

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

<b>Application No:</b>	P/2016/1227	<b>Grid Ref:</b>	275758.08 300886.9
<b>Community Council:</b>	Machynlleth	<b>Valid Date:</b>	<b>Officer:</b> 05/12/2016 Louise Evans/Tamsin Law
<b>Applicant:</b>	Powys County Council		
<b>Location:</b>	Land adjoining cemetery, Machynlleth, Powys, SY20 8HE		
<b>Proposal:</b>	Change of use of land to form a Gypsy and Traveller Site for 5 families to include erection of 3 buildings to house welfare facility units, improvements to existing vehicular access shared with cemetery, formation of footway link and internal roadway, installation of a sewage treatment plant and all associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The application is submitted by Powys County Council. The application is also a departure from the development plan in that it relates to a highly vulnerable use within Zone C2 contrary to policy SP14 of the Powys Unitary Development Plan (2010).

### Site Location and Description

Planning permission is sought for the change of use of land to form a Gypsy and Traveller site for five families to include the erection of three buildings to house welfare facility units, improvements to existing vehicular access shared with the cemetery, formation of a footway link and internal roadway as well as the installation of a sewage treatment plant.

The site is located adjacent to the A489 trunk road and adjoins the development boundary of Machynlleth on its western edge. The site is currently used as an Gypsy and Traveller site and contains an area of hardstanding surrounded by vegetation.

### Consultee Response

#### Machynlleth Town Council

The Members of Machynlleth Town Council discussed this application at a recent meeting and have expressed their unanimous objection to the change of use of the Common Land at this location to provide a permanent Gypsy and Traveller Site.

Members strongly support the views of many residents of the town that the case for a permanent Gypsy and Traveller Site in Machynlleth has not been proven. No adequate consultation has taken place with residents and other interests in the Town of Machynlleth for

a suitable location for such a site and no planning application should be considered for a Gypsy and Traveller Site on land that is still registered as Common Land.

Therefore Machynlleth Town Council objects in the strongest terms to the current Planning Application for the change of use of this land as a permanent Gypsy and Traveller Site and demands that the application be withdrawn until a full and proper consultation has been carried out.

#### Local Highway Authority

No objection. Please refer to Welsh Government.

#### Welsh Government Transport Section

##### *First response:*

I refer to your consultation of 12 December 2016 regarding the above application and advise that the Welsh Government as highway authority for the A489 trunk road directs that permission be withheld until further notice while additional information is sought from the applicant and/or information provided by the applicant is analysed to enable appropriate highway observations to be made;

1. The following aspects of the new access do not comply with the TD 41/95 of the Design Manual for Roads and Bridges (DMRB):
  - a. The Width of the access road
  - b. The gradient of the access road
  - c. The visibility splays

The applicant must either amend the design so that the above aspects comply or submit a Departure from Standard application.

##### *Second response:*

I refer to your consultation of 6 January 2017 regarding the above application and advise that the Welsh Government as highway authority for the A489 trunk road directs that permission be withheld until further notice while additional information is sought from the applicant and/or information provided by the applicant is analysed to enable appropriate highway observations to be made;

1. The following aspects of the new access do not comply with the TD 41/95 of the Design Manual for Roads and Bridges (DMRB):
  - a. The visibility splays from the proposed access

The applicant must submit a Departure from Standard application to cover the non conforming aspect.

#### Wales & West Utilities

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows

only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty and the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, its agents or servants for any error or omission.

Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

You must not build over any of our plant or enclose our apparatus.

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

### Welsh Water

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

### SEWERAGE

#### Conditions

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

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

#### Advisory Notes

We would inform you that a public sewer is crossing the application site. We have attached a copy of the public sewer record indicating the location of these assets. We would therefore request that the following be included in any planning consent you are minded to grant:

The proposed development site is crossed by a public sewer with the approximate position being marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Developer Services 0800 917 2652.

The developer must contact us if a sewer connection is required under Section 106 of the Water Industry Act 1991 or any alteration to our apparatus is proposed prior to any development being undertaken.

As the applicant intends utilising a private treatment works 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.

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under 5106 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.

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.

### Environmental Health

Thank you for your consultation in respect of this application. Whilst the applicant has indicated that they are proposing a private treatment plant the plans do not indicate a connection to watercourse from the outlet. Please can the applicant confirm this.

The applicant will also need to provide confirmation that the proposed tank is of sufficient size for the proposed development as detailed by the calculation in document H2 of the Building Regulations.

### Contaminated Land Officer

In relation to Planning Application P/2016/1227 the following advice is provided for the consideration of Development Control.

#### Advice

Historic ordnance survey (OS) maps identify that an area of unknown filled ground, associated with a historic gravel pit, is located 20metres to the South of the application site

boundary. This area of unknown filled ground could be a potential risk to the proposed development depending on the type and nature of the materials that have been placed.

Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2016) advises:

*“responsibility for determining the extent and effects of instability or other risks. 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”.*

*Based on the available information it is recommended that the following Condition and Note to the applicant are included on any permission granted for Planning Application P/2016/1227:*

#### Potential Contamination

In the event that contamination is encountered at any time when undertaking the approved development immediate contact must be made with the Local Planning Authority. The development must not proceed until an investigation and risk assessment has been undertaken, by a qualified and experienced environmental consultant, and where remediation is necessary a Remediation Strategy must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of the remedial works identified in the approved Remediation Strategy a Verification Report that demonstrates compliance with the agreed remediation objectives must be produced by a qualified and experienced environmental consultant, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development.

Reason: 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.

#### Ecology – YGC:

#### Protected Species & Habitats

#### European Species

An initial ecological appraisal has been completed by Rachel Probert on behalf of Powys County Council (PCC) consisting of an ecological desk study and extended Phase 1 habitat survey carried out in June 2016. The associated report (dated 16/01/17) accompanies this

application and accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

A historical biodiversity records data search completed as part of the appraisal did not identify any protected species records within the site itself, but did identify the following European protected species within 1km: pipistrelle bat species, Daubenton's bat, otter and great crested newt.

The report concludes that no bat roost sites are likely to be affected, but the hedgerows and linear trees present around the boundaries of the site are likely to provide foraging and commuting opportunities for bats in the local area.

The report concludes that the potential presence of nocturnal animals such as bats around the site requires careful design of its future layout and recommends that all lighting must be directional and away from natural areas such as hedgerows.

A review of Ordnance Survey maps as part of the survey found no ponds within 400m of the proposed development; in light of this and the surrounding habitats the report concludes that there is negligible potential for great crested newt to be present on site or affected by the proposed development.

No evidence of otter was observed during the survey and no suitable features for use by otters as breeding or resting sites were found.

The report concludes that there is negligible potential for dormice to be present or affected by the proposed development, following a review of habitats at and around the site and historical records.

## UK Species

The historical biodiversity records data search did not identify any protected species records within the site itself, but did identify the following nationally protected species within 1km, in addition to those already listed above: badger, common lizard and W&CA Schedule 1 bird species.

As no evidence of badger activity was found during the survey the report concludes that the proposed development has negligible potential to affect badgers.

No suitable habitat for reptiles was found on the site during the survey, and the report concludes that management of the site suggests that it is unlikely that such species are present in the site. However, low potential for reptiles to be present in the road verge areas adjacent to the A489 Trunk road was identified.

The report recommends that Reasonable Avoidance Measures including habitat manipulation are implemented during construction activities in the road verge areas. Appendix 1 of the PCC report includes the RAMS with regard to reptiles. If any reptiles are encountered during the development works, all works must cease immediately and a qualified ecologist contacted.

The report concludes that vegetation features on site including trees and hedgerows have potential to be used by birds for breeding purposes. Bird activity on site was noted during the survey and it is likely that breeding occurs within the hedgerows and trees on site.

The report recommends that, should the detailed design of the development identify that removal of hedgerow is required to accommodate the proposed development works, clearance work must be programmed to be carried out outside of the breeding season for birds i.e. no vegetation clearance works must be undertaken between the months of March to August inclusive. Where this is not possible, netting the hedgerow prior to the bird breeding season, or possibly a search by an Ecological Clerk of Works immediately prior to the works commencing will have to be carried out. If any nests are found during such a search, all works in the area must cease until such a time when the breeding effort is completed and the chicks have fledged.

## Section 7 Species & Habitat

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

The historical biodiversity records data search did not identify any protected species records within the site itself, but did identify the following Section 7 priority species within 1km, in addition to those already listed above: brown hare, bluebells, fungi, Section 7-listed bird species.

The eastern and northern boundary along the edge of the proposed development area is bordered by a species-rich hedgerow. Areas of broadleaved plantation woodland provide moderate value habitat and connectivity to the wider landscape. A small ditch is present along the eastern boundary of the site.

The report identifies that impacts on these features should be kept to a minimum and recommends that a tree and hedgerow protection plan is produced detailing protection measures to be implemented to ensure that where these features are to be retained within the development they are protected during the construction phase.

As some areas of broadleaved woodland will be lost to accommodate the proposals the report identifies that consideration will need to be given to provision of replacement hedgerow or tree planting to compensate for any loss of these features, and recommends that a landscaping plan detailing areas of any landscaping to be provided, species lists and an appropriate aftercare schedule is produced detailing these protection measures.

Given the proximity of the development to a watercourse, the report states that a Pollution Prevention Plan will be required for the construction phase. The Pollution Prevention Plan should be mindful of the guidance outlined in the EA Pollution Prevention Guidelines PPG 5 and PPG 6.

In accordance with the requirements of Section 6 of the Environment (Wales) Act, the report identifies that a scheme of Ecological Enhancements will need to be developed to provide net biodiversity benefits (biodiversity enhancements) through the proposed

development. This could include:

- provision of bird and bat boxes including the details of the number, type and location of these boxes;
- a wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- a wildlife-friendly hedgerow management regime, wildlife/green corridors through the site linking offsite and onsite habitats, and an appropriate after care period to ensure that any created habitats and buffer strips, hedgerows, landscape planting, etc. become established (5 years may be appropriate).

#### LBAP Species & Habitat

See observations above.

#### Protected Sites:

##### International Sites

None within a 1km search radius.

##### National Sites

None within a 1km search radius.

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

The Machynlleth Golf Course Road Verge Nature Reserve (RVNR) is located approximately 380m south of the site.

#### Invasive Non-Native Species

Japanese Knotweed has been identified at the south-eastern corner of the site. No development is understood to be proposed in this area.

The report recommends that a Japanese Knotweed Control Plan is identified to minimise the risk of construction activities disturbing this species and causing it to spread.

#### Cumulative Effect – No –

The proposal involves a change of land use at a site that is already used unofficially for its proposed purpose as a gypsy and traveller site.

#### Summary of recommendations / further assessment or work

See observations above (in italics) for recommendations identified within the extended Phase 1 habitat survey report (16/01/17).

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



The recommendations regarding nocturnal wildlife, breeding birds, reptiles, hedgerows, woodland and watercourse identified in Section 10 of the Ecological Report by Rachel Probert (PCC) dated 16/01/17 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.

Prior to commencement of development, a Biodiversity Enhancement Plan (see Section 10.8 of the Ecology Report, 16/01/17) 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 Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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.

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 and ENV3 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

### 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.

### Land Drainage

No response received.

### Commons Registration Officer

Thank you for giving Commons Registration opportunity to comment on planning application P/2016/1227. Our records show that:

- The proposed development is located on registered common land, being part of registered common MCL32 (Parc Common.) A plan of this section of the common is attached.
- Registered common MCL32 is subject to a public right of access for 'air and exercise' under section 193 of the Law of Property Act 1925. That would include a public right of access for horse riders, as well as on foot.
- The common is also subject to a Scheme of Regulations, made under the Commons Act 1899; byelaws have been made pursuant to that. The most recent byelaws for Parc Common were made by Powys County Council in 2001.
- The Ownership section of the Register records a 1969 claim to ownership of the common by the Wynnstay Estate. However, this is not conclusive proof of current ownership; it is known (although not reflected in the Register) that there have been transfers of land affecting the common since 1969.

- There are registered rights of common on MCL32.

Registered common land does enjoy a high degree of legal protection and 'restricted works' may not be carried out without prior consent. 'Restricted works' are defined under section 38 of the Commons Act 2006 and are those that would have the effect of preventing or impeding access to or over any land, or works for the resurfacing of land. Court action can be taken by any member of the public, under section 41 of the Commons Act 2006, if restricted works are carried out without prior consent.

This development would involve surfacing the land and construction of buildings and so would not appear to be consistent with the traditional use of common land. Given that, the applicant will need to obtain consent for deregistration of the area of common land affected, before any development work is carried out; an area of 'exchange land' will need to be provided, to be registered as common land in replacement.

Applications for deregistration and exchange of common land can be made under section 16 of the Commons Act 2006. These applications are not made to, or determined by Powys County Council. Instead, an application must be made to the Welsh Government, via the Planning Inspectorate; information about the procedures can be found on the Welsh Government website at:

<http://gov.wales/topics/environmentcountryside/consmanagement/rights-of-way-and-wider-access/countryside-area/common-land/?skip=1&lang=en>

### Natural Resources Wales

#### *First Response*

Thank you for referring the above application, which we received on 12/12/2016.

You will be aware that we are in receipt of a 'floodmap challenge' for the site which we are currently reviewing and therefore confirm that we are providing the flood risk comments below as provisional comments pending our full assessment of the information submitted as part of the 'floodmap challenge'. We will not be in a position to provide full comment until we have completed our review of the applicant's flood modelling work and therefore request that the application is not determined until we have provided our final response.

Prior to providing our full and final response we have reviewed the application and advise that the requirements, set out below and detailed in full the letter are dealt with in the interim.

#### *Summary of requirements:*

*Requirement 1 – Justification provided to demonstrate that it is not reasonable to connect to the public system*

*Requirement 2 – FCA to be updated as requested below to be in full compliance with the requirements of TAN15*

#### Foul Drainage

Our mapping information identifies that the development site is near a public sewer system, and we note that the application form indicates that foul drainage will be disposed of by means of a package treatment plant.

The installation of a private sewage treatment facility within an area where it may be considered reasonable to connect to the public sewer system is not considered environmentally acceptable. The first option should be that the development connects to the mains.

*Requirement 1 – Justification provided to demonstrate that it is not reasonable to connect to the public system*

We would therefore be opposed to the proposal to connect to treatment plan unless the developer can demonstrate that it is not reasonable to connect to the public system. In this respect, the applicant is advised to thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

1. Formally approach the sewerage undertaker regarding a connection under Section 98 or Section 106 of the Water Industry Act (WIA) 1991, as appropriate
2. Serve notice for connection under Section 98 or Section 106 of the WIA 1991 if the sewerage undertaker has refused connection
3. Provide details of the reasons given by the sewerage undertaker if it has refused connection under Section 106 of the WIA 1991 and confirm that this decision has been appealed to Ofwat

OR:

Provide details of the undertakings, security and payment required by the sewerage undertaker under Section 98 of the WIA 1991.

Provide confirmation that the applicant considers these to be reasonable and does not intend to appeal against them.

4. Demonstrate that it is not reasonable to connect to the public foul sewer

Lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the WIA 1991 and we may refuse to issue a discharge consent for private treatment facilities in such circumstances.

Notwithstanding the above advice, the Applicant should be aware that should a connection to the mains sewer not be feasible, they will be required to apply for a permit for the operation of the non-mains drainage facility. It should be noted that at that stage, further information may be required as part of the permit application. Should it be demonstrated that it is not feasible to connect to the mains we would advise the Applicant to hold pre-application discussions with our Permitting Team at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the NRW permit requirements.

Flood Risk

*You will be aware that we are in receipt of a 'floodmap challenge' for the site which we are currently reviewing and therefore confirm that we are providing the flood risk comments below as provisional comments pending our full assessment of the information submitted as*

*part of the 'floodmap challenge'. We will not be in a position to provide full comment until we have completed our review of the applicant's flood modelling work.*

We have reviewed the report titled "Machynlleth Traveller Sites – Flood Consequence Assessment; v 1.0; 1st December 2016" submitted in support of the planning application and have the following comments to make on the Assessment.

*Requirement 2 – FCA to be updated as requested below to be in full compliance with the requirements of TAN15*

The FCA notes a number of structures and features which are not specifically marked on any map/plan. The applicant's consultant has subsequently provided clarification on these features and we attach a copy of the amended plan provided directly to us by the consultant ('Machynlleth annotated plan.pdf') for your record. In addition to the above, we note that the OS maps identify a watercourse which seems to enter a culvert immediately opposite the site entrance and, due to the topography, it seems likely that it enters the application site at some point. There does not seem to be any reference to this watercourse in the FCA; we advise ask that the FCA should comment on the presence of this watercourse and any possible impact on the site.

Based on the applicant's modelling, the site is shown to be at minimal flood risk in the 1% probability flood event (1 in 100 years return period) plus an allowance for climate change (+CC). However, a small amount of flooding is identified in the north-east corner of the site. We would note that the statement in section 5.3 – that the site is fully compliant with TAN15 section A1.14 – is not strictly correct. Since TAN15 requires the flood risk to be considered over the development's whole lifetime, section A1.14 should be considered against the 1%+CC event; the flooding noted above can therefore be taken to be contrary to A1.14, however, we acknowledge that the extent and depth of flooding is likely to be small.

The modelling indicates more extensive flooding in the 0.1% probability flood event (1 in 1,000 years return period) and the applicant has proposed mitigation measures to reduce this risk. We will comment on these proposals below:

Extend a culvert through the site

We have some concerns about the proposal to culvert a section of open watercourse in a 300mm ø culvert through the site:

- We understand that the watercourse takes its flow from a 600mm ø pipe beneath the A489 and then flows into an existing 300mm ø pipe which ultimately discharges into the Afon Dulas. A reduction in diameter along a length of culvert is not considered good practice since it could result in surcharge and increases the risk of blockage at the transition to the smaller culvert.
- It is unclear how the 300mm ø culvert has been sized – has a hydraulic assessment of the catchment been undertaken?
- NRW is generally opposed to the culverting of watercourses unless for access. The culverting of an ordinary watercourse requires the Consent of Powys in their capacity as the Lead Local Flood Authority (LLFA). Powys' Local Flood Risk Management Strategy 2013-17 suggests that they will look to implement a 'non-culverting policy'; it is unclear whether this policy has been implemented.

Flood bund to the north of the site (*please be aware that the details requested below may be altered by the conclusion of the flood map challenge*)

- We request that further details of the bund is provided prior to determination of the planning application. These details should include construction detail, crest height, dimensions, maximum depth of impoundment etc. – as well as details of the likely future maintainer.
- It is unclear whether the applicant has considered the risk of breach of the bund. Should the bund breach, it is possible that it could result in rapid inundation of the site. We advise that the FCA should comment on this aspect.
- The FCA has investigated whether the mitigation would lead to detriment elsewhere – primarily as a result of displacement of flood water caused by the bund. We note that the impacts are likely to be small – as would be expected due to the relatively small area served by the bund. However, we have some concerns that the applicant has dismissed the identified detriment at “an anomaly in the model outputs”. We advise that this should be further investigated.

As noted above, these are provisional conclusions and may be subject to change once we have fully reviewed the hydraulic model as part of the floodmap challenge. In its current form, we do not consider that the FCA shows full compliance with the requirements of TAN15.

We request that the developer addresses the concerns raised above, particularly with regard to the proposed mitigation measures prior to the determination of the application. Until these matters have been adequately addressed, as well as the flood model being reviewed and approved, we would object to the proposals on flood risk grounds.

In addition to the above, we would make the following observations which the applicant may wish to address in any future update of the FCA:

- 3.3 – pluvial flooding – Whilst we acknowledge that the site is not within the flood map for surface water, it must be noted that the mapping does not take account of culverts. As such it may not address flood risk from all sources including the ordinary watercourse noted above (opposite the site entrance).
- 5.1 – When discussing the justification for development, this section omits to mention that section 6.2 of TAN15 specifies that “highly vulnerable development... in zone C2 should not be permitted”. This is a matter for the Local Planning Authority to consider in their determination of the planning application.

### Protected Species

We note that there is no information about protected species with the application. If your Authority has not already screened the application for the reasonable likelihood of protected species being present, we would suggest that you do screen it as we note that the application form confirms that there are trees on site that could be impacted by the development.

Should it be confirmed that a species survey is required, we would wish to be re-consulted once the survey results are available.

The applicant should be aware that where a European protected species is present, a development may only proceed under derogation licence issued by NRW having satisfied the

three requirements set out in the legislation. One of these requirements is that there should be no detriment to the 'favourable conservation status of the species concerned.

Please do not hesitate to contact us if you require further information or clarification on any of the above. As confirmed above, we will not be in a position to provide full comments until we have completed our review of the applicant's flood modelling work and therefore request that the application is not determined until we have provided our final response.

*Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.*

### *Second response*

Further to our letter dated 4th January 2016 we provide the following comments as a response to the additional information received.

You will be aware that we are in receipt of a 'floodmap challenge' for the site which we are currently reviewing and therefore confirm that we are providing the flood risk comments below as provisional comments pending our full assessment of the information submitted as part of the 'floodmap challenge'. We will not be in a position to provide full comment until we have completed our review of the applicant's flood modelling work and therefore request that the application is not determined until we have provided our final response.

Prior to providing our full and final response we have reviewed the further information received in support of the application and advise that the requirements, set out below and detailed in full in the letter are dealt with in the interim.

### *Summary of requirements:*

*Requirement 1 – FCA to be updated as requested below to be in full compliance with the requirements of TAN15*

Should our requirements detailed below be dealt with and we provide a final response that conforms that we have no objection to the proposed development we advise that any planning permission given for the development includes the imposition of a suitably worded planning condition as detailed below.

*Condition 1 – Reasonable Avoidance Measures to be implemented to ensure to detrimental impact to the maintenance of the favourable conservation status of reptiles including in particular Great Crested Newts*

Flood Risk

We have reviewed the report titled “Machynlleth Traveller Sites – Flood Consequence Assessment; v 1.0; 1st December 2016” submitted in support of the planning application as well as the response provided in your email dated 11th January which response to the matters raised in our letter 4th January 2017. As you’ll be aware, we are currently in the process of reviewing the submitted ‘floodmap challenge’ therefore, as explained in our earlier letter, all comments related to flood risk must be taken as provisional.

*Requirement 1 – FCA to be updated as requested below to be in full compliance with the requirements of TAN15*

#### Unmarked watercourse

Thank you for your further comments relating to the possible presence of an ordinary watercourse (marked on the map as Nant yr Arian). It is not our suggestion that this watercourse should be modelled; however if it does indeed enter the site in culvert, then the condition, capacity and location of that culvert would have a bearing on site layout. We note the anecdotal evidence that there is no local knowledge of a watercourse entering the site however it would still be our recommendation that that the route of Nant yr Arian should be investigated – it seems to have a catchment of 0.3-0.4km<sup>2</sup>, draining much of the golf course to the south, so is not altogether insignificant.

#### Culvert extension

We accept that Powys are the consenting authority in relation to ordinary watercourses and that they will need to consider whether or not the proposals comply with their policies. However, since the culvert could pose a flood risk to the planning application site, we remain of the view that it is appropriate for the potential for flooding associated with that culvert to be considered as part of the FCA. As above, we are *not* asking for the culvert to be modelled, but more justification for the sizing of the culvert pipes would be welcomed. Note: flood risk associated with this culvert may be less of a concern if land raising were proposed as an alternative to a bund –see below.

#### Flood bund / land raising

We note the option of land raising has been suggested as an alternative to the bund. We would not be oppose to this in principle but would request that this should be included in an updated FCA. As indicated previously, we’d suggest that the areas of detriment identified in the model should be properly investigated rather than being dismissed as “an anomaly in the model outputs”.

As confirmed above, we will not be in a position to provide full comments until we have completed our review of the applicant’s flood modelling work and therefore request that the application is not determined until we have provided our final response.

#### Foul Drainage

Further to receipt of confirmation from Dwr Cymru (email from Dwr Cymru to Powys Council dated 19th January 2017) we can now confirm that following receipt of your justification we are satisfied that connection to main sewer at this site is not possible and that installation and



connection to treatment plant as proposed on the application form is the most suitable method of disposing of foul sewage.

The discharge to ground from the treatment plant will need a permit from NRW under the Environmental Permitting Regulations 2010 and as we require justification for not connecting to main sewer an application for a bespoke permit will need to be made prior to any discharge being made. Please note that such an application can take up to four months to be determined and therefore you should consider this with regards to your project timescales. The form you require to apply for a bespoke permit is Part B6.5 which can be found on our website <https://naturalresources.wales/apply-for-a-permit/water-discharges/discharges-to-surface-water-and-groundwater/apply-for-a-new-bespoke-permit/?lang=en>.

### Protected Species

We have reviewed the 'Proposed Gypsy and Traveller Site Machynlleth Extended Phase 1 Habitat Survey Report' prepared by Powys County Council dated 16th January 2017.

We are satisfied that the report is suitable for the purposes of informing the planning decision making process.

The report confirm that the site is of moderate low ecological value with the hedgerows on the eastern and northern boundary being identified as having the potential for connectivity to wider landscapes.

We are satisfied that subject to implementation of the recommendations set out in Section 10 of the report that the development is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European and British protected species. As recommended a Hedgerow Protection Plan, Landscaping Plan and Japanese Knotweed Control Plan should be agreed to the satisfaction of the LPA prior to commencement of development.

*Condition 1 – Reasonable Avoidance Measures to be implemented to ensure to detrimental impact to the maintenance of the favourable conservation status of reptiles including in particular Great Crested Newts*

Any planning permission given for the development should include the imposition of a suitably worded planning condition requiring the RAMS provided within Appendix 1 to be implemented in full during the work. Subject to implementation of the RAMS we are satisfied that the proposal will not have a detrimental impact on the maintenance of the favourable conservation status of amphibians including in particular Great Crested Newts.

### Pollution Prevention

Due to the proximity of the site to watercourses, all works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' and PPG5 'Working at construction and demolition sites' which are available on the Gov.uk website: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

### *Third response*

We have now reviewed the Hydraulic Model prepared to inform the flood map challenge and planning application (P/2016/1227).

We have reviewed the Hydraulic Model prepared to inform the flood map challenge and planning application (P/2016/1227) for developing land adjacent to Cemetery, Machynlleth and confirm that the model is not currently considered appropriate for modelling the risk at the proposed development site or for updating the flood map. There are number of decisions that need to be justified before the model can be deemed fit for purpose, and updates to the model are required.

Please find the model review sheet attached. All comments in red or amber on the attached review certificate are to be addressed before we can proceed with the flood map challenge and before we can provide our final response to the planning application.

We therefore request that the planning application is not determined until we have provided our final response, which will be following receipt of a revised version of the hydraulic model and after the requirements set out in our letter of the 26th January 2017 have been dealt with.

The main issues that have been highlighted at the end of the review that need to be addressed are;

- Justify the decision to avoid modelling the Afon Crewi.
- Provide more background to the survey information used in the model.
- Further justify the final choice of roughness bearing in mind that the model is sensitive to roughness and this is an FCA model.
- Provide evidence that a longer storm duration would not lead to an increased flood risk.
- Further justify or revisit the choice of downstream boundary bearing in mind the fact that much of the model domain is highly sensitive to the downstream boundary.
- The upstream invert of the ESTRY culvert beneath the A489 road bridge needs clarification before it can be deduced that the flow through this culvert and past the site is accurate.
- Confirm whether there is a 1.0m dip in the bank crests in the vicinity of the CUL\_3 outlet.
- Avoid or justify any ponding against the domain boundary, if the model is to be used to update the Flood Map.
- For any Flood Map update the channel will need to be represented in the results. This would be best achieved via WLL lines although a later manual edit in GIS could achieve a similar outcome.

In addition to the issues raised in JBA's review, please can the additional data be provided to NRW:

- The model results provided cannot currently be opened by NRW due to file type (NRW cannot presently read sms and .xmdf formats). Therefore, please can these be provided in a different format (ideally asc/shp files) for both the current model and any future modelling.
- We would like to see some sensitivity testing completed on the model flows. A 20% increase and a 10% decrease (as suggested by Rob Bissell in his hydrology review, as an alternative to redoing the hydrology), should be completed so that we can see how sensitive the modelled outlines are.

Should you wish to discuss the above comments please contact Jenny Jones, Flood Risk Analysis directly on 0300 065 3855 / [Jenny.Jones@naturalresourceswales.gov.uk](mailto:Jenny.Jones@naturalresourceswales.gov.uk).

Should you wish to discuss timescales further please contact Angharad Wyn Crump (contact details below).

*Fourth response:*

Further to our letter of the 6th February 2017, we provide the following comments as a response to the additional information received.

We have significant concerns with the proposed development as submitted.

We recommend that planning permission should only be given if the following requirements can be met. If these requirements are not met then we would object to this application.

*Summary of requirements:*

*Requirement 1 – FCA to be updated to specify a ‘dry level’ to be in full compliance with the requirements of TAN15*

Should our requirement be dealt with and we provide a final response that conforms that we have no objection to the proposed development we advise that any planning permission given for the development includes the imposition of a suitably worded planning condition as detailed below.

*Condition 1 – Reasonable Avoidance Measures to be implemented to ensure to detrimental impact to the maintenance of the favourable conservation status of reptiles including in particular Great Crested Newts*

As detailed below, we will advise of our requirements with regard to the inclusion of a suitably worded condition to any planning consent given for the development once we have reviewed a revised FCA that specifies a ‘dry level’.

Flood Risk

Further to our letter of the 6th February 2017, we have reviewed the updated FCA – WHS, version 2.0, dated 8th March 2017.

Separately, we have reviewed the submitted flood map challenge for the same site and are in agreement with its conclusions. We will therefore revise our floodmap and the DAM to reflect the information in the flood map challenge. We aim to make this change to the floodmap / DAM in April’s updates.

The FCA has investigated the flood risk to the site from both the Afon Dulas and also its tributary, Nant yr Arian [Note: due to the relatively small risk posed by Nant yr Arian, we have not undertaken a full technical review of the supporting model]. The modelling concludes that, in the 1% probability flood event (with an allowance for climate change), a maximum flood depth of 100mm would be expected on the northern part of the site. Flooding of the highway to the south would also be expected from Nant yr Arian, although this is not predicted to directly enter the site. In the 0.1% probability flood event, flooding depth would be expected to reach ~300mm on the site.

In view of the above, it is clear that the site in its current condition cannot comply with the requirements of section A1.14 of TAN15, which requires highly vulnerable developments to be flood free in the 1%+CC flood event. It should also be noted that section 6.2 of the TAN states that highly vulnerable development should not be permitted in zone C2 – this is reinforced in the Chief Planner’s letter dated 9th January 2014. It is therefore for your authority to determine whether the development, partly in zone C2, is acceptable.

The FCA goes on to suggest mitigation measures which should ensure that the development will be dry in the 0.1% probability flood event. Section 5.4 of the FCA specifies that:

- A 675mm ø culvert will be installed to convey the flow of Nant yr Arian across the site
- The site will be raised in order to ensure it will remain dry in the 0.1% probability event.

The FCA goes on to demonstrate that the land raising will not increase flood risk elsewhere.

Unfortunately the FCA has not proposed a level to which the land should be raised. For your authority to be able to place a planning condition to ensure compliance with TAN15, it is vital that a level should be proposed. In the absence of a proposed land level, the FCA is incomplete.

We would also note that the culverting of a watercourse goes against NRW’s culverting policy – which suggests that culverts should normally only be permitted for access. It is accepted, however, that Nant yr Arian is an ordinary watercourse which comes under Powys Council’s jurisdiction; it will therefore be a matter for your authority to determine any application for Consent.

*Requirement 1 – FCA to be updated to specify a ‘dry level’ to be in full compliance with the requirements of TAN15*

In summary: we are satisfied that the FCA shows that the site can be engineered to ensure it is dry in the 0.1% probability flood event. However, in order to ensure that the land is raised to the correct level, the FCA should be amended to specify a ‘dry development platform’. We suggest that this should be done before your authority considers granting permission for this development in order that a meaningful condition can be placed on any permission.

We will advise of our requirements with regard to the inclusion of a suitably worded condition to any planning consent given for the development once we have reviewed a revised FCA that specifies a ‘dry level’.

### Protected Species

We have reviewed the ‘Proposed Gypsy and Traveller Site Machynlleth Extended Phase 1 Habitat Survey Report’ prepared by Powys County Council dated 16th January 2017.

We are satisfied that the report is suitable for the purposes of informing the planning decision making process.

The report confirm that the site is of moderate low ecological value with the hedgerows on the eastern and northern boundary being identified as having the potential for connectivity to wider landscapes.

We are satisfied that subject to implementation of the recommendations set out in Section 10 of the report that the development is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European and British protected species. As recommended a Hedgerow Protection Plan, Landscaping Plan and Japanese Knotweed Control Plan should be agreed to the satisfaction of the LPA prior to commencement of development.

*Condition 1 – Reasonable Avoidance Measures to be implemented to ensure to detrimental impact to the maintenance of the favourable conservation status of reptiles including in particular Great Crested Newts*

Any planning permission given for the development should include the imposition of a suitably worded planning condition requiring the RAMS provided within Appendix 1 to be implemented in full during the work. Subject to implementation of the RAMS we are satisfied that the proposal will not have a detrimental impact on the maintenance of the favourable conservation status of amphibians including in particular Great Crested Newts.

#### Pollution Prevention

Due to the proximity of the site to watercourses, all works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' and PPG5 'Working at construction and demolition sites' which are available on the Gov.uk website:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Please do not hesitate to contact us if you require further information or clarification on any of the above. As confirmed above, we will not be in a position to provide full comments until we have completed our review of the applicant's flood modelling work and therefore request that the application is not determined until we have provided our final response. [www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk) [www.cyfoethnaturiolcymru.gov.uk](http://www.cyfoethnaturiolcymru.gov.uk) Page 4 of 4

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

#### *Fifth response:*

Further to our letter of the 29<sup>th</sup> March 2017, we provide the following comments as a response to the amended Flood Consequence Assessment received by email on the 30<sup>th</sup> March 2017 directly from the consultant (WHS version 1.2 30<sup>th</sup> March 2017).

We have significant concerns with the proposed development as submitted.

We recommend that planning permission should only be given if the following conditions can be attached to the planning consent. If these conditions are not attached we would object to this application.

*Summary of conditions:*

*Condition 1* – The site must be raised to a minimum level of 18.1m AOD to ensure that it remains flood-free.

*Condition 2* – *Reasonable Avoidance Measures to be implemented to ensure to detrimental impact to the maintenance of the favourable conservation status of reptiles including in particular Great Crested Newts*

Flood Risk

Further to our letter of the 29<sup>th</sup> March 2017, we have reviewed the updated Flood Consequence Assessment (WHS, version 1.2, dated 30<sup>th</sup> March 2017).

Separately, we have reviewed the submitted flood map challenge for the same site and are in agreement with its conclusions. We will therefore revise our floodmap and the DAM to reflect the information in the flood map challenge. We aim to make this change to the floodmap / DAM in April's updates.

The FCA has investigated the flood risk to the site from both the Afon Dulas and also its tributary, Nant yr Arian [Note: due to the relatively small risk posed by Nant yr Arian, we have not undertaken a full technical review of the supporting model]. The modelling concludes that, in the 1% probability flood event (with an allowance for climate change), a maximum flood depth of 100mm would be expected on the northern part of the site. Flooding of the highway to the south would also be expected from Nant yr Arian, although this is not predicted to directly enter the site. In the 0.1% probability flood event, flooding depth would be expected to reach ~300mm on the site.

In view of the above, it is clear that the site in its current condition cannot comply with the requirements of section A1.14 of TAN15, which requires highly vulnerable developments to be flood free in the 1%+CC flood event. It should also be noted that section 6.2 of the TAN states that highly vulnerable development should not be permitted in zone C2 – this is reinforced in the Chief Planner's letter dated 9<sup>th</sup> January 2014. It is therefore for your authority to determine whether the development, partly in zone C2, is acceptable.

The FCA goes on to suggest mitigation measures which should ensure that the development will be dry in the 0.1% probability flood event. Section 5.4 of the FCA specifies that:

- A 675mm ø culvert will be installed to convey the flow of Nant yr Arian across the site
- The site will be raised in order to ensure it will remain dry in the 0.1% probability event.

The FCA proposes for the north eastern part of the site to be raised to a minimum level of 18.1m AOD to ensure that it remains flood-free. This level is above the predicted 0.1% probability flood level, however, virtually no freeboard is provided above the maximum predicted flood level (18.09m AOD). In order to allow for inherent uncertainty in flood estimation we would therefore advise that a further freeboard of at least 300mm is allowed –

giving a finished level of 18.4m AOD. The FCA goes on to demonstrate that the land raising will not increase flood risk elsewhere.

We therefore require any planning permission given for the development to include the imposition of the following condition;

Condition 1: The site must be raised to a minimum level of 18.1m AOD to ensure that it remains flood-free.

Reason: To minimise flood risk to the site and future residents.

We would also note that the culverting of a watercourse goes against NRW's culverting policy – which suggests that culverts should normally only be permitted for access. It is accepted, however, that Nant yr Arian is an ordinary watercourse which comes under Powys Council's jurisdiction; it will therefore be a matter for your authority to determine any application for Consent.

### Protected Species

We have reviewed the 'Proposed Gypsy and Traveller Site Machynlleth Extended Phase 1 Habitat Survey Report' prepared by Powys County Council dated 16<sup>th</sup> January 2017.

We are satisfied that the report is suitable for the purposes of informing the planning decision making process.

The report confirm that the site is of moderate low ecological value with the hedgerows on the eastern and northern boundary being identified as having the potential for connectivity to wider landscapes.

We are satisfied that subject to implementation of the recommendations set out in Section 10 of the report that the development is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European and British protected species. As recommended a Hedgerow Protection Plan, Landscaping Plan and Japanese Knotweed Control Plan should be agreed to the satisfaction of the LPA prior to commencement of development.

*Condition 2 – Reasonable Avoidance Measures to be implemented to ensure to detrimental impact to the maintenance of the favourable conservation status of reptiles including in particular Great Crested Newts*

Any planning permission given for the development should include the imposition of a suitably worded planning condition requiring the RAMS provided within Appendix 1 to be implemented in full during the work. Subject to implementation of the RAMS we are satisfied that the proposal will not have a detrimental impact on the maintenance of the favourable conservation status of amphibians including in particular Great Crested Newts.

### Pollution Prevention

Due to the proximity of the site to watercourses, all works at the site must be carried out in accordance with GPP5 'Works in, near or over watercourses' and PPG5 'Working at construction and demolition sites' which are available on the Gov.uk website:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Please do not hesitate to contact us if you require further information or clarification on any of the above. As confirmed above, we will not be in a position to provide full comments until we have completed our review of the applicant's flood modelling work and therefore request that the application is not determined until we have provided our final response.

*Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.*

Clr Michael Williams - Machynlleth Ward

I've viewed the plans and supporting papers in respect to application P/2016/1227; and, given the potential impact on the immediate area, I ask that the application be determined by Powys County Council's Planning Committee.

## **Representations**

The application was advertised through the erection of a site notice and press advertisement. Three objections have been received on the application and are summarised below:

- Lack of community consultation
- Common land 'swap' is not like for like
- Concerns over comments made within the Flood Consequences Assessment about the site being preciously developed land
- Validity of the application as none of the submissions are made in Welsh
- Raises concerns that an Environmental Impact Assessment should have been submitted

## **Planning History**

5821- Use of land for industry and factory - Refused 1963

10276 - Construction of additional access to church – Conditional Consent 1969

## **Principal Planning Constraints**

Flood Zone  
Common Land  
A489 Trunk Road

## **Principal Planning Policies**

National Planning Policy



Planning Policy Wales (Edition 9 – 2016)

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

Technical Advice Note (TAN) 6 - Planning for Sustainable Rural Communities (2010)

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

Technical Advice Note (TAN) 15 - Development and Flood Risk (2004)

Technical Advice Note (TAN) 18 – Transport (2007)

Technical Advice Note (TAN) 23 – Economic Development

WAG Circular 30/2007 – Planning for Gypsy and Travellers Caravan Sites

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

Welsh Office Circular 10/99 – Drainage

#### Local Planning Policies

Unitary Development Plan (UDP):

UDP SP14 - Development in Flood Risk Areas

UDP SP3 - Natural, Historic and Built Heritage

Policy GP1 - Development Control

Policy GP3 – Design and Energy Conservation

Policy GP4 – Highways and Parking Requirements

Policy ENV2 - Safeguarding the Landscape

Policy ENV3 – Safeguarding Biodiversity and Natural Habitats

Policy ENV4 – Internationally Important Sites

Policy ENV5 – Nationally Important Sites

Policy ENV6 – Sites of Regional and Local Importance

Policy ENV7 – Protected Species

Policy DC3 - External Lighting

Policy DC9 – Protection of Watercourses

Policy DC11 - Non-Mains Sewage Treatment

Policy DC13 – Surface Water Drainage

Policy DC15 - Development on Unstable or Contaminated Land

Policy HP20 - Gypsy Caravan Sites

Policy TR2 – Tourist Attractions and Development Areas

Gypsy and Traveller Accommodation Assessment (GTAA) (June 2016)

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

#### **Officer Appraisal**

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

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

Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of development

Policy HP20 of the UDP relates to gypsy caravan sites. It supports their provision subject to a number of criteria, including meeting the needs of gypsies who have regularly resided in or resorted to the area and there are no other sites available, the development to not be visually intrusive in the landscape and incorporate screening provisions and the proposal being well related to existing community, social and educational facilities. The supporting text states that proposals for development of isolated small sites will not be permitted.

Welsh Assembly Government Circular 30/2007: "Planning for Gypsy and Traveller Caravan Sites" (Circular 30/2007) supports the principle of gypsy and traveller sites being located in rural settings, where they are not subject to specific planning or other constraints. The Circular advocates that sites should be sustainably located. In assessing the suitability of sites, the Circular advises local authorities to consider a range of sustainability criteria and to be realistic about the availability of alternatives to the car to access local services. It states that over rigid application of policies that seek a reduction in car borne travel would not be appropriate.

Local and national policies support the provision of gypsy and traveller sites in principle. Therefore, the main considerations are whether there is an overriding need for the development, whether the proposal would be visually intrusive in the landscape and harmful to the character and appearance of the area and whether it would be sustainably located.

### Need for the development:

The Council has a duty to assess the need for gypsy and traveller accommodation. Where an assessment of unmet need is evident, there is a requirement to ensure that sufficient sites are allocated through the Local Development Plan (LDP) process. These duties reflect wider duties to promote equal opportunities and to prevent unlawful discrimination on the grounds of race.

The Council has undertaken a Gypsy and Traveller Accommodation Assessment (GTAA) dated June 2016 which has been approved by Carl Sargent, Welsh Government Cabinet Secretary for Communities and Children dated December 2016.

The Council now has a duty under section 103 of the Housing (Wales) Act 2014 to exercise its powers under section 56 of the Mobile Homes (Wales) Act 2013 (power of authorities to provide sites for mobile homes) so far as may be necessary to meet the identified need. The Council's progress towards meeting the identified needs is monitored by the Welsh Government.

With regards to the current proposal, the GTAA has identified a need for the Council to provide five pitches within Machynlleth to accommodate an existing, and therefore immediate, identified need. In line with our duties outlined above, there is considered to be a justified need for the development.

### Character and Appearance

The scheme proposes the erection of three amenity blocks to be clad in engineered softwood with UPVC fenestration and a Decra (stone coated steel) tile roof. Two of the units are rectangular in shape measuring approximately 4.4 metres in width by 9 metres in length. One of the units will be semi-detached and will therefore measure 9 metres in length by 8.5 metres in width. The single units have a ridge height of 4 metres whereas the double unit will be slightly higher at 5 metres to ridge. The access roads will be surfaced with bituminous material while the hard standing areas within the plot boundaries will be concrete with a brushed finish.

The site is located adjacent to the trunk road on approach to the settlement of Machynlleth. The site is screened to some extent by broad leaved plantation woodland along the southern boundary of the site which is hoped can be retained within the project, although full details of this have not been provided within the application. It is suggested a tree and hedgerow protection plan be submitted to and agreed with the planning authority and this requirement can be a condition of consent if members are minded to approve the scheme.

Although the site does adjoin the development boundary of Machynlleth, the site will be seen as an isolated form of development when viewed from the main public vantage point of the trunk road. However, it is considered that the impact is mitigated by the small scale, low profile nature of the development and the fact that the site is set below the highway. Therefore subject to the retention of existing vegetation or the provision of additional screening, it is not considered that the proposed development would have an unacceptable visual or landscape impact.

### Sustainability

Policy HP20 of the UDP requires sites to be well related to existing community, social, educational and other facilities.

The site is located adjacent to the development boundary of Machynlleth and will be linked via a footpath. Machynlleth is an area centre with a range of facilities as well as social and education services being available within the town. Furthermore, it has good road and rail connections with the rest of Mid Wales, the West Midlands and the North West and a range of employment opportunities.

Bearing the above in mind, the site is considered to be sustainable and accords with the provisions of UDP policy HP20 in this respect.

### Flood risk

Unitary Development Plan policy SP14 (Development in Flood Risk Areas) reinforces national guidance on flood risk which is set out in Technical Advice Note 15 (Development and Flood Risk and which states that highly vulnerable development will not be permitted in Zone C2. No other development should be permitted in areas of high risk of flooding unless the development is of strategic importance; the consequences of flooding are acceptable and the development would not give rise to any unacceptable flooding impacts elsewhere.

The planning application has been accompanied by a flood consequence assessment which has undergone consultation with NRW. The conclusions reached indicate that the site is

currently shown to be within Zone C2 as indicated by the development advice maps in TAN15. However, a flood map challenge has also been submitted for the same site which it is anticipated will be reflected in April's update to the DAM.

The FCA and modelling data produced indicates that in a 1 in 100 year flooding event, a maximum flood depth of 100mm would be expected in the northern part of the site and could reach 300mm in a 1 in 1000 year event.

In light of the above, the site in its current condition cannot comply with the requirements of section A1.14 of TAN15 and is a departure from policy SP14 of the Powys Unitary Development Plan. However, the submitted flood consequence assessment does suggest mitigation which should ensure that the development will be flood free in the 1 in 1000 year event with the installation of a culvert to convey the flow of Nant yr Arian across the site and the increasing of land levels in the north eastern part of the site.

It should be noted that culverting of an Ordinary Watercourse such as Nant yr Arian will require consent from the Lead Local Flood Authority (Powys County Council) but is not generally encouraged except to provide access.

With regards to the raising of land levels, the FCA has demonstrated that the increase of land to a minimum level of 18.1m AOD will allow the site to be flood free and not lead to increased flood risk elsewhere. However, in the final response from NRW, a suggestion to give an extra 300mm freeboard allowance is made giving a land level of 18.4m AOD. The suggestion is considered reasonable and should be attached to any permission granted.

Whilst it is acknowledged that part of the site is within zone C2 and the scheme relates to a highly vulnerable use making the development a departure from the development plan, it is considered that, providing the mitigation measures proposed are implemented, that the site will be flood free in a 1 in 1000 year event and the mitigation measures proposed will not lead to an increased risk of flooding elsewhere. It is therefore considered that the development can be made acceptable and will not pose an unacceptable flood risk despite its current location within the C2 zone.

#### Highway safety

The proposed development will be accessed via a relocated access onto the A489 trunk road. The Highway Authority in this instance is the Welsh Government who has confirmed that the proposed scheme does not comply with the Design Manual for Roads and Bridges and therefore has directed the Local Planning Authority to withhold permission while the applicant submits a departure from standard requirements. The request has been made and is under consideration. No further correspondence has been received from Welsh Government.

In the circumstances, Development Management requests that, if members are minded to approve the scheme, that delegation be given to the Lead Professional for Development Management to issue an approval, subject to any further conditions suggested by Welsh Government, if the direction to withhold permission is withdrawn.

#### Common land

The proposed development is located on registered common land. The applicant will need to obtain consent for deregistration of the area of common land affected, before any development work is carried out, and an area of 'exchange land' will need to be provided to be registered as common land in replacement.

Applications for deregistration and exchange of common land can be made under section 16 of the Commons Act 2006. These applications are not made to, or determined by Powys County Council. Instead, an application must be made to the Welsh Government, via the Planning Inspectorate.

As the matter of common deregistration is a separate consenting regime from the planning system. The applicant is aware of their requirements in respect of the common land.

### 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 has been accompanied by an extended phase 1 habitat survey which concludes that the site is of moderate to low ecological value with the species rich hedgerow on the eastern and northern boundary as well as areas of broadleaved woodland surrounding the site providing the most valuable habitat being identified as having the potential for connectivity to wider landscapes and good foraging/commuting habitat for species.

The application has been subject to consultation with NRW and an external ecological consultant to provide advice on the ecological aspects of the development. Both have responded to the consultation and have concluded that the development is acceptable subject to the recommendations in the report being adhered to and planning conditions will control these matters.

In light of the above, the scheme is compliant with the objectives of local and national policy with regards to ecology.

### Surface and foul water disposal

The application details that the site will be served by a package treatment plant which will discharge into a watercourse in respect of the disposal of foul waters and that surface water will be dealt with by soakaways within the site.

It has been confirmed by Dwr Cymru that connection to the mains system for the disposal of foul waters is not feasible which is the preferred option for sewage disposal in accordance with UDP policy DC10. Therefore the use of a treatment plant is considered to be acceptable under UDP policy DC11. Permits for treatment plants are controlled and issued by Natural Resources Wales who have not objected the scheme but have offered general guidance to the applicant.

With regards to surface water drainage, the application indicates that this will be managed through the use of soakaways although no additional information has been provided. It is considered prudent therefore, that a condition to secure the agreement of details is attached in accordance with any permission granted.

### Contaminated Land

The Contaminated Land Officer has noted that an area of unknown filled ground, associated with a historic gravel pit, is located 20metres to the South of the application site boundary. This area of unknown filled ground could be a potential risk to the proposed development depending on the type and nature of the materials that have been placed. It is suggested therefore that a condition be attached to any permission granted to cover this matter.

Subject to this being undertaken, the development is considered to be acceptable and accords with planning policy DC15 of the Powys Unitary Development Plan.

### Other legislative requirements

#### Crime and Disorder Act 1998

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

#### Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

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

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

## Wellbeing of Future Generations (Wales) Act 2015

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

## RECOMMENDATION

Having carefully considered the development, Officers conclude that the principle of development accords with the provision of local and national planning policy and that there are no other material considerations that would warrant the refusal of this planning application. Therefore, subject to the use of the conditions set out below and the withdrawal of the direction from Welsh Government with regards to highway safety, it is recommended that the development be granted consent.

## Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans and documents stamped as approved (2550 L\_001, PL\_001A, PL\_002A, PL\_003B and PL\_004B).
3. The occupation of the site shall only be by Gypsies and Travellers as defined by paragraph 3 of Circular 30/2007 and their resident dependents.
4. There shall be no more than five pitches on the site hereby approved with no more than ten caravans being stationed at any time, of which only five shall be static caravans.
5. Prior to the occupation of the site for the development proposed, the site must be raised to a minimum level of 18.4m AOD and remain as such over the lifetime of the development.
6. No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before any pitches are occupied.
7. The reptile reasonable avoidance measures detailed in Appendix 1 of the Extended Phase 1 Habitat Survey Produced for Powys County Council by Rachel Probert (PCC) dated 16/01/17 shall be adhered to and implemented in full.
8. The recommendations regarding nocturnal wildlife, breeding birds, reptiles, hedgerows, woodland and watercourse identified in Section 10 of the Extended Phase 1 Habitat Survey Produced for Powys County Council by Rachel Probert (PCC) dated 16/01/17 shall be adhered to and implemented in full.

9. Prior to commencement of development, a Biodiversity Enhancement Plan (see Section 10.8 of the Ecology Report, 16/01/17) shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter. The scheme shall include a Species List for the Landscape Planting.
10. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
11. Prior to commencement of development, a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
12. 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, implemented as approved and maintained thereafter.
13. In the event that contamination is encountered at any time when undertaking the approved development immediate contact must be made with the Local Planning Authority. The development must not proceed until an investigation and risk assessment has been undertaken, by a qualified and experienced environmental consultant, and where remediation is necessary a Remediation Strategy must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of the remedial works identified in the approved Remediation Strategy a Verification Report that demonstrates compliance with the agreed remediation objectives must be produced by a qualified and experienced environmental consultant, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development.

## **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
- 3 & 4. To define the extent of the permission hereby granted in accordance with policy HP20 of the Powys Unitary Development Plan (2010).
5. To ensure that the site remains flood free and does not pose a risk of flooding in accordance with Technical Advice Note 15 (2004).
6. To ensure that the proposed development does not compromise the function of the existing surface water drainage systems and that any proposed alterations are fully compliant with regulations and are of robust design in accordance with policy DC13 of the Powys Unitary Development Plan.
- 7 to 12. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3, ENV6 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.
13. 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 (2010).

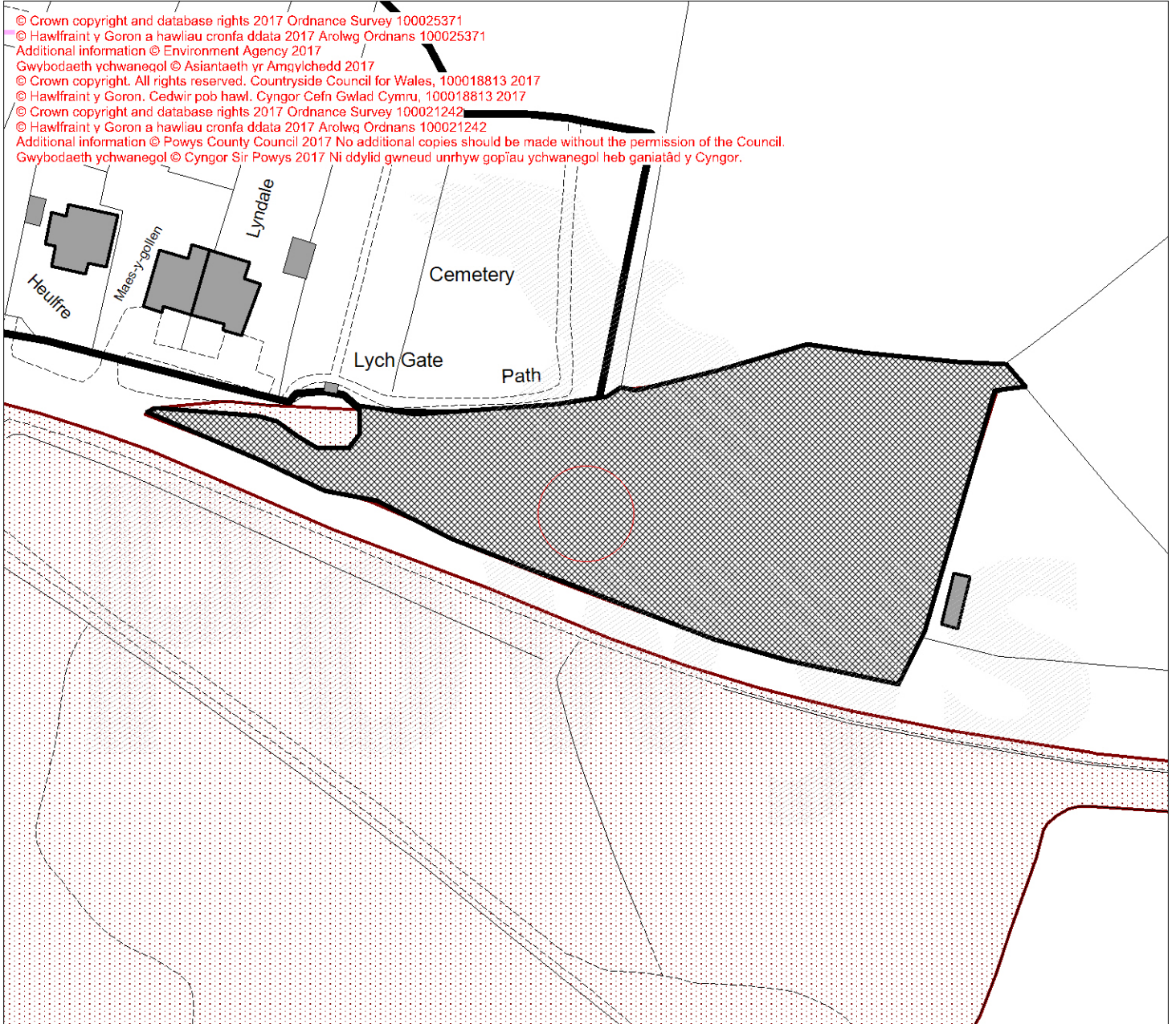
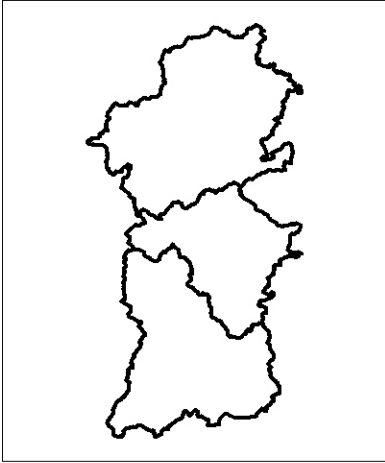
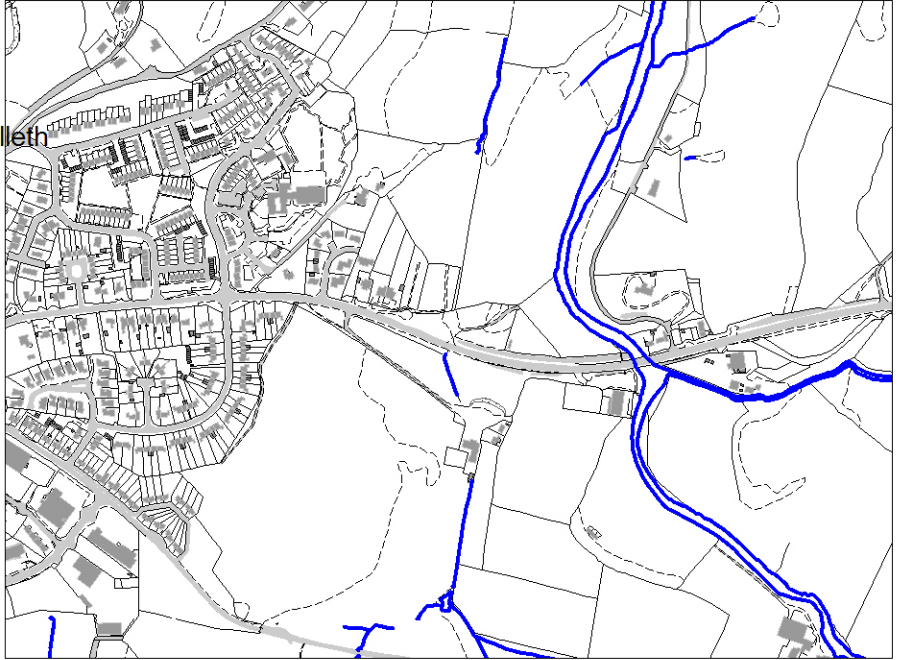
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Susan Bolter  
Pennaeth Adfywio, Eiddo a Chomisiynu/  
Head of Regeneration Property & Commissioning  
**Adfywio, Eiddo a Chomisiynu/  
Regeneration, Property and Commissioning**

Applicant: Powys County Council

Location: Land adjoining cemetery, Machynlleth



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