedge would be altered to accommodate the access to the property. No other vegetation removal is expected as part of the proposals.

There are historical records of various bat species and dormice within 2km of the application site, but none within the vicinity of the proposed development itself.

A preliminary bat assessment report has been supplied as additional information to the original application. The report confirms that there is evidence of use of the building by bats, which is likely to result from a small number of brown long-eared bats using the building in 2016 but probably not prior to this. Evidence points towards regular use by one or two bats rather than a breeding colony. The majority of evidence was found in the loft space with some evidence also encountered on the first and ground floor levels which are accessible from the loft. The report identifies the most likely access point into the current loft space as being beneath the end ridge tiles of the existing roof.

The assessment concludes that there is unlikely to be significant post-construction impacts from use of the building as a residence, and precautionary mitigation measures are recommended to allow continued access into the current loft space and cavity wall, as well as enhancement measures which would provide additional roosting opportunities behind proposed cladding boards.

No vegetation removal is required as part of the proposals and therefore no effects upon commuting and/or foraging bats or dormice are expected as a result of the proposals.

A preliminary bat assessment report has been supplied as additional information to the original application. The report confirms that six barn swallow nests were discovered beneath the long rear porch which is to be removed as part of the proposals.

I recommend that removal of the existing porch is timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

As discussed above the limited effects upon surrounding vegetation is minimal and it is not expected that priority habitats or species could be adversely affected by the proposals.

As a biodiversity enhancement to the site I recommend that native, locally-occurring plant species are included in any landscaping associated with this application and a species list for the landscaping should therefore be provided for approval prior to commencement of development. Other possible enhancements could be achieved by the installation of bat and bird boxes and sowing of wildflower seeds within the grassed areas, all of which would be welcomed.

The River Wye SAC is located approximately 1.2km north of the proposed development. No effects upon the integrity of this site or its features would be expected to occur as a result of the proposals.

Pont-y-Bat Wood SINC is located approximately 350m to the south of the proposed site. No effects upon this site would be expected to occur as a result of the proposals.

Should you be minded to approve this application I recommend the inclusion of the following conditions:

Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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

The recommendations regarding bats identified in sections 40-48 of the Preliminary Bat Assessment Report by Laurence Brooks dated 02/05/17 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

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

Informatives

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

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- 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.

PCC Valuer

I would make the following observations:-

Marketing Price is stated at £198,000. The marketing report suggests that this is a guide with a view of inviting offers but none of the marketing material outlines that the quoted price is open to offers or indeed a degree of flexibility on sale price exists. It is reasonable to expect given the minimal interest received over the marketing process that consideration be given to a price reduction- this has not happened in this case.

Whilst the marketing strategy would seem appropriate for the particular type of property I would conclude that it has been marketed at a figure above its existing use market value and this could be why limited interest was shown. It is considered that a more appropriate figure is £160,000 (some 20% less than the asking price) based on its existing use. The Marketing Report does not provide any information as to how the £198,000 has been arrived at.

Cllr Tony Thomas

Wishes the application to be called in to be determined by Committee, as the application previously went to Committee.

Representations

Following the display of a site notice, public representations have been received, which in summary raise the following matters:

- Consideration should be given to the stable being sold and used as a stable for a more realistic price.
- Building is out of character with the surrounding properties.
- Original permission was for a stable block with accommodation for one person.
- Concerns that the building was not initially built in construction with the approved plans.
- Should the change of use be permitted concern is raised that it will have an impact on the value of surrounding properties.

Planning History

B/05/0297 – Proposed new stables – Conditional Consent – 10/11/2005

B/04/0290 – Erection of stables – Conditional Consent – 28/09/2004

P/2015/0966 – Change of use of stables to include residential conversion as part of a scheme for economic re-use at The Stables, Llandelalle, Brecon. Refused – 27/04/2016

Principal Planning Constraints

Open Countryside

Principal Planning Policies

National planning policy

Planning Policy Wales (Edition 9, November 2016)

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

TAN 2: Planning and Affordable Housing (2006)

TAN 5: Nature Conservation and Planning (2009)

TAN 12: Design (2016)

TAN 18: Transport (2007)

TAN 23: Economic Development (2014)

Local planning policies

Powys Unitary Development Plan (2010)

SP5 – Housing Developments

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements
GP6 – Conversion of Buildings in the Countryside
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV7 – Protected Species
HP4 – Settlement Development Boundaries and Capacities
DC11 – Non-mains Sewage Treatment

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

Officer Appraisal

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

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

Principle of Development

In encouraging the re-use of buildings in the countryside, the Council recognises that there are sustainable arguments both for and against such developments. On the positive side, conversions can breathe new economic and social life into rural communities. They re-use existing buildings and building materials which reduces the need to construct on greenfield sites and for processing new construction materials. However, on the down-side, conversions can create a dispersed pattern of settlement that is likely to generate new and longer trips, as existing buildings are typically remote from shops and other services.

Policy GP6 of the Powys Unitary Development Plan states that proposals for the conversion or re-use of existing buildings in the countryside will be assessed against a hierarchy of potential after-uses. Unless convincing evidence is submitted to show that a conversion for such uses would be impractical, applicants should demonstrate that they have first made attempts to secure a re-use for purposes within classes i-iii of the hierarchy. Where these have been unsuccessful for a period of at least six months and a conversion to a use under class iv in the hierarchy is proposed, the application should be supported by a supporting statement.

The hierarchy of policy GP6 states the following:

- i. A conversion for an employment use providing industrial, office or research and development premises for uses within class B1 of the use classes order 1987, unless the Proposal would be for a large scale industrial use more suited to a business park or industrial estate; or
- ii. A residential conversion as a subordinate part of a scheme for economic re-use or as a rural workers dwelling in accordance with policy HP6; or
- iii. A residential development to meet a proven local need for affordable housing and where the applicant complies with affordability criteria in UDP policy HP10. Satisfactory

arrangements must be in place to ensure the dwelling remains affordable in perpetuity and future occupancy will be limited to persons complying with UDP policy HP10.

iv. A conversion to permanent residential use, holiday accommodation or other tourism, leisure and recreation uses.

The application includes a marketing report of the property. The property has been marketed in excess of 6 months by Clee Tompkinson Francis and the application is accompanied by a marketing report highlighting the marketing efforts made. Marketing of the property commenced on the 18th July 2016 (Rightmove and Clee Tompkinson Francis) and was advertised in the local paper 'The Brecon & Radnor Express' on the 28th July 2016 and withdrawn from the market on the 21/04/2017. The marketing resulted in three enquires all seeking to convert the premises, however, no parties pursued their enquiry. It is considered that the property has been marketed for a period in excess of 6 months. However, following consultation with Powys County Council's Valuer the following observations have been received:-

"Marketing Price is stated at £198,000. The marketing report suggests that this is a guide with a view of inviting offers but none of the marketing material outlines that the quoted price is open to offers or indeed a degree of flexibility on sale price exists. It is reasonable to expect given the minimal interest received over the marketing process that consideration be given to a price reduction- this has not happened in this case.

Whilst the marketing strategy would seem appropriate for the particular type of property I would conclude that it has been marketed at a figure above its existing use market value and this could be why limited interest was shown. It is considered that a more appropriate figure is £160,000 (some 20% less than the asking price) based on its existing use. The Marketing Report does not provide any information as to how the £198,000 has been arrived at."

Given the response received from Powys County Council's Valuer it is considered that the property has not been appropriately marketed and therefore in this instance is considered that attempts to secure a re-use for purposes within classes' i-iii have not been appropriately made.

As well as the marketing report submitted with the application a supporting statement has also been submitted to demonstrate that a conversion to a use within classes i-iii is not practical.

The statement states that a conversion for an employment use providing industrial, office or research would not be acceptable for the following reason:

- The building has been refused twice before and the Highway Authority had indicated that a use as light industry or as office use would not be supported due to the additional traffic movements on narrow lanes. Therefore causing an unacceptable detrimental impact upon highway safety.

The statement also demonstrates that a conversion as a residential conversion as a subordinate part of a scheme for economic re-use or as a rural workers dwelling would not be acceptable due to:

- No interest has come forward in relation to the re-use as a rural workers dwelling or for economic re-use following the marketing of the property. Two previous applications have also been refused as it would result in additional traffic movements. Furthermore the application site is relatively small and would not be viable for a re-use as a rural workers dwelling.

Lastly the statement includes information relating to reasons as to why a conversion to an affordable dwelling would not be acceptable, the reasons include:

- Due to the isolated location and having no access to public transport or social amenities, the building is unsuitable for affordable housing as well as the size and cost of the property.

In light of the above it is therefore considered that whilst justification has provided information in relation to the buildings suitability for re-use the fact that the property has been marketed and a marketing report submitted with this application demonstrates that a reuse as something other than a dwelling hasn't been undertaken appropriately. Therefore given the comments from Powys County Council's Valuer, it is considered that there is not sound justification in their argument that the property has been appropriately considered for re-use.

Should it be considered that classes i-iii of the hierarchy of policy GP6 cannot be achieved and therefore a conversion to a permanent residential use or holiday accommodation would be the most approximate re-use of the building the following should be considered:

The development must also comply with Part B of Policy GP6, which takes into consideration the following:

It is considered that the building has previously been used as a stable block and this was established under the application P/2015/0966 which was subsequently refused due to issues surrounding highway matters and the unit being proposed for a live/work unit.

Permitted development rights will be removed via the inclusion of a condition to ensure that the building is not altered by addition of extension etc without planning permission.

It is considered that the building is of a suitable size and would not require significant rebuilding which would be tantamount to the erection of a new building.

In light of the above it is considered that the proposed development fundamentally complies with Part B Policy GP6 subject to the following considerations:

Character and Appearance

UDP policy GP1 indicates that the development proposals will only be permitted where the scheme complements and wherever possible enhances the character and appearance of existing buildings and the surrounding area.

The character and appearance of the existing building is not of a typical stable block development and comprises of two storey painted render under a slate roof with UPVC windows in all elevations. Policy GP6 of the Powys UDP also states that conversions should be designed and use materials which retain and enhance the character and appearance of the existing building. The proposed alterations include the following:

- Removal of veranda to the south east elevation;
- Creation of a porch to the south west elevation;
- Inclusion of solar panels;
- Timber cladding to the entire south east elevation and parts of the north west elevation;
- Alterations to existing openings throughout.

By introducing timber cladding to large parts of the existing building, it gives the building a more agricultural aesthetic appearance. Therefore complementing existing agricultural buildings within the surrounding area to a greater effect than what is currently present. Minor alterations are proposed to the existing openings, however, given that the existing opening are finished in UPVC and are standard windows, it is considered that these alterations would not have a detrimental impact upon the character and appearance of the existing building.

It is considered that the proposed conversion scheme enhances the rural aesthetic appearance of the building and thus assimilates greater with surrounding buildings and the surrounding landscape. In light of the above observations, Development Management are satisfied that the proposed development is in accordance with relevant planning policies particularly policies GP1, GP6 and ENV2.

Highway Safety

Policy GP4 of the Powys Unitary Development Plan (2010) requires a safe access, parking and visibility splays which are a fundamental requirement of any development.

Powys County Council's Highway Authority has been consulted on the proposed development. The Highway Officer has stated that the proposed development is considered to be acceptable subject to the attachment of appropriately worded conditions. The conditions will ensure that an appropriate access, parking and visibility splays are all constructed to an acceptable standard.

In light of the above and subject to the attachment of appropriately worded conditions it is considered that in this instance the proposed development fundamentally complies with policy GP4 of the Powys UDP.

Environmental Health

Powys County Council's Environmental Health Officer has been consulted on the proposed development. The Officer has noted that the proposed development seeks to use a non-mains sewage disposal system. The Environmental Health Officer initially required additional information in relation to the method of foul drainage and the capacity of that unit. The applicant is seeking to utilise an existing septic tank. Following the submission of additional information including the capacity of the septic tank (3366 litres – 6-8 people use), the Environmental Health Officer confirmed that they required no further information and that the developments method of foul drainage was acceptable.

The Environmental Health Officer has also requested that a condition be secured restricting the operating hours at the site during the construction process in order to minimise noise impacts to the surrounding residential dwellings.

In light of the above and subject to the attachment of an appropriately worded condition it is considered that the proposed development fundamentally complies with relevant planning policy.

Biodiversity

Policies ENV3 and ENV7 of the Powys UDP seek to safeguard and enhance wherever possible protected species and their habitats through development. This is further emphasised within Technical Advice Note 5 and Planning Policy Wales.

Powys County Council's Ecologist has been consulted on the proposed development and initially stated that there was insufficient information submitted with the application to determine whether or not the proposal would have a detrimental impact upon protected species. Additional information was provided in the form of a preliminary bat survey. Powys County Council's Ecologist was re-consulted and noted that the preliminary bat assessment report supplied as additional information confirms that six barn swallow nests were discovered beneath the long rear porch which is to be removed as part of the proposals.

The Ecologist has therefore recommended that the removal of the existing porch is timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing. It is noted that ground works are proposed with the development (ground heat source pump) and it is noted that no protected species would be affected by these operations. Additional conditions have been recommended to be secured by the ecologist to ensure that protected species and their habitats are not detrimentally impacted upon.

In light of the above and subject to the inclusion of appropriately worded conditions it is considered that the proposed development fundamentally complies with policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010).

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.

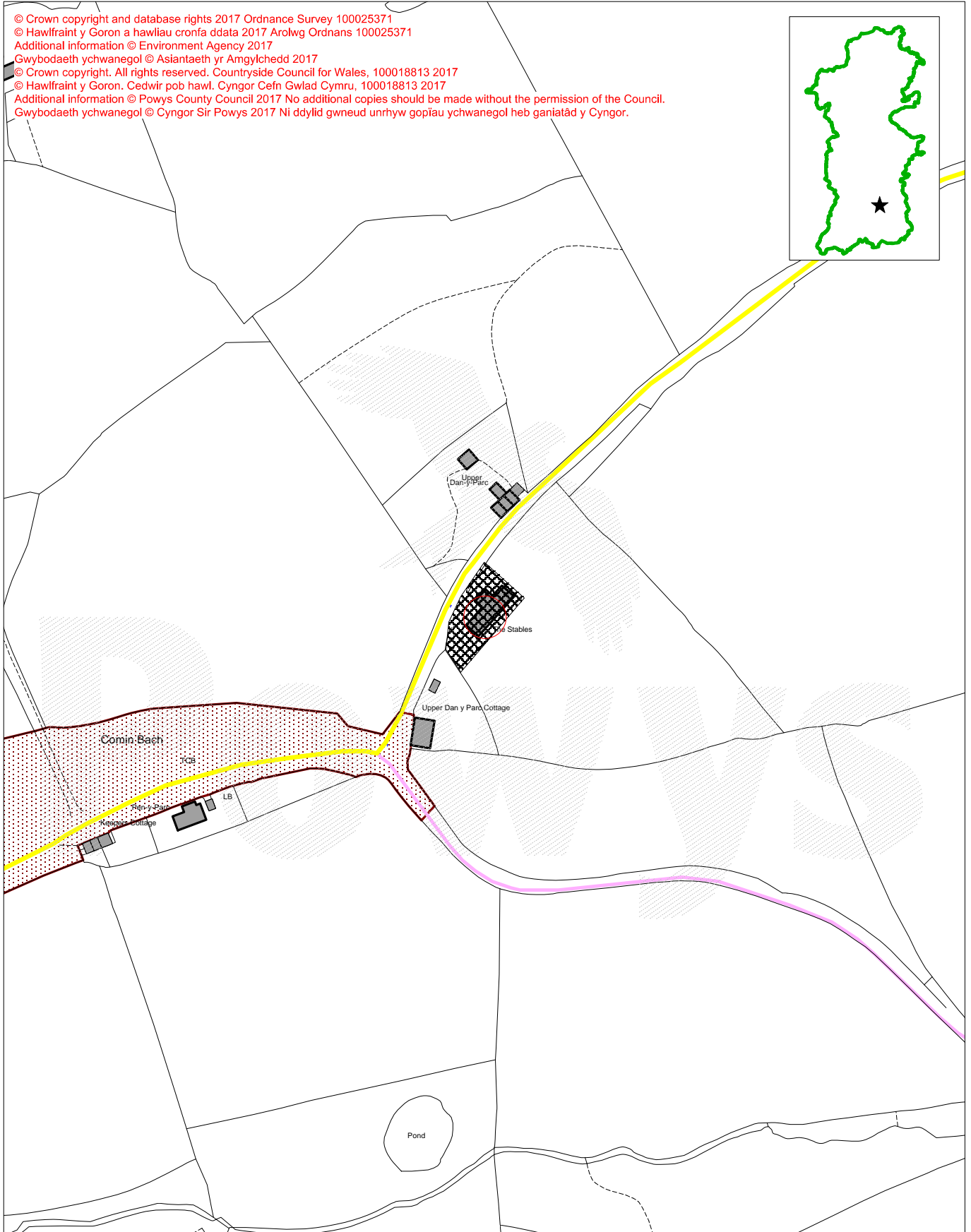
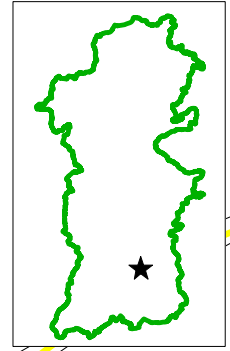
Recommendation

Having carefully considered the proposed development, Development Management is not satisfied that the proposal is in accordance with planning policy GP6 (Part A) of the Powys Unitary Development Plan (2010) and therefore the recommendation is one of refusal. Whilst the justification has provided information in relation to its suitability for reuse the fact that the marketing of the property was undertaken at an inappropriate level, Officers cannot consider that an alternative use other than a dwelling can be ruled out. The reasons for refusal are as follows:

Reasons:

1. Whilst marketing of the property has been undertaken, it is considered that the property has not been valued at an appropriate level during the marketing period and therefore does not confirm compliance with policy GP6 of the Powys Unitary Development Plan (2010).

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Delegated List

04/07/2017**13/07/2017**

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

FOR INFORMATION

**Decisions of the Head of Regeneration, Property & Commissioning on
Delegated Applications**

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0266 OUT	08/03/2017	CONSENT	05/07/2017	Outline Erection of a dwelling and all associated works (all matters reserved)	Plot Adjacent to Bluebell House Dolau Llandrindod Wells LD1 5TL
P/2017/0293 CLA1	16/03/2017	APPROVE	05/07/2017	Section 191 application for lawful development certificate for the occupation of dwelling without compliance of condition 3 of permission M24384 (agricultural & forestry occupancy)	Rock House Farm Trelystan, Leighton Welshpool SY21 8HZ

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0386 FULL	07/04/2017	CONSENT	05/07/2017	Full: Erection of a holiday let unit (demolition of existing workshop) together with installation of sewage treatment plant and associated works	Land at Upper Cil Berriew Welshpool SY21 8AY
P/2017/0411 FULL	05/05/2017	CONSENT	05/07/2017	FULL: Raising the height of an existing agricultural building	Llysun Llanerfyl Welshpool SY21 0EL
P/2017/0448 HOUS	09/05/2017	CONSENT	05/07/2017	Householder: Extension to create a garden room and formation of access into extension from existing dwelling.	26 Maes Y Foel Llansanffraid SY22 6AJ
P/2017/0481 OUT	02/05/2017	CONSENT	05/07/2017	Outline - Demolition of existing garage, erection of dwelling, and alterations to existing parking area (some matters reserved)	Hen Neuadd Foel Welshpool SY21 0NS
P/2017/0556 FULL	18/05/2017	CONSENT	05/07/2017	Full: Change of use of land from agricultural to residential (retrospective)	Pleasant View Church Stoke Pentre SY15 6SU

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0564 FULL	19/05/2017	CONSENT	05/07/2017	Full: Change of use of land to Equestrian to include formation of outdoor horse exercise area and associated works for private use	The Barn Kerry Middle Penygelli SY16 4LX
P/2017/0569 FULL	22/05/2017	CONSENT	05/07/2017	Full: Extension to childrens nursery	Cefn-Y-Felin Pentrefelin Sennybridge LD3 8TT
P/2017/0593 ADV	25/05/2017	CONSENT	05/07/2017	Display of 1 fascia sign and 1 hanging sign	Ystradgynlais 18 Station Road Swansea SA9 1NT
P/2017/0308 FULL	29/03/2017	CONSENT	06/07/2017	Full: Extension of existing storage building (to provide open covered area)	Gwystre Bungalow Gwystre Llandrindod Wells LD1 6RN
P/2017/0406 FULL	11/05/2017	CONSENT	06/07/2017	FULL: Change of use to amend existing curtilage including parking area (Retrospective)	Golwg-y-Mynydd Cradoc Pentwyn Farm Brecon LD3 9LP

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0407 FULL	11/05/2017	CONSENT	06/07/2017	FULL: (Retrospective) application for Change of use of land to regularise new access to existing dwelling and alteration of curtilage	Tawny Barn Cradoc Pentwyn Farm Brecon LD3 9LP
P/2016/1313 FULL	20/12/2016	CONSENT	10/07/2017	Change of use of land together with erection of a building for manufacture and repair of recycling and agricultural equipment incorporating an agricultural workshop, partial demolition of existing farm buildings together with	Land at Ger-Y-Cwm Snead Montgomery SY15 6EH
P/2017/0301 FULL	16/03/2017	CONSENT	10/07/2017	Full: Engineering operations involving construction of a silage clamp and associated works	Land at Glanmeheli Farm Kerry Newtown SY16 4LN
P/2016/0744 FULL	05/08/2016	CONSENT	11/07/2017	Siting of a log cabin to provide accommodation for a rural enterprise worker, creation of vehicular access, landscaping and all associated works	Cefn Barach Trefeglwys Caersws SY17 5QG
P/2017/0539 FULL	22/05/2017	CONSENT	11/07/2017	Full: Erection of an agricultural building	Cwm Cottage Casob Presteigne LD8 2NT

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0486 HOUS	19/05/2017	CONSENT	12/07/2017	Householder: Erection of timber chalet to provide ancillary accommodation for family members.	Maescoed Farm Llandefalle Brecon LD3 0ND
P/2017/0006 LBC	03/01/2017	REFCADW	13/07/2017	LBC Installation of woodburner	7 Hereford Street Presteigne LD8 2AW
P/2017/0344 FULL	29/03/2017	CONSENT	13/07/2017	Full: Erection of a poultry unit as an extension to existing poultry unit to accommodate 16,000 free range chickens (egg production) together with feed bins, internal farm access and all associated works	Land at Cefn Barach Trefeglwys Caersws SY17 5QG
P/2017/0451 FULL	24/04/2017	CONSENT	13/07/2017	Full: Erection of an agricultural building / implement shed together with engineering operations, construction of a retaining wall and all associated works	Land near Nant Yr Hen Glawdd Llangynog Oswestry SY10 0HD
P/2017/0532 FULL	30/05/2017	CONSENT	13/07/2017	Full: Replacement of existing communications tower with 20m tower, replacement and installation of antenna, installation of ground based cabinets and ancillary development within compound	Existing Communications Tower Near Lake Vyrnwy Grwn-oer Llanwddyn SY10 0LT

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0545 FULL	15/05/2017	CONSENT	13/07/2017	Full; Erection of an agricultural building and associated works	Land at Aelybryn Cefn Coch Welshpool SY21 0AX
P/2017/0588 REM	17/05/2017	CONSENT	13/07/2017	Section 73 application to vary condition 2 of planning permission P/2013/0377 in relation to approved plans	Crosfield House Dark Lane Rhayader LD6 5DB
P/2017/0605 HOUS	05/06/2017	CONSENT	13/07/2017	Householder: Proposed erection of a sun room.	Brynglas Llanfihangel Llanfyllin SY22 5JB

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE
20th July 2017

REPORT BY: HEAD OF LEISURE AND RECREATION

SUBJECT: Public path Orders – Proposed abandonment

REPORT FOR: DECISION

Public path creation Order, bridleway LG964(A) and public path extinguishment Order, bridleway LG964, community of Llanguillo.**Background:**

In 1999, the Council was asked to consider realigning bridleway LG964, which passes through the Griffin Lloyd shooting range. The landowners (Mr and Mrs Lewis) requested the diversion, as a way to remove the likelihood of an accidental injury occurring. The bridleway is in the line of sight of shooting range, which by that time, had been developed close to the bridleway.

In addition, the proposal would also have resolved an anomaly in the recording of the bridleway. The northernmost end is shown as a cul-de-sac 'spur' ending in a field, with no recorded connection with any other public right of way or county road. However, the remainder of the bridleway does serve as a connection between county roads B4356 and U1092. A plan of bridleway LG964 and the wider rights of way network can be found at appendix A.

Consultation:

Consultation was carried out in 1999. Objections were made by the Rambler's Association and the case was presented to the former Rights of Way Committee on 23rd March 2000.

The Committee approved the proposals and two legal Orders were made on 13th December 2000. These were a creation Order, for a new bridleway LG964(A) along the proposed new route and an extinguishment Order, to remove the existing route of bridleway LG964 (see appendices B and C.)

It was not possible to make a single diversion Order under section 119 of the Highways Act 1980 because the northernmost 'spur' end of the path does not meet another public right of way or county road. Concurrent creation and extinguishment Orders were required instead.

Objections:

The Ramblers' Association objected to the Orders. They sent an initial letter dated 8th January 2001, which was within the statutory 28-day deadline, to formally register their objection. They then sent a more detailed letter on 22nd October 2001, which is at appendix D.

That was followed by protracted correspondence to try to find a way forward. New route proposals were put forward in 2007; these were also opposed by the Rambler's Association, so no Orders were made in respect of them.

The case file was reviewed last year. In October 2016, Martin Davies (Enforcement Officer, Countryside Access) visited the site to meet the landowner and assess the current situation. A new trap has been constructed, very close the proposed line of the bridleway as shown in the 2000 creation Order. As such, it is no longer a feasible alternative route for the bridleway.

There is currently no scope to put forward any other alternative route for the path. In view of that, it was concluded that the best way to safeguard the public would be to review and upgrade the safety measures that are in place on the existing line of the bridleway, rather than try to change the path alignment.

The landowners have now installed a wireless warning system. This will alert the operator of the shooting ground that members of the public are present on the bridleway. The operator can then take steps to make sure that shooting does not endanger bridleway users; a risk assessment has been submitted to Countryside Services to describe the control measures that will be used.

The landowners agree to the abandonment of the creation and extinguishment Orders made in 2000. Their email giving written consent is at appendix E.

Options:

Normally, one option would be to submit the opposed Orders to the Planning Inspectorate for determination. However, there are two problems with this.

- First, the Planning Inspectorate is not obliged to confirm both Orders. There is a risk from the landowner's perspective that the new path may be created, but the existing route may not be extinguished.
- Second, the route subject of the creation Order is no longer feasible on the ground, as a new trap has been constructed close to it.

Given that, abandonment seems to be the only option in relation to the creation and extinguishment Orders made in 2000. This would not prevent the landowners from putting forward an alternative diversion route, if the situation changes in future.

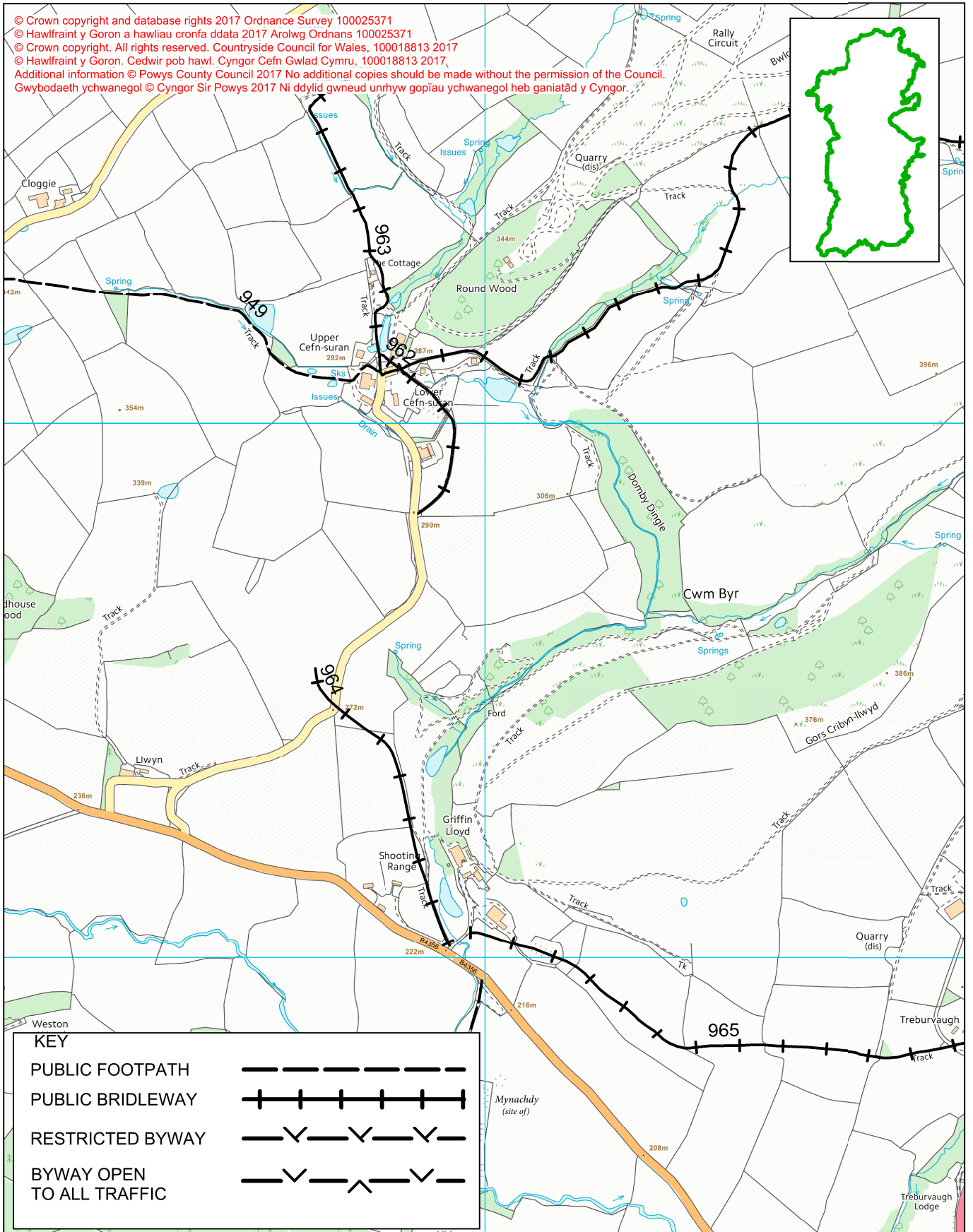
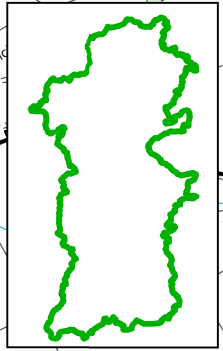
RECOMMENDATION:

- 1. That the creation Order for bridleway LG964(A) and extinguishment Order for bridleway LG964 as at appendices B and C be abandoned.**

Appendices:

- Appendix A Plan showing rights of way network around Griffin Lloyd
- Appendix B Creation Order 2000, new bridleway LG964(A)
- Appendix C Extinguishment Order 2000, bridleway LG964
- Appendix D Objection letter from Rambler's Association, 22nd Oct 2001
- Appendix E Email consent from landowners to abandon Orders, 8th March 2017

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PUBLIC PATH CREATION ORDER

HIGHWAYS ACT 1980

POWYS COUNTY COUNCIL

THE POWYS COUNTY COUNCIL (CREATION OF PUBLIC BRIDLEWAY NO. LG964(A) IN THE COMMUNITY OF LLANGUNLLO) PUBLIC PATH CREATION ORDER 2000

This Order is made by Powys County Council ("the Authority") under Section 26 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that having regard to the matters set out in Section 26 (1) there is need for a public footpath over the land to which this Order relates, and that it is expedient that the path should be created.

The Llangunllo Community Council has been consulted as required by Section 26 (3) of the 1980 Act.

BY THIS ORDER:

1. There shall be at the end of 28 days from the date of confirmation of this Order a public bridleway over the land at Griffin Lloyd Llangunllo Powys described in the Schedule to this Order and shown by a bold broken line on the plan attached to this Order.
2. Notwithstanding this Order any statutory undertakers having apparatus affected by this Order shall have the following rights over the land referred to in paragraph 1 namely access at all reasonable times to maintain or repair statutory apparatus.

THE COMMON SEAL of
POWYS COUNTY COUNCIL
was hereunto affixed 13th
this *December* day of
2000 in the

presence of:



County Secretary

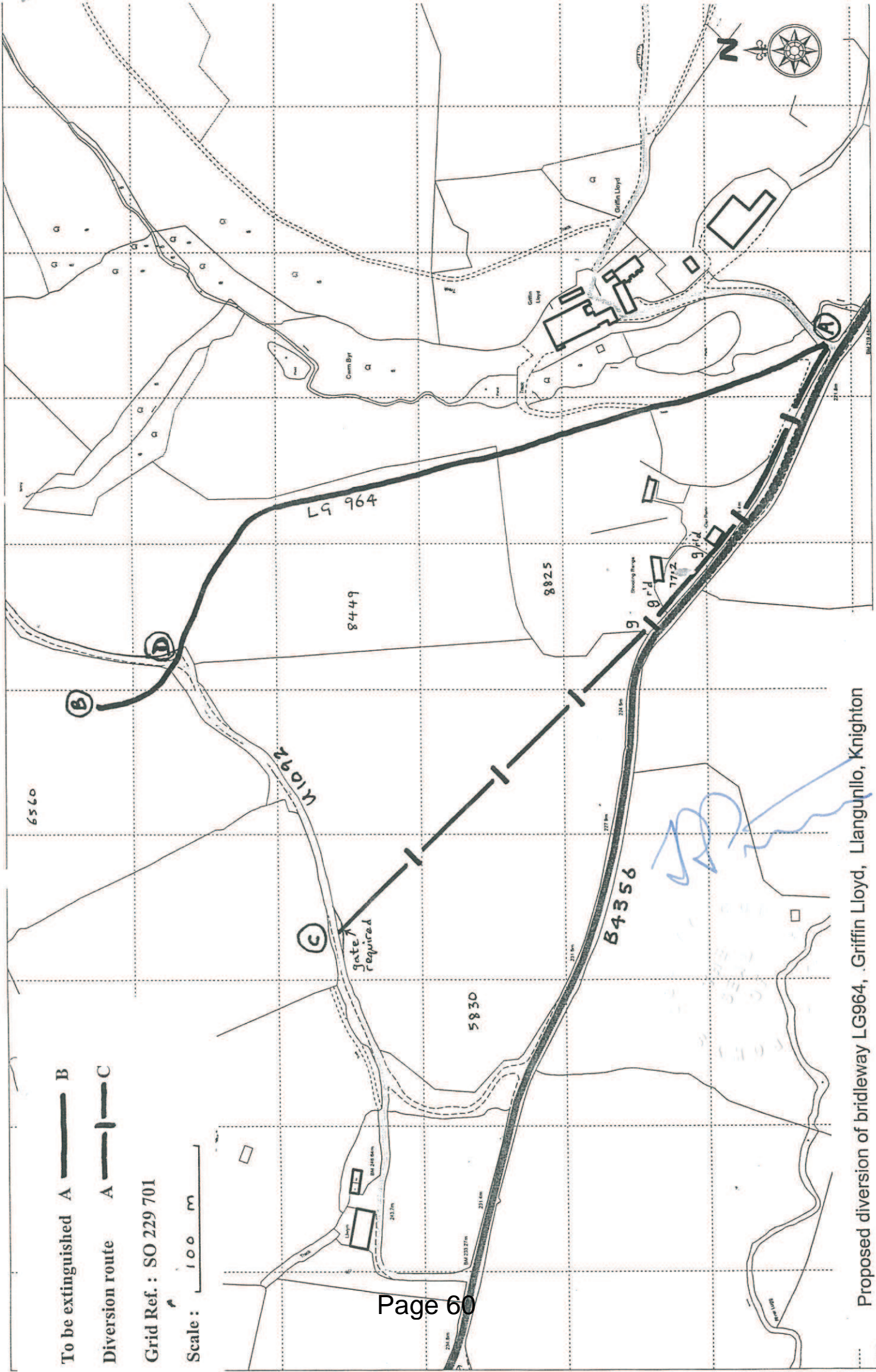


To be extinguished A ——— B

Diversion route A ——— C

Grid Ref : SO 229 701

Scale : 100 m



Proposed diversion of bridleway LG964, Griffin Lloyd, Llanguillo, Knighton

SCHEDULE

DESCRIPTION OF SITE OF NEW PATH

SECTION OF HIGHWAY AS INDICATED ON PLAN	Part 1 POSITION	WIDTH
A-C	The bridleway will commence from Point A on the Plan adjoining the Unclassified road access to Griffin Lloyd running in a North westerly direction along a track to the south and rear of a shed, then through a gate and across enclosure 7712; through a gate crossing enclosure 8825; on through a further gate into enclosure 5830 and continuing in a north-westerly direction through a gate to meet the U1092 public road at point C, a total distance of approximately 530 metres.	3 metres

Part 2

WORKS REQUIRED BEFORE CONFIRMATION OF THE ORDER:

Three gates to be installed.

(C1.163a-Llangunllo2)

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PUBLIC PATH EXTINGUISHMENT ORDER
HIGHWAYS ACT 1980

POWYS COUNTY COUNCIL

THE POWYS COUNTY COUNCIL (EXTINGUISHMENT OF PUBLIC BRIDLEWAY
 LG964 IN THE COMMUNITY OF LLANGUNLLO) PUBLIC PATH
 EXTINGUISHMENT ORDER 2000

This Order is made by Powys County Council ("the Authority") under Section 118 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that the bridleway described in paragraph 1 below is not needed for public use.

The Llangunllo Community Council have been consulted as required by Section 120 of the Highways Act 1980.

BY THIS ORDER:

1. The public rights of way over the land situate at Griffin Lloyd Llangunllo Powys shown by a continuous black line between points A-D-B on the plan attached to this Order and described in the Schedule to this Order shall be extinguished after 7 days from the date of confirmation of this Order.
2. Notwithstanding this Order any statutory undertakers having apparatus affected by this Order shall have the following rights over the land referred to in paragraph 1, namely, access at all reasonable times to maintain or repair statutory apparatus.

**THE COMMON SEAL of
 POWYS COUNTY COUNCIL**

was hereunto affixed this

13th day of *December*
 2000 in the presence of:-

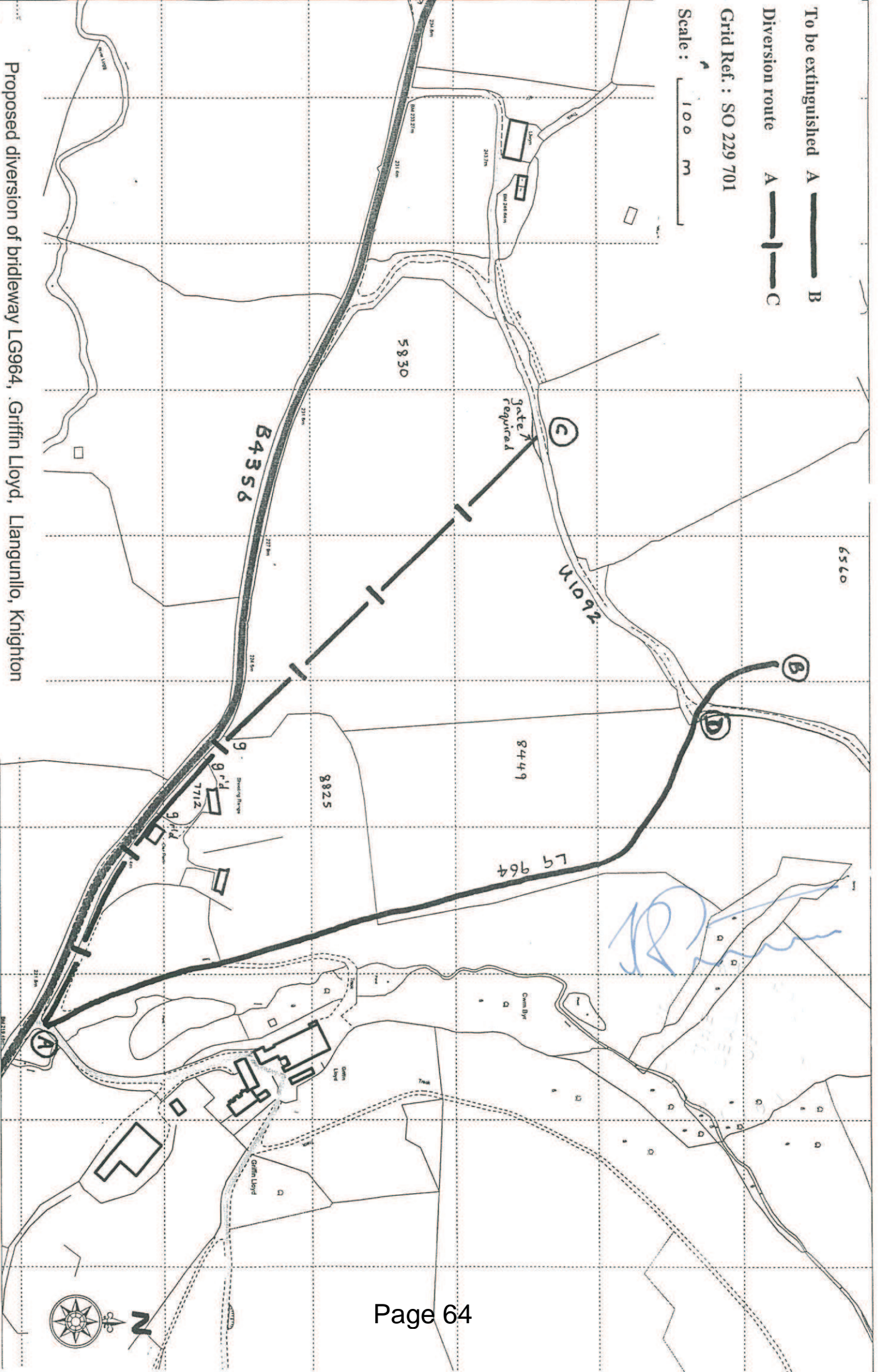


To be extinguished A — B

Diversion route A — C

Grid Ref. : SO 229 701

Scale : 100 m



Proposed diversion of bridleway LG964, Griffin Lloyd, Liangunllo, Knighton

SCHEDULE

Section of highway as
Indicated on plan

Position

Width

A-D-B

The bridleway runs from point A on the attached plan adjoining The unclassified road and access to Griffin Lloyd in a north-westerly direction across enclosures 8825 and 8449 for approximately 400 metres then turning north-west to meet a gate at point D, crossing the U1092 minor public road then in a northerly direction to end in a pasture field enclosure 6560 at point B, a total distance of approximately 600 metres.

Undefined

(DF.EO2aLlangunllo)

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CYMDEITHAS Y CERDDWYR / RAMBLERS' ASSOCIATION
CYNGOR RHANBARTH POWYS
POWYS AREA RAMBLERS ASSOCIATION

"Mae Cymdeithas y Cerddwyr yn hyrwyddo cerdded yng n'hefin gwlad, yn ddiogel i llwybrau cyhoeddus, yn ymgysgu dros fynedol i dar agored ac yn amddiffyn harddwch cefn gwlad."

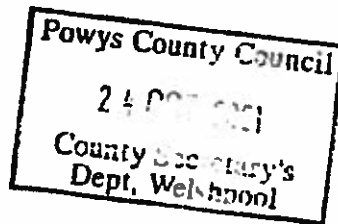
"The Ramblers Association promote rambling, protect rights of way, campaigns for access to open country and defends the beauty of the countryside."

"Bala" Presteigne Road Knighton Powys LD7 1111 7.1. [REDACTED]

Email [REDACTED]

Mr David Foster
 Powys County Council
 Neuadd Maldwyn
 Severn Road
 Welshpool
 SY21 7AS

22 October 2001



Your ref: PE/MG598 DF/LT

Dear Sir

**CREATION OF BRIDLEWAY LG964(A) AND EXTINGUISHMENT OF
 BRIDLEWAY LG964 - COMMUNITY OF LLANGUNLLO**

I refer to the concurrent Creation and Extinguishment Orders published by Powys County Council on 13 December 2000. I am now able to amplify the objections of the Ramblers' Association. Whilst writing of behalf of the RA we believe that as the largest single organisation representing walkers' interests, and as a charity, we can speak for the interests of all walkers.

This matter was initially the subject of a Pre-Order Consultation. The view of the RA at the time was that if a better alternative route could not be proposed then the RA would not object. Some correspondence followed about alternative routes but despite my wish, made via the Rights of Way Section, to meet the landowner to explore alternatives, no meeting took place. I understand latterly from Mr Lewis, the landowner, that this request was not passed to him. My view at the time therefore was that he had no wish to meet me but I now understand from meeting him on 22 October that he not been made aware that I had earlier wished to discuss the proposals with him.

Initially the proposal was for the bridleway to be diverted. Only when the orders were published did it emerge that they were for a concurrent Creation and Extinguishment. No discussions took place with the Council on this basis. While pre-order consultations are not a requirement on the Council I agree that they can serve a useful purpose - but only if they are seen to a conclusion, even if that is only to clarify each party's views. On this occasion the consultation was terminated, after my letter dated 24 January 2000, by the Rights of Way section and before this point had been reached.

At that time the reason given by the applicant was that he was seeking to remove any possible likelihood of accidental injury as the bridleway now runs within sight line of a recently developed shooting range. It is important to note at the outset that the bridleway existed long

before the shooting range was developed. It is noted from the signed and dated planning application that it is stated that no public right of way would be affected by the development. In a number of subsequent planning applications for further development of the site the same erroneous statement that no public right of way would be affected has been repeated.

A visit reveals that the development has indeed created a danger to users of the bridleway. There is abundant evidence of broken clays all over the bridleway and for a wide distance around. This danger must have been very obvious from the inception of the development. It is inconceivable that it could have been overlooked. It was also negligent of the planning authority of the day to grant permission when a glance at the map would have revealed the existence of the bridleway a mere 50 metres distant.

The shooting facility has been in use for a period of some years but it is not clear why at this very late stage the applicant has been prompted to act to try to avoid the danger created to users of this right of way. However, upon receiving the application the response of the County Council has been to seek to legitimise a situation which should never have arisen. This response is very disappointing in view of the duty of the Council to assert and protect the rights of the public to the use and enjoyment of, and to prevent so far as possible the stopping up or obstruction of, all their highways. (Highways Act 1980 s.130). We would rather have seen the Council's first response to be to protect users of the right of way - not to facilitate its removal by the costly means of two public path orders.

Furthermore, a survey of the route on 5 September 2001 reveals that beyond the stone and earth path section it is currently obstructed by illegal ploughing-out and cropping for the full width of the bridleway. At this stage I am assuming that the minimum width of the field edge bridleway, as it is otherwise undefined, should be 3 metres.

A relatively new post and wire fence has also been constructed across the bridleway creating another illegal obstacle.

Where the path leaves the headland to cross the field it has also been illegally ploughed and cropped and this length, from headland to the road, should be a minimum width of 2 metres. Evidence of shattered clays is also to be found across this further distant and higher section.

It is the duty of the Council to deal with these obstructions and, again, it has to be noted that they have failed to do so. Instead, rather than carry out its duty the Council has chosen to publish a path order that would have also have the side effect of reducing the overall length of bridleway for which it has a maintenance liability by creating an alternative path partly over a grass field and partly on a metalled road. While this is an outcome the Council may desire (*Policy ROW6*) its promotion of path orders, if only in part for this purpose, is not provided for in legislation and in this case fails even to satisfy the Council's own policy of balancing the needs of the public. In any case the aim of making alterations to the public path network by legal order with the leading objective of reducing the overall length of paths to be maintained by the Council is not one the Ramblers' Association supports. In practice what the Council proposes in this case is to resolve its long standing failure to maintain the existing route by co-operating instead with the landowner in re-drawing the definitive map of the area and legitimising an abuse of the planning process. I do understand that the Rights of Way Section were presented with a *fait accompli* so far as the existence of the shooting range is concerned but I am disappointed that its subsequent actions have compounded the error.

As a general agreed policy, applications for path orders should not be processed while the route is obstructed. On this occasion however I am considering the application as if the path was open and in a usable condition. However, this is subject to my view that any later comments on the number of people who use the path must be seen in the context of the current deterrent effect upon walkers of the ploughing, cropping, fencing and shooting activities of the owner and the further discouragement of use arising from the failure of the Council to provide signposts at both ends of this bridleway; another requirement that it has failed to fulfil since the Countryside Act 1968.

I note that the orders take the form of concurrent Highways Act 1980 S.26 Creation and S.118 Extinguishment Orders.

DoE Circular 2/93, Circular 5/93 (Welsh Office) Annex C paragraph 36 makes it clear that where a Diversion order or Extinguishment order is made in association with a Creation Order, the Creation Order has to be considered first, on its own and on its merits, without any judgement being made about the other order. The interpretation is endorsed by High Court judgement on the Pensax decision in Hereford and Worcester, *The Ramblers' Association v the Secretary of State for the Environment*, High Court of Justice CO/2662/90, March 1992, which arose from a public inquiry where creation and extinguishment Orders were considered concurrently. The RA's challenge to the decision was based on the view that the Inspector had taken the view that so long as the creation order provided an alternative, that was enough: he had failed to apply the test set out in section 118. Moreover he had not considered the merits of the creation order on its own. That view was shared by the Treasury Solicitor, acting on behalf of the Secretary of State, as the following extracts from the consent to judgement shows (the "Respondent" is the Secretary of State):

"Creation Order"

The respondent accepts that he failed to pay any or any sufficient regard to the extent to which the path would add to the convenience or enjoyment of a substantial section of the public or to the convenience of persons resident in the area as required by section 26(1)(a) of the 1980 Act to do"

"Extinguishment Order"

The respondent accepts that he erred in law in failing to consider (as section 118(5) of the Highways Act 1980 by implication requires him to do) the extent to which the Public Path Creation Order if confirmed would provide an alternative path or way for the right of way proposed to be extinguished by the Extinguishment Order.

So far as the RA is aware, the approach to be taken in relation to concurrent creation and extinguishments has not been considered by the courts: this case, although not a hearing in court, can therefore be considered as setting guiding principles for inspectors. These are, first, that the creation order must be judged against the tests for creation orders in section 26 and, second, that the adequacy of the alternative which would be provided by the creation Order (if confirmed following the consideration of the section 26 tests) must be considered when considering the extinguishment Order. See also *'Rights of Way - A Guide to Law and Practice'* 3rd. Edition (p169).

In the present case therefore, considering first the Creation Order under S.26 (1) (a), the new path would not, to any extent, add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area. From point A on the Order map users leaving the B4356, or coming from the other two routes meeting there at Griffin Lloyd and wishing to go to Cefn Suran already have the use of bridleway LG964. Those leaving point A to go in the direction of Llanguillo would be provided with a route that takes them off the direct road to a point on the road U1092 which they would join only to re-descend to the B4356 on a narrower and less safe road. Indeed it is very difficult to see why anyone would wish to use the Creation Order route to leave the B4356 merely to return to it by way of U1092, or *vice versa*.

Considering S.26 (1) (b) there is no apparent effect of the creation upon the rights of the persons interested in the land crossed by the creation route itself. It may be that if one extends this consideration to the effects upon the land crossed by bridleway LG 964 then a benefit can be seen to the owner in stopping people from using the bridleway and thus avoiding the danger of their being injured. However, once again, this is a danger that has been created by the applicant.

I conclude that in this case the section 26 tests for the creation of a bridleway have not been met and the Creation Order should not be confirmed.

The public path network is a permanent feature of the countryside, open to anyone, and it will be used in perpetuity by generations to come, without qualification and free of charge. While the Ramblers' Association recognises the enterprise of the shooting facility, and its value to the local community, it is of a less permanent nature than the path network. We consider that the Rights of Way Section should have taken the same view and acted to protect a permanent right of way for all people and not have sought to extinguish it when perfectly simple ways are readily available to safeguard both the path and the shooting facility. Powys County Council's own document "A Strategy for Public Rights of Way and Access in Powys" (March 1997) states in paragraph 5.4.2, where it considers extinguishments, "Temporary circumstances preventing or diminishing the use of the path by the public will be disregarded". We consider that the Council should have applied its own policy and chosen instead not to risk public money on publishing such questionable legal orders when, with the slightest imagination, an alternative solution was available.

I do not seek to say that no changes can be made to the path network and it is a matter of record that the RA in Powys has not objected to the great majority of path orders published by the Council. A similar situation arose recently at Cefn Suran with the important distinction there that a reasonable alternative route had been proposed and the RA was therefore able to agree to the Orders made.

However if, despite my view, it were to be concluded that the tests for the Creation Order had been met consideration would then turn to the extent to which it, if confirmed, would provide an alternative to the subject of the Extinguishment Order (Bridleway LG 964). "Account should of course be taken of the convenience of this alternative path compared to that which is to be extinguished and, if it is significantly less than that currently enjoyed by users of the existing path authorities will need to consider whether the criteria set out in section 118(1) of the Act have been met". Care should also be taken to ensure that full consideration is given

to all the matters set out in ... section 118". (DoE Circular 2/93, Circular 5/93 (Welsh Office) Annex C paragraph 36).

From examination of the proposed route in the Creation Order it is immediately apparent that the user is being diverted away from any sensible walking objective, in this case particularly the continuing network of footpaths and bridleways around Cefn Suran and beyond. The route passes between the clubhouse and a high hedge and is a plainly inferior experience to the existing route. It would also be necessary for some trees to be felled to create a field edge route of the minimum width of 3 metres. The proposed route continues across pasture towards a layby new gate at the road. The point of termination of the new route is substantially less convenient than the existing because it is 210 metres further from the present termination point on a more or less straight line for Cefn Suran yet no more convenient for any other conceivable destination for users of the existing path it seeks to replace.

Users would clearly prefer to reach the road (U1092) 210 metres further up, as it is already possible to do by using the existing bridleway. The additional 210 metres is wholly on a metalled surface. Here I will only briefly mention the undesirability of this arising from danger due to vehicles, the narrowness of the road, with high banks, twisting bends and no verges to provide refuge for walkers or for riders, the extra difficulties for those with visual or hearing disabilities and the likelihood of mud and splashing from vehicles. It would be extremely foolish to add this length of very narrow, steep and twisting metalled road to a route where walkers, equestrians and vehicles are mixed together. Here it is appropriate to add that this is the only road to and from a motor rally school less than 1km away enhancing the prospect of a serious accident!

By contrast the existing bridleway begins pleasantly past a pond and stream and rises gently and safely with open airy views increasing as height is gained. The road is reached where it is rather more level than at the proposed access point lower down where the creation route joins it. Neither are the banks as steep or the road as twisting.

The extent to which the present bridleway would be likely to be used by the public would be undiminished by the Creation Order route which would provide no sensible, similarly pleasant or safe alternative. I am not able to comment on the volume of user on the present bridleway other than to repeat that the failure of the Council and landowner to maintain it, as is the duty of them both, must have deterred some members of the public from the full enjoyment, to which they are entitled, of this part of the public path network.

It is therefore my view that the proposed creation route is far inferior to the present route and I repeat that it is not sufficient to say merely that it provides an alternative but that the alternative must meet all the tests.

Even if the creation order were to be confirmed the existing bridleway would continue to be the first choice for most, probably all, walkers. The existing bridleway is therefore needed and the extinguishment order should not be confirmed. In these circumstances, ie if the Creation Order is confirmed and the Extinguishment Order is not, then both paths would exist.

I have no comment to make about the spur of LG 964 extending beyond U1092.

I trust that a further opportunity will be afforded the Ramblers' Association to help, with others, including Mr Lewis the landowner, whom I have since met and had discussions with, to come to a solution that will meet the needs of walkers if recourse to a full public inquiry is to be avoided.

Precautions to safeguard users must have been taken in the past and I suggest that these should continue to be used. This is no more than is routinely done everywhere else in the countryside by wardens when shooting takes place in the proximity of public rights of way. It seems to me the obvious and complete solution to problem even if it is not ideal to the owner. However, as this is a situation that has arisen out of his own actions the RA does consider that it is now incumbent on him to accept the small degree of inconvenience this precaution would entail. It also has the merit of making no further charge on the public finances and it is likely to be acceptable to walkers.

Yours faithfully

A large black rectangular redaction box covering the signature of Robert Seabrook.

ROBERT SEABROOK
Powys Area Footpath Secretary

Sian Barnes (CSP - Countryside Services)

From: Martin Davies (CSP - Countryside Services)
Sent: 13 March 2017 12:55
To: Sian Barnes (CSP - Countryside Services)
Subject: FW: RE: Public Bridleway LG964 & Shooting

Sian,
See below.

Regards,

Martin Davies
Enforcement Officer (Countryside Access) Powys County Council Tel (01597) 82 7679

From: Griffin-Lloyd SG [redacted]
Sent: 08 March 2017 09:26
To: Martin Davies (CSP - Countryside Services)
Subject: Fwd: RE: Public Bridleway LG964 & Shooting

Dear Martin

Thank you for your email. I agree to abandon the old Order.

The alarm system has been installed.

If you have any queries do not hesitate to contact me.

Kind regards

Joyce

----- Original Message -----

Subject: RE: Public Bridleway LG964 & Shooting
Date: 24/02/2017 15:38
From: "Martin Davies (CSP - Countryside Services)" <martin.davies@powys.gov.uk>
To: Griffin-Lloyd SG [redacted]
Copy: "Sian Barnes (CSP - Countryside Services)" <sian.barnes@powys.gov.uk>

Good afternoon Joyce,
Further to my recent telephone call. Could you please just confirm your agreement to abandon the old Order?

Regards,

Martin Davies
Enforcement Officer (Countryside Access) Powys County Council Tel (01597) 82 7679

From: Martin Davies (CSP - Countryside Services)
Sent: 02 February 2017 16:14
To: 'Griffin-Lloyd SG' [redacted]

Subject: RE: Public Bridleway LG964 & Shooting

Good afternoon Joyce,

In anticipation of the warning system being installed we will now need to formally abandon the outstanding diversion Order that cannot go ahead due to the new trap layout that has been built over the proposed route.

My colleague will need to formally get the Order abandoned by the Planning, Taxi Licensing and Rights of Way Committee.

Could you please just confirm that you agree to the Order being abandoned.

Regards,

Martin Davies

Enforcement Officer (Countryside Access) Powys County Council Tel (01597) 82 7679

From: Martin Davies (CSP - Countryside Services)

Sent: 01 November 2016 14:00

To: 'Griffin-Lloyd SG' <[REDACTED]>

Subject: Public Bridleway LG964 & Shooting

Good afternoon Joyce,

Thank you for your call earlier today. I will be away from the office for the rest of the week but will contact you on my return. The wireless warning system seems in principle to be a sensible solution. What I will need is a written risk assessment from you describing the control measures you will put in place to safeguard path users should the alarm be activated. There has been a glitch with my email system and I can't find the engineers report, could you please forward me a copy if possible?

I will give consideration regarding a gate and will be glad to discuss it further with you next week.

Regards,

Martin Davies

Enforcement Officer (Countryside Access) Powys County Council Tel (01597) 82 7679

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