

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

<b>Application No:</b>	P/2016/0047	<b>Grid Ref:</b>	279041.35 211067.57
<b>Community Council:</b>	Ystradgynlais	<b>Valid Date:</b>	<b>Officer:</b> 15/02/2016 Gemma Bufton
<b>Applicant:</b>	Mr Craig Hopkins, Station Road, Oak Lodge, Coelbryn, Neath, SA10 9PN.		
<b>Location:</b>	Land at Former Cynlais School - Playing Field, Ystradgynlais, Powys.		
<b>Proposal:</b>	Residential development, formation of vehicular access road and all associated works (outline)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The proposed development constitutes a departure from the adopted Powys Unitary Development Plan.

### Site Location and Description

The application site is located on land outside the settlement development limits for Ystradgynlais and is therefore defined being located within the open countryside.

The site was formerly used in connection with the former Cynlais School. The application site is located with neighbouring residential properties located to the north and south of the application site. To the west of the application site runs the County Class I Highway, A4067 and to the east runs the River Tawe.

Consent is sought in outline with all matters reserved for residential development. An indicative plan has been submitted for 10 dwellings.

### Consultee Response

#### Ystradgynlais Community Council-

At its meeting held on Thursday 3<sup>rd</sup> March 2016 I wish to advise that the Ystradgynlais Town Council resolved to offer the following observations to the above application on the following grounds:-

Resolved: Whilst minded in principle to approve of the development it is subject to the site being eventually included in the revised LDP (focussed change process) and the highway aspects (subject also to BBNP approval) being acceptable in terms of design , visibility spays and turning movements onto the A4067.

## Highways Dept South-

The County Council as Highway Authority for the County Class I Highway, A4067 wish the following recommendations/observations be applied.

### Recommendations/Observations

The Highways Authority have no objection in principle to this proposal but note the estate road is fundamentally level over part of its length. This is not acceptable and will need to be amended to provide a minimum gradient of 1 in 100. Visibility splays at the access should be 120 metres as the site access is within a 40mph area.

I therefore recommend that the following conditions are included on any permission granted:-

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 20 for the first 10.0 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20.0 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC9 Prior to the occupation of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom in accordance with CSS Wales Parking standards excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

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

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.3 metres in crusher run or sub-base and maintained free from obstruction at all times such that

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

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

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

HC21 Prior to the occupation of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20.0 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

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

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

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

I also wish to recommend that a traffic regulation order be financed as part of this scheme to restrict the use of the layby/access loop linked to this proposal to "Access Only". This would deter articulated vehicles from attempting to utilise the layby in a southerly direction and then not be able to exit due to the change of alignment.

#### Reasons

To ensure the safety and free flow of traffic using the adjoining County Class I road.

#### Building Control-

Building regulation approval will be required.

#### Wales & West Utilities

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

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical

plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

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

#### Rights of Way-

No comments received at the time of writing this report.

#### Contaminated land Officer-

In relation to Planning Application P/2016/0047 the following advice is provided for the consideration of Development Control.

#### Advice

1. Historic ordnance survey (OS) maps identify that the Eastern boundary of the application site adjoined and was part occupied by an area of former mining and quarrying (coal, sand, clay, gravel), which is currently identified as unknown filled ground. Furthermore, the Western boundary of the application site historically adjoined a canal and the Southern area was occupied by a 'cement, lime and plaster' manufacturer i.e. lime kilns. The areas of unknown filled ground and locations of historic, quarrying, mining and manufacturing (cement, lime and plaster) could be a potential risk to the proposed development.

2. Given the land use history of the application site and surrounding area it is recommended that The Coal Authority is consulted concerning records of mining and the potential risks to the proposed development associated with historic mining activities in the area (Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk), Web: [www.coal.gov.uk/services/planning](http://www.coal.gov.uk/services/planning)).

3. Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2014) advises: "responsibility for determining the extent and effects of instability or other risks remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners".

In consideration of the development proposal, the land use history of the application site and current Planning Policy guidance it is recommended that the following Condition and Note are attached to any Planning Permission granted for Planning Application P/2016/0047:

#### Condition A

##### Condition 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (a contaminated land specialist with proven experience within the contaminated land industry)

and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of land affected by contamination: a guide for developers' 2012 .

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

#### Condition 2. Submission of Remediation Scheme

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

#### Condition 3. Implementation of Approved Remediation Scheme

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

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

#### Condition 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to

the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

#### Condition 5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy \_\_\_\_ of the adopted Local Plan (date)].

Note to Applicant

#### Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

#### PCC Ecologist-

##### *European Species*

A comprehensive ecology report (Acer Ecology, August 2015) has been provided with the application. The ecology surveys and report have been conducted and produced in line with good practice guidelines, including CIEEM guidance, JNCC guidance and BCT guidance. The survey and report assesses the impact of the proposed development on the following European protected species:

- Bats
- Otters
- Dormice
- Great Crested Newts

Bats: Only small numbers of semi-mature broadleaved trees are to be removed to create the access to the site, and these trees are assessed as having negligible potential for roosting bats, therefore there will be no impact on roosting bats. There may be an indirect impact on bats that may be using the tree lined river adjacent to the site for foraging and commuting, due to light disturbance (i.e. external lighting on new dwellings). Therefore, it is recommended that a lighting plan is provided, according to the recommendations in the Ecological Report (Acer Ecology, August 2015). Also, the report recommends enhancement measures for bats to be incorporated into the development. See recommended conditions.

Otters: The report assesses the impact to otters as low/negligible and no recommendations are provided. Due to the BIS records of otters in the Afon Tawe upstream of the proposed development and likely use of the adjacent section of this river by otters, precautionary measures to avoid disturbance of this species are recommended. These include no night time working, no artificial lighting directed towards riparian habitat during construction or operation and construction noise to be kept to a minimum (see Informatives below).

Dormice: The report assesses the impact on Dormice and concludes that there would be no increased adverse impact on this species as a result of the development and no further recommendations are made. Due to lack of BIS records of this species within 2km and considering that no Dormouse habitat would be impacted, I agree with the conclusion in the report.

Great Crested Newts: There are no BIS records of this species and there are no ponds within 500m of the proposed development. Due to the lack of suitable habitat, this species is not likely to be affected by the proposed development.

I consider that no other European protected species would be affected by the proposed development.

### *UK Species*

Further to the species mentioned above, the ecology report by Acer Ecology (August 2015) assesses the impact of the development on the following UK protected species:

- Birds
- Reptiles
- Badgers

Birds: Nesting habitat will be affected by the proposal, therefore, clearance works should take place outside of the bird nesting season (March to August inclusive), or otherwise a check for nesting birds should be made by a suitably experienced ecologist immediately prior to clearance. Should nest be found, the clearance work should avoid that area until all broods have fledged the nest (usually 4-6 weeks, depending on development stage of eggs/chicks) and must be confirmed by a subsequent survey carried out by an experienced ecologist. The report recommends measures to compensate the loss of nesting habitat, and these measures should be implemented and adhered to. See recommended conditions below.

Reptiles: Areas of the sites are confirmed suitable for reptiles, predominantly around the south western corner of the site and along the north-eastern boundary, and recommendations to avoid adverse impacts to reptiles are provided in the report which

includes the provision of a 2m buffer strip of habitat around the perimeter of the of the site. These measures outlined in section 5 of the report (Acer Ecology, August 2015) should be implemented and adhered to during the course of the construction.

Badgers: No evidence of badgers was recorded. The report notes that badgers may potentially cross the site when foraging or commuting and therefore recommendations are being made in section 5 of the ecology report (Acer Ecology, August 2015), which should be implemented and adhered to during the course of the construction.

#### *Sect. 42 Species & Habitat*

See above for species.

Rivers and streams are section 42 habitat and the site is within close proximity to both the River Tawe and River Giedd, as such, a pollution prevention plan will be required detailing measures to prevent pollution or siltation of these rivers will be required.

An area of lowland mixed deciduous woodland is present immediately adjacent to and partially within the proposed development site, adjacent to the river corridor. This is a Section 42 Priority Habitat and therefore a tree protection plan and method statement according to BS5837: 2012 should be provided to prevent any damage to retained trees (see the Arboricultural Report included with the application (ArbTS, August 2015) for details of what this should include.

#### *LBAP Species & Habitat*

See above for both species and habitats

#### *International Sites (within 2km)<sup>1</sup>*

None within 2km

#### *National Sites (within 500m)<sup>2</sup>*

None within 500m

#### *Local Sites (within 500m)*

Glyn yr Hebog SINC is located within 450m of the proposed development - I agree with the assessment in the ecology report (Acer Ecology, August 2015) that the proposed development would not result in any direct or indirect impacts to this site due to the distance and the fact that it is located upstream from the development site.

#### *Invasive Non-Native Species*

The ecology report (Acer Ecology, August 2015) provided with the application notes that areas of Japanese Knotweed are present around the proposed development site and for this

---



reason a Japanese Knotweed Management Plan will be required and be implemented to prevent the spread of this plant. See recommended conditions below.

*Summary of recommendations / further assessment or work*

1. An EIA Screening Opinion is required from the Local Planning Authority as the proposals represent Schedule 2 development.
2. Vegetation clearance works should take place outside of the bird nesting season (March to August inclusive), or otherwise a check for nesting birds should be made by a suitably experienced ecologist immediately prior to clearance. Should a nest be found, the clearance work should avoid that area until all broods have fledged the nest (usually 4-6 weeks, depending on development stage of eggs/chicks), which must be confirmed by a subsequent survey carried out by an experienced ecologist.
3. No night time working or direct lighting of riparian habitat.
4. Tree protection measures according to BS5837:2012 must be undertaken to prevent damage to retained trees.
5. A detailed lighting plan will be required to prevent indirect impacts on nocturnal species, in particular bats – see section 5 of the ecological report by Acer Ecology (August 2015) for guidance.
6. Bat and bird boxes as detailed in section 5 of the ecological report by Acer Ecology (August 2015) should be incorporated into the development.
7. The method of working for reptiles as outlined in section 5 of the ecological report by Acer Ecology (August 2015) should be implemented and adhered to.
8. A detailed pollution prevention plan is required, see section 42 habitat above.
9. Japanese knotweed Management plan is required, see invasive non-native species above.

*Recommended Conditions*

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

1. The recommendations for mitigation and enhancement measures regarding bats, birds, reptiles and badgers identified in section 5 of the Ecological Report by Acer Ecology dated August 2015 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

2. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

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

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV 7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

4. A Japanese knotweed management plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the LPA

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

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

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

#### Informatives

#### Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

#### Coal Authority-

##### *First Response*

Thank you for your consultation letter of 18 February 2016 seeking the views of The Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Energy and Climate Change. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

##### The Coal Authority Response: Fundamental Concern

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area.

The Coal Authority information indicates that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically both historic recorded underground coal mining at shallow depth and likely historic unrecorded underground coal mining at shallow depth. Our records also indicate that the presence of two mine entries (shafts) within, or within 20m of the planning boundary.

The Coal Authority objects to this planning application, as the required Coal Mining Risk Assessment Report, or evidence that ground conditions has not been submitted as part of the application.

It is a requirement of Planning Policy Wales, paragraph 13.9 that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development

#### The Coal Authority Recommendation to the LPA

In accordance with the agreed risk-based approach to development management in Development High Risk Areas, the applicant should be informed that they need to submit a Coal Mining Risk Assessment Report, or evidence that coal mining issues have been taken into consideration, as part of this application.

Without such an assessment and / or evidence of any risks to the development proposal posed by past coal mining activity, based on up-to-date coal mining information, The Coal Authority does not consider that the LPA has sufficient information to determine this planning application and therefore objects to this proposal.

If the applicant ultimately fails to demonstrate to the LPA that the application site is safe and stable to accommodate the proposed development then the LPA may refuse planning permission, in accordance with the paragraph 13.9 of Planning Policy Wales.

The Coal Authority would be very pleased to receive for further consultation and comment any subsequent Coal Mining Risk Assessment Report which is submitted in support of this planning application.

#### *Second Response*

Thank you for your consultation letter of 2 March 2017 seeking the views of The Coal Authority on the additional information submitted in support of the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department for Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

#### The Coal Authority Response: Material Consideration

The application site falls within the defined Development High Risk Area. The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application; specifically mine entries, recorded shallow coal mine workings and likely unrecorded shallow coal mine workings.

The Coal Authority previously objected to this planning application in a letter to the LPA dated 2 March 2017. The objection was raised on the grounds that a Coal Mining Risk Assessment had not been submitted as part of the application.

The Coal Authority is therefore pleased to note that appropriate mining and geological information for the proposed development site has now been obtained on behalf of the applicant and has been used to inform the Desk Based Coal Mining Risk Assessment Report (September 2016, prepared by Ground Investigation Ltd). Based on a review of these

sources of geological and mining information the Report identifies both the shafts located within the site and confirms the potential risks to ground stability also posed by both recorded and unrecorded shallow mine workings.

Accordingly, and whilst the Report goes on to confirm that the mine entries will require investigation, this will need to be examined in relation to any layout, which at this present time is indicative, but which shows the residential layout conflicting with the conjectured locations of the mine shafts. This appears contrary to the commentary within the Desk Based Coal Mining Risk Assessment Report, which suggests that both shafts would not be located within the residential curtilage areas of any of the properties. Consequently, should the same layout be proposed as part of any subsequent future application, The Coal Authority would more than likely raise an objection.

The Coal Authority would therefore expect any subsequent reserved matters submission relating to the site layout to avoid the siting of buildings within influencing distance of any recorded mine entries on or off site, to which there appears scope to do. The shafts may also require full remediation (i.e. grouting and capping), which would appear to go beyond the suggestions within the Report, that low cost mitigation in the form of fencing or a geotextile would be sufficient. Despite this, The Coal Authority welcomes the fact that due consideration has been afforded to the potential risk posed by mine gas to the proposed development.

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

The applicant should ensure that the exact form of any intrusive site investigations, including those relating to the recorded mine entries, are agreed with The Coal Authority's Licensing and Permitting Department as part of their permit application. The findings of these intrusive site investigations should inform any mitigation measures which may be required in order to ensure the safety and stability of the proposed development.

#### The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of the Desk Based Coal Mining Risk Assessment Report (September 2016, prepared by Ground Investigation Ltd); that coal mining legacy potentially poses a risk to the proposed development and that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development. In the event that the site investigations confirm that remedial works would be needed to treat any recorded mine entry beneath any part of the site where built development is proposed, this should be conditioned to ensure that the site layout is amended to avoid it. The condition should also ensure that any remedial works identified by the site investigation to consolidate any shallow mine workings are undertaken prior to commencement of the development.

A condition should therefore require prior to the submission of the reserved matters:

- \* The submission of a scheme of intrusive site investigations for the mine entries for approval;
- \* The submission of a scheme of intrusive site investigations for the shallow coal workings for approval; and
- \* The undertaking of both of those schemes of intrusive site investigations.

A condition should require as part of the reserved matters application:

- \* The submission of a report of findings arising from both of the intrusive site investigations, including the results of the gas monitoring undertaken;
- \* The submission of a layout plan which identifies the recorded mine entries on the site, and the definition of suitable 'no-build' zones;
- \* The submission of a scheme of treatment for the recorded mine entries for approval;
- \* The submission of a scheme of remedial works for the shallow coal workings for approval.

A condition should also require prior to the commencement of development:

- \* The implementation of those remedial works.

The Coal Authority considers that the content and conclusions of the Desk Based Coal Mining Risk Assessment Report (September 2016, prepared by Ground Investigation Ltd) are sufficient for the purposes of the planning system and meet the requirements of PPW in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of a condition or conditions to secure the above.

#### National Resources Wales-

Thank you for referring the above application. Natural resources Wales gave pre-application advice in relation to this proposal Ref: SE/2014/117184/02-L01.

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

Natural Resources Wales does not object to the proposal subject to the imposition of appropriate conditions in relation to protected species and biosecurity.

#### Brecon Beacons National Park

Natural Resources Wales do not consider that there would be a significant landscape and visual effect on the Brecon Beacons National Park resulting from this development. The proposal is contained visually by mature trees, the majority of which are to be retained.

The site is part of an existing settlement and it would be good practice for the design of the buildings to reflect the character of the locality and take account of local design guidance, including that of the National Park, given its location on the edge of the park.

## Protected Species

Natural Resources Wales have considered the following that were submitted with the outline planning application;

- Seaward, D (26th August 2015) Site Adjacent to Ystradgynlais, Preliminary Ecological Appraisal. Acer Ecology Unpublished Report
- Lucocq, S (25th August 2015) Arboricultural Report – Sire Former Cynlais Playing Fields Project Reference – 173.1 Arboricultural Technician Services. Unpublished Report

NRW consider that the ecological submission is satisfactory for the purposes of informing the public decision making process. Our advice is restricted to European and British fully protected species as mentioned in sections 4.4.2 Bats, 4.4.3 Badger, 4.4.4 Dormouse and 4.4.6 Otter.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European or fully protected British protected species and therefore concur with the conclusions and recommendations in respect of these species as described in sections 5.6. Bats, 5.7 Badgers and 5.10 Bat/Bird boxes of the ecological report.

Natural Resources Wales require that any planning approval is subject to the imposition of a condition concerning the submission and implementation of Ecological Management Plan incorporating the recommendations made in section 5 of the ecological report.

NRW note that the recommendations listed in the submitted report in respect of 'partially protected' species such as nesting birds and reptiles. We are not commenting on those aspects and advise that you seek further advice in respect of these species from your internal ecological advisors.

## Biosecurity

NRW note the presence of Japanese knotweed on the site as identified in section 5.8 of the ecological report. We therefore advise that any subsequent consent is subject to the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) Appropriate measures to control any INNS on site; and
- (ii) Measures or actions that aim to prevent INNS being introduced to the site for the duration of the development and restoration.

## Flood Risk

Natural Resources Wales gave flood risk advice at the pre-application stage on 10th September 2014. This identified that some parts of the perimeter of the site could be within flood zone 2 and 3 and appropriate mitigation was advised.

NRW have considered the planning statement and flood consequences assessment that were submitted with the application. We are satisfied that our pre-application advice has been taken account of and the development has been sited outside the 1 in 1000 annual probability flood risk zone. NRW therefore have no concerns regarding flood risk to this development.

As stated in our pre-application advice, any works in, under, over or within 7m from the River Tawe will require prior written consent from Natural Resources Wales.

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

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species ([www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk)).

To conclude, Natural Resources Wales does not object to the proposal subject to the imposition of appropriate conditions in relation to protected species and biosecurity.

#### Welsh Water-

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### Sewerage

##### Conditions

Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.



The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

#### Water Supply

Dwr Cymru Welsh Water has no objection to the proposed development.

The proposed development is crossed by a watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

#### Ramblers Association-

Thank you for the opportunity to comment on this application. On this occasion we have no comments to make but can you also please ensure that, in the event of permission being

granted, the applicant is aware of the necessity of making sure that ROW any nearby is not obstructed during or after the proposed works, and that it remains fully available for public use during any works and afterwards.

#### Brecon Beacons National Park-

No response has been received.

#### Welsh Gov Highways-

No response received at the time of writing this report.

### **Representations**

No letters of public representation have been received at the time of writing this report.

### **Planning History**

None

Note: Access is in BBNP - separate application being made to BBNP for access.

### **Principal Planning Constraints**

Flood Zone  
Public Right of Way  
BBNP

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition 9, 2016)  
TAN 1 - Joint Housing Land Availability Studies (2015)  
TAN 2 - Planning and Affordable Housing (2006)  
TAN 5 - Nature Conservation and Planning (2009)  
TAN 6 - Planning for Sustainable Rural Communities (2010)  
TAN 12 - Design (2014)  
TAN15 – Development and Flood Risk (2014)  
TAN 18 - Transport (2007)  
TAN 23 – Economic Development (2014)

#### Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2– Strategic Settlement Hierarchy  
UDP SP5- Housing Developments  
UDP GP1- Development Control  
UDP GP3- Design and Energy Conservation

UDP GP4- Highway and Parking Requirements  
UDP HP3- Housing Land Availability  
UDP HP4- Settlement Development Boundaries and Capacities  
UDP HP6- Dwellings in the Open Countryside  
UDP HP8- Affordable Housing Adjoining Settlements with Development Boundaries  
UDP HP10- Affordability Criteria  
UDP DC10- Mains Sewage Treatment  
UDP DC11- Non-mains Sewage Treatment  
UDP DC13- Surface Water Drainage  
UDP DC15- Development on Unstable or Contaminated Land  
UDP DC8- Public Water Supply  
UDP DC9- Protection of Water Resources  
UDP ENV1- Agricultural Land  
UDP ENV 2- Safeguarding the Landscape  
UDP ENV 3- Safeguarding Biodiversity & Natural Habitats  
UDP ENV 7- Protected Species  
UDP ENV19- Amenity Open Spaces  
UDP RL1- Protection of Existing Outdoor Playing Space  
UDP RL2- Provision of Outdoor Playing and Recreation Space  
UDP TR2- Tourist Attractions and Development Areas

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

## **Officer Appraisal**

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

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

### Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary

Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainability:

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Ystradgynlais which benefits from good public transport links and services. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The indicative site layout details a cul-de-sac formation, consistent with the surrounding built form within the Ystradgynlais area, whilst the scale of the proposed dwellings are considered to be in keeping with those in proximity to the site. Although Officers acknowledge that all matters relating to this application have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating 10 dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Highway Safety and Movement

It is noted that a small section of the access which adjoins onto the County Highway is located within the Brecon Beacons National Park (BBNP) and therefore a separate planning application has been submitted to the BBNP for consideration and has been conditional consented.

It is noted that only a small portion of the access is accommodated by the BBNP and therefore consultation has still been undertaken with this application to the Highway Authority to ensure that a safe access and internal road layout can be accommodated.

The Highway Officer in principle has confirmed that they have no objection to the proposed development and has recommended a number of conditions to be attached to any grant of consent. As this application is sought in outline with all matters reserved including access and layout it is considered that the layout and construction of the internal road including connection to the access can be dealt with under reserved matters and therefore it is not considered to be appropriate to attach the recommended conditions.

### Contaminated Land

It is noted that the eastern boundary of the application site is located on land that was formerly occupied by an area of former mining and quarrying and identified as unknown filled ground. Whilst to the western boundary the application site historically adjoined a canal with the southern area of the site being previously occupied by a cement, lime and plasterer manufacturer. All of the identified uses above could all be a potential contaminative risk to the proposed development.

The Powys Contaminated Land officer and the Coal Authority have both been consulted on the proposed application. Neither has raised an objection to the proposed development subject to a number of conditions being attached to any grant of consent.

Subject to the proposed conditions it is therefore considered that the proposed development can be managed to an acceptable level and fundamentally complying with relevant planning policy.

### Biodiversity

An Ecological Report was submitted in support of the application by Acer Ecology dated August 2015. It is noted that the application site is located within close proximity to both the River Tawe and River Giedd, furthermore there is an area of lowland mixed deciduous woodland present immediately adjacent to and partially within the proposed development site, adjacent to the river corridor. Japanese knotweed has also been identified to be present within the application site.

The Powys Ecologist and NRW have been consulted and have raised no objection in principle to the proposed development. They have however, requested that a number of conditions are attached to any grant of consent. It is considered subject to appropriately worded conditions securing the appropriate mitigation that the proposed development fundamentally complies with relevant planning policy.

### Affordable Housing

Consent is sought in outline for 10 dwellings with three of those being proposed as affordable housing. Under the Powys Local Plan Affordable Housing Topic Paper (Update), September 2016 the target affordable housing contributions for the 'South-west' area are indicated as a 0% contribution. In light of the topic paper, whilst affordable housing has been proposed, Development Management unfortunately considered it unreasonable to secure the provision of any affordable housing given the evidence available.

### Flood Risk

National Resources Wales have been consulted and note the pre-application discussions held with the applicant. They note that the development has been sited entirely outside of the 1 in 1000 annual probability flood risk zone and have therefore confirmed that they have no concerns regarding flood risk to this development. NRW have therefore raised no objections to the proposed development.

### Private Amenity Space

The application site for the purposes of the Unitary Development Plan is identified as being private open space. It is noted under the Unitary Development Plan policies ENV19, RL1 and RL2 seeks to protect existing open space/ recreational/ outdoor playing space. Proposals leading to the partial or complete loss of outdoor playing space that have significant recreational, landscape or amenity value should be refused.

It is noted that the application site was previously used in connection with the former Cynlais primary school. It is noted that the school following its closure (replaced with alternative provision) is now being used as a residential care home, which has resulted in the school fields no longer being required at this location. In light of the alternative school provision and subject to a condition requiring open space within the application site to mitigate any loss, it is considered that the proposed development fundamentally complies with relevant planning policy.

### Crime and Disorder Act 1998

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

### Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

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

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

## Wellbeing of Future Generations (Wales) Act 2015

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

### **RECOMMENDATION**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

### **Conditions**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. Upon the submission of the reserved matters referred to in conditions 1 and 2, a scheme for the provision of on-site recreational facilities shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall accord with the Fields in Trust Standards and shall also involve arrangements for the long term management of the area together with the timing of construction and completion in relation to the housing units hereby permitted. The scheme shall be implemented in accordance with the agreed details.
5. The recommendations for mitigation and enhancement measures regarding bats, birds, reptiles and badgers identified in section 5 of the Ecological Report by Acer Ecology dated August 2015 shall be adhered to and implemented in full unless otherwise agreed in writing by the Local Planning Authority.
6. At the time of the submission of the reserved matters a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.
7. Prior to the first installation of any external lighting a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval. Development thereafter should be implemented as approved.
8. Prior to the commencement of development a Japanese knotweed management plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.
9. No development shall commence until an assessment of the nature and extent of contamination affecting the application site area (as outlined in drawing no. 3.1) has

been submitted to and approved in writing by the local planning authority. This assessment must be carried out by or under the direction of a suitably qualified competent person in accordance with BS10175 (2011) Investigation of Potentially Contaminated Sites Code of Practice and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- i. a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
- ii. an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- iii. an assessment of the potential risks to:
  - human health,
  - groundwater and surface waters
  - adjoining land,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - ecological systems,
  - archaeological sites and ancient monuments; and
  - any other receptors identified at (i)
- iv. an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with Welsh Local Government Association and the Environment Agency Wales' 'Development of Land Affected by Contamination: A guide for Developers' (2012).

10. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

11. A long term monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a duration to be agreed in writing with the Local Planning Authority, and the provision of reports on the same shall be submitted to and approved by the local planning authority, prior to the occupation of any approved building. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be submitted to the local planning authority at the end of every subsequent six month period and approved in writing to demonstrate the effectiveness of the monitoring and maintenance carried out. In the event that the remediation objectives are not achieved within the monitoring period, a revised remediation scheme and verification plan shall be submitted to and approved in writing by the local planning authority within two



months following the end of the monitoring period. Any further works necessary shall be undertaken within an agreed timescale until the remediation objectives are achieved and reports confirming the same have been submitted to and approved in writing by the local planning authority.

12. At the time of the reserved matters a scheme of intrusive site investigations for the mine entries and shallow coal workings including remedial works shall be submitted to and approved in writing by the Local Planning Authority. This should also include gas monitoring and the submission of a layout plan identifying the recorded mine entries on site and the definition of suitable 'no-build' zones. The approved schemes shall thereafter be implemented prior to the commencement of development.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. In accordance with policy RL2 of the Unitary Development Plan (March 2010).
5. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006
6. To comply with Powys County Council's UDP Policies ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006.
7. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV 7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006.
8. : To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the NERC Act 2006.
9. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).
10. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).
11. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).
12. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (Edition 9, 2016).

## **Informative Notes**

Birds - Wildlife and Countryside Act 1981 (as amended)

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

- intentionally kill, injure or take any wild bird

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

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

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

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

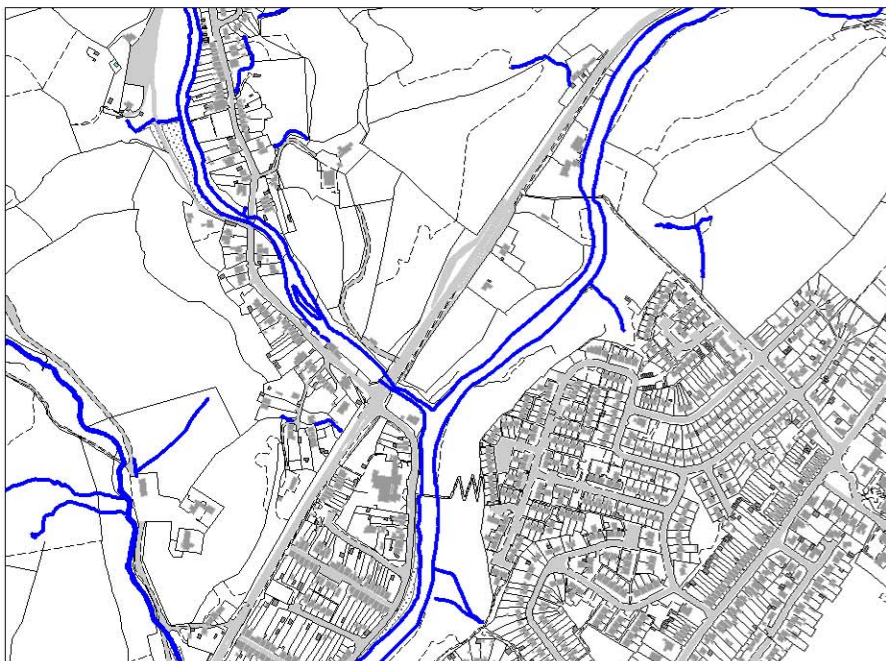
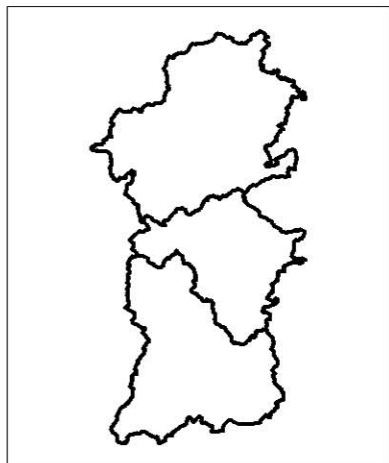
- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

Applicant: Mr Craig Hopkins

Location: Land at former Cynlais School  
Playing Field, Ystradgynlais



© Crown copyright and database rights 2017 Ordnance Survey 100025371  
© Hawffraint y Goron a hawliau cronfa ddata 2017 Arolwg Ordnans 100025371  
Additional information © Environment Agency 2017  
Gwybodaeth ychwanegol © Asiantaeth yr Amgylchedd 2017  
© Crown copyright. All rights reserved. Countryside Council for Wales, 100018813 2017  
© Hawffraint y Goron. Cedwir pob hawl. Cyngor Cefn Gwlad Cymru, 100018813 2017  
Additional information © Powys County Council 2017 No additional copies should be made without the permission of the Council.  
Gwybodaeth ychwanegol © Cyngor Sir Powys 2017 Ni ddylid gwneud unrhyw gopiau ychwanegol heb ganiatâd y Cyngor.

