

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

<b>Application No:</b>	M/2003/0613	<b>Grid Ref:</b>	310467.85 306612.46
<b>Community Council:</b>	Llanfair	<b>Valid Date:</b>	<b>Officer:</b> 04/06/2003 Steve Packer
<b>Applicant:</b>	M D Broxton & Co Castle Works, Hendomen, Montgomery, Powys		
<b>Location:</b>	Former Morgan Bros depot, Bridge Street, Llanfair Caereinion, Welshpool, Powys, SY210SA		
<b>Proposal:</b>	Erection of 10 dwellings, conversion of existing building into 2 self contained residential units, erection of a building to form 10 self contained residential units, construction of vehicular access and car parking		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

At a meeting of the then Montgomeryshire Planning Committee of 5<sup>th</sup> November 2004, which followed a decision to approve the proposal for housing development at Morgan's Yard by the same Committee on the 7<sup>th</sup> November 2003, it was resolved to take the matter forward subject to a Section 106 Agreement primarily relating to a contribution to leisure facilities and the provision of affordable housing. The signing of this agreement was then held in abeyance for reasons explained in the background section below. Given that this application has a Committee resolution, it is considered necessary for the application to be determined by the Planning, Taxi Licencing and Rights of Way Committee.

### Background to the application

In spite of a previous Committee's resolution to approve, the application remains undetermined 14 years after it was received for a number of reasons.

Following the resolution on the 5<sup>th</sup> November 2004 (which did not follow a site inspection panel's suggestion that the numbers of units be reduced, but was approved as submitted) the applicant questioned the necessity for making a contribution of £10,000 towards the leisure facilities in the Community given that two public amenity areas were shown within the proposed development. This was resolved when, in April 2005, the applicant agreed that this sum should be included in the Section 106 agreement.

Another complicating factor was the coming into force of TAN 15: Development and Flood Risk in 2004 and the inclusion of the site in the C2 zone, where vulnerable developments should not be allowed unless a Flood Consequences Assessment demonstrates that significant flooding will not occur.

To complicate matters even further it came to the attention of the Local Authority that the developer, frustrated by delays in resolving the outstanding issues, had commenced work on site sometime in 2004 comprising the laying of some of the foundations and floor pads. This resulted in correspondence from the Shire Development Control Manager and the then Head of Planning Services which advised ceasing work on the site. Initially the applicant was then given the option of either submitting outstanding information, including a Flood Consequences Assessment, or withdrawing the application and resubmitting it. Work did cease and has not continued since.

A Flood Consequences Assessment was eventually submitted in January 2008 but, by that time, Officer opinion had changed to a view that, because works had commenced, and in spite of the Committee resolutions to approve, the submission could not be progressed and would need to be withdrawn and resubmitted.

The view that it was not possible to proceed with the undetermined application was based on the argument that, given that the application is made for prospective works, the fact that the development had commenced meant that the legal premise on which the application was made had fundamentally changed. However, examination of case law (and the precedent set in a similar case within the Council's area which was fully considered by Counsel for the Authority), has now led to the approach, initially adopted by officers being reverted to. In other words the submission of a Flood Consequences Assessment would allow the consideration of the application to proceed. The conclusion is, therefore, that, in spite of the length of time that has elapsed, it is legitimate to take the application forward in its current form.

It was on this basis that the application was re-advertised and re-consulted on in 2015 and further re-consulted on in 2017. This was following the receipt of further information provided at the request of National Resources Wales, namely an updated Flood Consequences Assessment and an Ecological Survey of the site which, over the years, may have acquired biodiversity interest.

### **Site Location and Description**

The application site is on the town centre side of the River Banwy, the banks of which form the north-eastern boundary. The site is 0.5 hectares in area and is relatively flat throughout its length, having been used previously as a builder's depot and yard. The south-eastern boundary is defined by a steep bank, above which sit residential properties, the police station and the town's health centre. Access is onto Bridge Street at the south-eastern end of the bridge which carries the B4389 from the A458 highway.

The site is on the edge of the town Conservation Area, which includes the bridge itself, and the frontage is shown as being within its retail core area (this presumably because there used to be a showroom building and ironmongers on Bridge Street that no longer exist).

The river bank is currently occupied by a dense band of shrubs (including Japanese knotweed in places) and a number of mature trees which substantially screen the site from the bridge and the other side of the river. The site itself is overgrown although floor pads which were installed before works ceased can be found amongst the brambles and other invasive plants.

The application included the change of use of one of the original buildings at the entrance end of the site and this conversion has taken place.

## **The Scheme**

The proposal, as submitted in 2003, is for a mixture of dwelling types with 22 units in all (including the two units referred to above) of contemporary design and utilising brick and render as facing materials under slate roofs.

The scheme consists of 4 two storey dwellings, 5 three storey 'town houses' and a four storey flat block consisting of 3 one bed flats, 6 two bed flats and a 'penthouse' apartment, including a lift.

The dwellings are served by a new access off which parking areas are proposed to the front and side of the units and including car ports in the townhouse element. The road is shown running close to the bank on the south-eastern boundary with a gabion and retaining wall along its length to stop any materials from the bank getting onto the road.

The scheme includes the provision of six affordable units and a potential footpath link to the playground and housing development at Glan Yr Afon.

Landscaping proposals include areas of new shrub planting and the retention of the mature existing trees at the river bank boundary.

A contribution of £10,000 towards play facilities in the town has now been agreed

## **Consultee Responses**

### Llanfair Caereinion CC

No comment in response to reconsultation.

### SevernTrent Water

I confirm that Severn Trent Water Limited has NO OBJECTION to the proposal subject to the inclusion of the following conditions.

#### Condition 1

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### Reason

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

### NRW

## First response

Thank you for consulting Natural Resources Wales about the above, which was received on 08/07/2015.

*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.*

Discussions with the Planning Officer (Mr Steven Packer) has confirmed that this application has been registered since 2003 and that part of the works has progressed without the benefit of planning consent.

The planning application proposes development which lies within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Prior to us providing further advice on the proposal we recommend that the FCA and hydraulic model require updating. It is also recommended that an ecological report is submitted in support of the application in order to ensure that the proposal will not be detrimental to the maintenance of the Favourable Conservation Status (FCS) of species that are protected.

As you are aware the proposed development involves highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) fluvial flood outline of the River Banwy. The TAN guidance is that such development should not be permitted within zone C2. Natural Resources Wales therefore expects your Authority to refuse the application.

You will be aware that the Welsh Government's letter of the 9<sup>th</sup> January 2014 stresses the need for local authorities to apply the justification test (set out in Section 6.2 of TAN15) and also states "highly vulnerable development (e.g. housing) should not be permitted in Zone C2". We would also remind your Authority of Welsh Government's Circular 07/12 for referral of 10 or more dwellings within zone C2. Should your authority be minded to approve the development, we would expect that the application be submitted to Welsh Government for determination, in accordance with the Circular.

Notwithstanding the above, the documentation submitted with the application includes a Flood Consequence Assessment (FCA), (January 2008, Waterco Ltd ref: w590-T5-080104-FCA Morgans)

Whilst our previous comments in relation to this document noted that we were generally satisfied with the model, as the study is now 7 years old, it will require updating prior to us presenting further informed advice on the proposed development. The hydrology will require to be updated and the model re-run with the new flows.

The applicant has historically been made aware that the FCA is not sufficient to inform a flood map change (the site would remain in Zone C2) and that they should be satisfied that insurance related issues were addressed. This advice remains valid.

In early stages of discussion, we raised the issue of bank stability and the need for the

developer to be satisfied that the development would be safe over its lifetime and that bank protection would not necessarily be needed to safeguard the dwellings. This advice is consistent with PPW and is also another insurance related issue that the applicant would need to address. A development that requires bank stabilisation in order to facilitate it, is not considered sustainable.

The applicant should be advised to submit an updated FCA and flood model to determine flood risk to developed site and future occupants for current day and for the lifetime of the development (100yrs). Although we would be prepared to review the updated documentation there is no guarantee that the submissions would comply with TAN15 guidance. This would however, provide the opportunity for the developers to incorporate flood mitigation and prevention measures, to ensure there is betterment to the existing permission in terms of betterment with respect to protection from flooding.

Your Authority should also be aware that The Banwy and associated tributaries have been subject to flood defence and operational schemes by the Local Authority in recent years. As operating authority we therefore recommend that you re-consult with your internal drainage team with regards to any schemes or flooding problems that could affect the development.

### Protected Species

Aerial images show that the application site has been left unmaintained and is now overgrown. The development site is also close to the River Banwy.

There would be a need to demonstrate as part of any formal planning application for the proposed development that the proposal would not be detrimental to the maintenance of the Favourable Conservation Status (FCS) of species that are protected.

We therefore request that an ecological survey is submitted in support of the application and appropriate mitigation identified where required.

Should any mature trees require felling to accommodate the development, these trees should be checked for features that may be used by bats (i.e. cavities, cracks, holes & ivy cover). Where impacts on bats are considered likely, then those trees should be subject to emergence surveys at an appropriate time of year. Should bats be found to be using the trees as roosting sites then we would expect you to propose and deliver appropriate mitigation and/or compensation schemes, along with Reasonable Avoidance Measures, to ensure the favourable conservation status of the species is maintained.

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.

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

Please note that we have not considered possible effects on all local or regional interests, including those relating to the upkeep, management and creation of habitat for wild birds. Therefore, you should not rule out the possibility of adverse effects on such interests, which would be relevant to your Authority's general duty to have regard to conserving biodiversity,

as set out in section 40 of the Natural Environment and Rural Communities (NERC) Act (2006). This advice includes any consideration of the planned provision of “linear” and “stepping stone” habitats as defined in Article 10 of the Habitats Directive.

To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or third sector nature conservation organisations such as the local wildlife trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species ([www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk)).

We trust that the above clarifies our position with regards to progressing this application to determination.

## Second Response

The planning application proposes development which lies within Zone C2 of the Development Advice Map (DAM) contained in TAN15. As advised prior to us providing further advice on the proposal we recommend that the FCA and hydraulic model require updating. It is also recommended that an ecological report is submitted in support of the application in order to ensure that the proposal will not be detrimental to the maintenance of the Favourable Conservation Status (FCS) of species that are protected.

Further to our previous response dated 13<sup>th</sup> April 2016, we confirm receipt following our request, an updated FCA and Hydraulic Model (*Hydraulic Modelling Report – Waterco - October 2016 and Flood Consequences Assessment – Waterco – November 2016*). We also confirm that following our initial review of both assessments, we received a response directly from Waterco to our queries, contained in a spreadsheet titled ‘Response to NRW Technical Review of submitted Hydraulic Model’.

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.

*Requirement 1 – An Ecology Survey to be provided to demonstrate that the development will not have a detrimental impact on the favourable conservation status of protected species*

Should the above requirement be met, we would also request that any planning permission given for the development includes suitably worded planning conditions to ensure full implementation of the recommendations set out in the Flood Consequences Assessment prepared by Waterco dated November 2016.

*Condition 1 - The development/construction platform should be raised/levelled to 117.25mAOD and finished floor levels set at 117.55mAOD. This is to mitigate against possible flooding resulting from extreme blockage scenario within the River Banwy tributaries.*

*Condition 2 – The level of the highway and flat parking area should be set below surrounding ground levels. This is to maintain a flood flow route through the site if required during an extreme event.*

### Protected Species

We advise that there is a need to demonstrate as part of the application determination process that the proposal would not be detrimental to the maintenance of the Favourable Conservation Status (FCS) of species that are protected.

The two photographs of the application site (taken in November 2016 and January 2016) provided to us by your Authority on the 14<sup>th</sup> December 2016 shows that the site, although development has commenced on site a few years ago without the benefit of planning permission, has re-grown. We consider that the site therefore has the potential to provide suitable habitat for a number of species, including species that are protected. As the site is also located close to the River Banwy the site could be used by otters and water voles.

We therefore request that an ecological survey is submitted in support of the application and appropriate mitigation identified where required. This information should be provided prior to the determination of the planning application. Without this information we are not able to confirm that proposal will not have a detrimental effect on the maintenance of the Favourable Conservation Status (FCS) of species that are protected.

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.

### Flood Risk

As you are aware, the application proposes highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15.

Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) fluvial flood outline of the River Banwy. The TAN guidance is that such development should not be permitted within zone C2.

You will be aware that the Welsh Government's letter of the 9<sup>th</sup> January 2014 stresses the need for local authorities to apply the justification test (set out in Section 6.2 of TAN15) and also states "highly vulnerable development (e.g. housing) should not be permitted in Zone C2".

### Hydraulic Model

Our comments following review of the '*Hydraulic Modelling Report – Waterco - October 2016*' were included in a document attached to an email sent to both yourself and Waterco on the 01<sup>st</sup> December 2016. In that document we confirmed that further work was required to the model. A response to our email dated 01<sup>st</sup> December was received directly from

Waterco in their email 08<sup>th</sup> December 2016 which included a spreadsheet titled 'Response to NRW Technical Review of submitted Hydraulic Model'.

Following clarification on a number of matters, we confirm that we are satisfied with the model in support of the FCA only, given that the 100% blockage of the tributaries shows minimal flooding on the site. This approach is very precautionary and, in this instance, is considered to outweigh the errors associated with the current model build as highlighted in our email on the 1<sup>st</sup> December 2016.

We understand from conversations between ourselves that your Authority, consider that, given the previous planning history of this site, you are satisfied to determine this planning application without the need for the applicant to undertake a flood map challenge. You have also confirmed that the applicants have been made aware that future residents of the dwellings on site could have problems obtaining home insurance as the site will be still shown to be at flood risk on NRW flood maps and will remain within Zone C2 of the development advice maps associated with TAN15.

The applicant should be made aware that should it be intended to use the Hydraulic Model submission to inform a flood map challenge we would refuse the model until all of the comments included in our email of the 1<sup>st</sup> December 2016 are addressed. This would include a requirement to undertake further modelling works as detailed in our correspondence.

#### Flood Consequence Assessment

Based on the comments above on the 'Hydraulic Model' carried out in support of the planning application, we are able to endorse the recommendations included in the *Flood Consequences Assessment – Waterco – November 2016*. Any planning consent given for the development should include appropriately worded conditions requiring all recommendations set out in the FCA prepared by Waterco dated November 2016 to be implemented in full.

*Condition 1 - The development/construction platform should be raised/levelled to 117.25mAOD and finished floor levels set at 117.55mAOD. This is to mitigate against possible flooding resulting from extreme blockage scenario within the River Banwy tributaries.*

*Condition 2 – The level of the highway and flat parking area should be set below surrounding ground levels. This is to maintain a flood flow route through the site if required during an extreme event.*

#### *Advisory comments – Powys role as Lead Local Flood Authority*

We have previously advised at the early stages of our discussions that as Lead Local Flood Authority that you should consult with your internal engineers with regards to any potential impact of the development on the River Banwy, an ordinary watercourse.

The Banwy and associated tributaries have been subject to flood defence and operational schemes in recent years.



We emphasise that NRW's flood risk remit has focussed on predicted flood risk to the site and not on the integrity of the River Banwy river bank.

In particular bank stability should be considered and there is a need for your Authority to be satisfied that the development would be safe over its lifetime and that bank protection would not necessarily be needed to safeguard the dwellings. This advice is consistent with Planning Policy Wales and is also another insurance related issue that the applicant/future site owners need to be aware of. A development that requires bank stabilisation in order to facilitate it is not considered a sustainable form of development.

We would recommend that your Authority as part of the application determination process gives consideration to the need to approve the surface water drainage detailed design and the agreement of the proposed alternative access route to the east.

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

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

### Third Response

Further to our previous response dated 03<sup>rd</sup> January 2017, we confirm receipt following our request, of an Ecological Assessment prepared by Churtin Ecology assisting Sloan Ecology dated 3<sup>rd</sup> February 2017.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if you attach the conditions listed below. We would object if the consent does not include these conditions.

*Condition 1 – A lighting scheme should be approved by the LPA prior to commencement of development*

As previously requested we request that any planning permission given for the development includes the imposition of suitably worded planning conditions to ensure full implementation of the recommendations set out in the Flood Consequences Assessment prepared by Waterco dated

November 2016.

*Condition 2 - The development/construction platform should be raised/levelled to 117.25mAOD and finished floor levels set at 117.55mAOD. This is to mitigate against possible flooding resulting from extreme blockage scenario within the River Banwy tributaries.*

*Condition 3 – The level of the highway and flat parking area should be set below surrounding ground levels. This is to maintain a flood flow route through the site if required during an extreme event.*

## Protected Species

We have reviewed the Ecological Assessment prepared by Churtin Ecology assisting Sloan Ecology dated 3<sup>rd</sup> February 2017 as consider that it is satisfactory for the purposes of informing the planning decision making process.

We note that the survey confirm that the river bank will benefit from the removal of Japanese Knotweed. We concur with the recommendations in respect of this species and note the recommendation to approve the method and programme for removal with the LPA prior to commencement of works.

As recommended in the report, no night time work should take place. All lighting required during operational phase should avoid the near river bank or generally minimised to ensure no impact on bats or otters using the river corridor and its surrounding habitat. We recommend that a lighting scheme is approved prior to commencement of development and secured through the imposition of a suitably worded planning consent.

*Condition 1 – A lighting scheme should be approved by the LPA prior to commencement of development*

As confirmed in the report, if any work is proposed to the mature trees on site they will need to be checked for features that may be used by bats (i.e. cavities, cracks, holes & ivy cover). Where impacts on bats are considered likely, then those trees should be subject to emergence surveys at an appropriate time of year. Should bats be found to be using the trees as roosting sites then we would expect you to propose and deliver appropriate mitigation and/or compensation schemes, along with Reasonable Avoidance Measures, to ensure the favourable conservation status of the species is maintained. NRW would wish to be re-consulted if further information is available.

Subject to the above advice being taken into consideration we are satisfied as confirmed in the report that the development will not be detrimental to the maintenance of the Favourable Conservation Status (FCS) of species that are protected.

## Flood Risk

As you are aware, the application proposes highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15.

Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) fluvial flood outline of the River Banwy. The TAN guidance is that such development should not be permitted within zone C2.

You will be aware that the Welsh Government's letter of the 9<sup>th</sup> January 2014 stresses the need for local authorities to apply the justification test (set out in Section 6.2 of TAN15) and

also states “highly vulnerable development (e.g. housing) should not be permitted in Zone C2”.

## Hydraulic Model

Our comments following review of the ‘*Hydraulic Modelling Report – Waterco - October 2016*’ were included in a document attached to an email sent to both yourself and Waterco on the 01<sup>st</sup> December 2016. In that document we confirmed that further work was required to the model. A response to our email dated 01<sup>st</sup> December was received directly from Waterco in their email 08<sup>th</sup> December 2016 which included a spreadsheet titled ‘Response to NRW Technical Review of submitted Hydraulic Model’.

Following clarification on a number of matters, we confirm that we are satisfied with the model in support of the FCA only, given that the 100% blockage of the tributaries shows minimal flooding on the site. This approach is very precautionary and in this instance is considered to outweigh the errors associated with the current model build as highlighted in our email on the 1<sup>st</sup> December 2016.

We understand from conversations between ourselves that your Authority, consider that given the previous planning history of this site, you are satisfied to determine this planning application without the need for the applicant to undertake a flood map challenge. You have also confirmed that the applicants have been made aware that future residents of the dwellings on site could have problems obtaining home insurance as the site will be still shown to be at flood risk on NRW flood maps and will remain within Zone C2 of the development advice maps associated with TAN15.

The applicant should be made aware that should it be intended to use the Hydraulic Model submission to inform a flood map challenge we would refuse the model until all of the comments included in our email of the 1<sup>st</sup> December 2016 are addressed. This would include a requirement to undertake further modelling works as detailed in our correspondence.

- Flood Consequence Assessment

Based on the comments above on the ‘Hydraulic Model’ carried out in support of the planning application, we are able to endorse the recommendations included in the *Flood Consequences Assessment – Waterco – November 2016*. Any planning consent given for the development should include appropriately worded conditions requiring all recommendations set out in the FCA prepared by Waterco dated November 2016 to be implemented in full.

*Condition 2 - The development/construction platform should be raised/levelled to 117.25mAOD and finished floor levels set at 117.55mAOD. This is to mitigate against possible flooding resulting from extreme blockage scenario within the River Banwy tributaries.*

*Condition 3 – The level of the highway and flat parking area should be set below surrounding ground levels. This is to maintain a flood flow route through the site if required during an extreme event.*

- *Advisory comments – Powys role as Leal Local Flood Authority*

We have previously advised at the early stages of our discussions that as Lead Local Flood Authority that you should you consult with your internal engineers with regards to any potential impact of the development on the River Banwy, an ordinary watercourse.

The Banwy and associated tributaries have been subject to flood defence and operational schemes in recent years.

We emphasise that NRW's flood risk remit has focussed on predicted flood risk to the site and not on the integrity of the River Banwy river bank.

In particular bank stability should be considered and there is a need for your Authority to be satisfied that the development would be safe over its lifetime and that bank protection would not necessarily be needed to safeguard the dwellings. This advice is consistent with Planning Policy Wales and is also another insurance related issue that the applicant/future site owners need to be aware of. A development that requires bank stabilisation in order to facilitate it is not considered a sustainable form of development.

We would recommend that your Authority as part of the application determination process gives consideration to the need to approve the surface water drainage detailed design and the agreement of the proposed alternative access route to the east.

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

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

### SevernTrent Water

I confirm that Severn Trent Water Limited has NO OBJECTION to the proposal subject to the inclusion of the following conditions.

#### Condition 1

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### Reason

To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

## Powys Highways

No further comment at time of writing report.

## Powys Land Drainage

### Land Drainage/Local Flood Risk

The response from the LLFA to the LPA on proximity of build alongside a watercourse is for 'No buildings, structures, fences or tree planting shall take place within 5 metres of the top of the bank of any watercourse.'

### Surface Water Drainage

Comments: The FCA is noted. Proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 – *Development and Flood Risk* and good practice drainage design.

The use of soakaways should be investigated in the first instance for surface water disposal. Porosity tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance for climate change.

Full details, calculations and location of the porosity tests and the proposed soakaways should be submitted and approved in writing by the LPA. If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a Greenfield run-off rate. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year plus an allowance for climate change and will not cause flooding of any property either within the proposed development or any other in the vicinity. There must be no discharge to a surface water body that results from the first 5mm of any rainfall event. Although rainwater harvesting for the use of washing purposes is to be encouraged, it cannot be taken into account when sizing an attenuation system as the storage facility may be full when a storm event occurs.

No surface water run-off shall flow onto the existing public highway.

### Advisory Note

The Flood and Water Management Act 2010 (Schedule 3), which has not been commenced, requires new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards. The Welsh Government has published interim national standards on an advisory basis until such time as it determines the most effective way of embedding SuDS principles in new developments in the longer term. This will enable designers, property developers, local authorities and other interested parties to both demonstrate that they have taken account of the Welsh Government's planning advice on Development and Flood Risk, Nature Conservation and Planning and to test the standards. These interim non statutory national standards and guidance can be downloaded from The Welsh Government's website at

<http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>.

They set out the hierarchy standard and minimum design criteria on the design, construction, operation and maintenance of SuDS serving new developments in urban or rural areas. They also contain links to additional supporting information relating to SuDS.

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

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

#### Environment Protection

Informative: Foul drainage from the proposed development should be conveyed to the main foul sewer, subject to the agreement by Severn Trent Water Ltd. There must be adequate capacity at the receiving sewage treatment works to treat the additional flows.

#### Cllr Viola Evans

The Local member has expressed continuing concern over the lack of resolution of the situation and the unkempt nature of the site.

#### **Representations**

Five letters of concern/objection were received when the application was re-advertised and re-consulted on in 2015. These can be summarised as follows:

- There is no indication as to whom these properties are intended for i.e. social housing, private sale or private renting.
- The present entrance gap to this development is only 12 to 13ft only just enough for vehicles coming and going two at a time.
- Presently there is congestion around this point allowing for traffic coming down towards the bridge. If the entrance is marked "keep this entrance clear" then the traffic will tail back over the bridge causing more congestion especially when heavy lorries, tractors and school buses go up and down the street, something which is very common practice.
- As this development backs onto my land and property I am not prepared to allow any access or disruption to my garden or removal of existing trees which presently obliterate the view of the unsightly building site which has been in that state for many years since Morgan's closed.
- We are concerned regarding the removal of trees as already trees were removed from the river bank by the developer which the council did in fact observe after their removal.
- We do not object to the development in principle as something needs to be done with the site as it has been a mess for too long but it seems that the council allows properties to be half finished and stay like that in other areas of Llanfair as well notably by the walk to the wooden bridge to the railway.
- All new buildings should have the same roof line as existing building.
- Japanese knot weed on site.

- Construction will be carried out in a residential area, works should have restricted hours of work e.g.no Sunday working and weekly hours between 8.00am and 6.00pm.
- The Plot has an infestation of Japanese Knot weed over 100 metres long.established for several years. Powys county council,Llanfair Caereinion town council and Severn Trent have been informed about this on more than one occasion over several years by myself. It is sad that the only response has been from Llanfair Caereinion town council who are only empowered to pass the information on to Powys county council and Severn Trent
- Will this new development mean affordable housing for local people?
- The site has been left undeveloped for many years as the former developer would not deal with the subsidence issue. As a result of this the wildlife on the site has been allowed to develop. Will the wildlife be considered and new homes be provided if necessary.
- With ref to the above planning application we the residents of Gwenallt, Parsons Bank, Llanfair Caereinion would like you to consider the following objections we have against granting permission for this application.
- We think that the height of the 3 storey residential unit is too high and will overlook our property. Another major concern for us is the narrow vehicle access into the site. This is a very busy section of road by the bridge and it regularly bottlenecks. We think that the effect of a least another 10/12 cars trying to gain access in and out will only make this problem worse. The footpath that runs across this entrance is also very busy in the morning and afternoons with young school children walking to and from school.
- Another twelve properties will also have an impact on noise pollution from cars and the properties themselves. The noise and disruption during building works would seriously impact on our day to day life, using our garden with our young children, walking to and from school.
- What would the impact on the bridge be from these building works? What would the impact be to Bridge street when connecting these properties to mains water, sewage, electricity?
- Could there also be a problem with flooding on the site from the river as it can get very high in winter months.
- If planning permission is granted we would like you to consider the noise pollution of the building site, and would like to ask that work is only permitted to be carried out Monday to Friday between the hours of 9-5. Can you please also consider the impact of building vehicles trying to gain access into this area, we think this would also need looking into as the road gets very busy between 8 and 9 am and again at 3 and 4 pm and once again between 4.30 to 6 pm.

### **Planning History**

M25860 - Erection of a storage building and formation of vehicular access - Granted 9/2/1996

M25861 - Conservation Area Consent for partial demolition of building on frontage Granted 8/2/1996

M1996 0198 - Residential development (outline) - Granted 9/7/1996

All three permissions have now lapsed.

M2003 0584 - CAC for partial demolition

### **Principal Planning Constraints**

- Conservation Area
- C2 Flood Zone

### **Principal Planning Policies**

#### National planning policy

Planning Policy Wales (2016)

TAN 1: Joint Housing Land Availability Studies (2015)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 12: Design (2016)

TAN 15: Development and Flood Risk (2004).

TAN23: Economic Development

Welsh Government Circular 016/2014 – The Use of Conditions

#### Local planning policies

UDP GP1 - Development Control

UDP GP4 – Highway Access and Parking Requirements

UDP HP3 – Housing Land Availability

UDP HP4 - Settlement Development Boundaries and Capacities

UDP HP7 – Affordable Housing within Settlements

UDP HP10 – Affordability Criteria

UDP DC3 – External Lighting

UDP DC10-Mains Sewage Treatment

UDP DC13 – Surface Water Drainage

UDP DC14 – Flood prevention measures

UDP ENV3 – Safeguarding Biodiversity and Natural Habitats

UDP ENV7 – Protected Species

UDP SP14 - Development In Flood Risk Areas

UDP SP5 - Housing Developments

UDP RP3-Town Centre Retail Development

UDP RP8-Town Centre Redevelopment Opportunities

UDP ENV11 – Development in Conservation Areas

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.

### Siting, design and impact upon character and appearance of area

Morgan's Yard has a unique topography and characteristics within the town of Llanfair Caereinion. A relatively narrow strip, it is defined by rising land to the south east and a steep riverside bank to the north-east. Visibility from the public domain is limited to views from the river bridge and the A458 whilst visual impact on existing dwellings is largely confined to properties on the opposite bank of the River Banwy and dwellings above the site accessed by way of Parsons Bank.

Now that the buildings associated with the former depot are gone, and in the absence of any other development, the impression, particularly in the summer months, is one of a natural strip of river corridor.

Previous representations from the Town Council were to the effect that the numbers of units should be reduced partly because of the tightness of internal arrangements for parking and the strain on utility services. More recent representations from the public have suggested that some of the proposed housing is too high and that there should be a common roof line. Clearly the design concepts applied to the development were arrived at some considerable time ago and no amendments are proposed by the developer to what was originally agreed to by the Planning Authority.

The scheme is of relatively high density and includes a number of components of varying heights held together by a common use of materials observable in the locality (brick, render and slate) and detailing. The design proposals are also compatible with the building at the front of the site which accounts for two of the units and which have already been converted.

The highest building (the flat block 12.5 metres to ridge) is at the end of the site and, as highlighted by an objector, roof heights alternate along the length of the project. In some locations this could be a cause for concern but the presence of the bank to the rear, which rises some 5 metres from the site and is topped with vegetation for much of its length (and is to be treated with soil saving netting and hydro-seeded) provides a significant backdrop which would serve to reduce any discordant visual impact.

Given the location of the site the impact on the adjoining Conservation Area is considered to be acceptable. The principal impact on its setting would be from the Bridge itself. Although outside the designated area the development would be visible at the entrance to the town centre.

On balance and subject to the retention of the river bank trees and additional landscaping the development has the potential to contribute to the character of the town. The fact that the front of the site (containing the retained building now in residential use) is within the town's retail core, by virtue of the fact that it once had frontage buildings with a showroom and ironmongers, is not a significant matter in this instance.

On balance, therefore, and in the light of the current policy context, the scheme remains acceptable when assessed against these material considerations. Given that the scheme is

designed as a coherent whole it would, however, be appropriate to place a condition removing permitted development rights for alterations and extensions on any approval.

#### Impact upon amenities enjoyed by occupiers of neighbouring properties and the proposed dwellings

An objection has been received from the residents of Gwenallt, Parson's Bank, which sits above the site, regarding overlooking, particularly with respect to the proposed town house element.

This concern has been assessed and, given the nature of the topography and the fact that there is a separation distance in excess of the 20 metres suggested in the residential design guide, the impacts would not be sufficient to justify a refusal on this ground.

The properties on the other side of the river are at a considerably greater distance.

With regard to internal standards of amenity and privacy it is considered that these are adequately provided for.

#### Highway access and parking

Two of the letters of concern received following re-consultation suggested that the increased use of the access onto Bridge Street could result in more congestion near and on the bridge and result in hazard to pedestrians.

The demolition of frontage buildings has resulted in improvements in visibility and width in what was a severely substandard vehicular access.

Whilst the positioning and visibility is not what would be hoped for in an ideal situation the Highway Department did not object originally and it would not be reasonable to expect the site to remain undeveloped if adequate standards of access and parking provision can be met.

The Highway Department have been requested to confirm whether or not the conditions applied previously and recommended here are still applicable given the passage of time. The original conditions are added to this report. If necessary this matter will be dealt with by way of an update.

#### Foul sewage disposal

Concerns have been expressed locally regarding foul sewage. The Statutory Undertaker has indicated that they have no objection and have recommended a condition and informative for placing on any approval.

#### Flood risk and surface water drainage

This has been a major consideration in coming to a recommendation on the application.

The application preceded the issuing of TAN 15 and the designation of flood zones and, when the original case officer presented to Committee, there was no objection from the then

Environment Agency. Later in 2014 TAN15 was issued and the site was designated as being within the high risk C2 Zone.

Subsequently, and following the cessation of unauthorised works, the applicant's agent was requested to commission a Flood Consequences Assessment (letter dated 26/03/2007) in the absence of which the application would go back to Committee with a recommendation of refusal. The applicant acceded to this request and a Flood Consequences Assessment was received by the Authority on 9<sup>th</sup> January 2008.

Re-advertisement and re-consultation on the proposal in 2015 resulted in National Resources Wales requesting that the Flood Consequences Assessment and Hydraulic Modelling be updated and this was undertaken and sent to NRW on 13/04/2016. The re-consultation also gave rise to concerns from local residents, although it is understood that there are no records of the Banwy breaking overtopping its bank at this location. On the 3<sup>rd</sup> January, 2017 the NRW responded to the effect that they were satisfied with the Flood Consequences modelling and recommended conditions.

In the absence of a Flood Map Challenge from the applicant, which would entail further detailed modelling relating to tributaries in the town and not the River Banwy itself, the site remains technically within zone C2 with the onus on the developer to make prospective purchasers aware of this. However, given the assurances provided by the FCA, and having regard to the criteria set out in Sections 5, 6, 7 and appendix 1 of TAN15, it is considered acceptable to proceed to determination, subject to the NRW conditions being placed on any approval.

The Land Drainage Sections comments are noted and can be incorporated in a planning condition/advisory note.

### Ecology

At the date of registration of the application the site was still occupied by the frontage and depot buildings associated with the Morgan Bros business. There was, therefore, little concern for ecology and biodiversity when the Planning Officer's appraisal was originally presented to Committee, although, with the benefit of hindsight, the bankside trees may have had the potential for usage by bats.

Once the rear buildings were demolished, and pre-decision works were ceased on the advice of the Planning Department, the site was left derelict and, as usually happens in such circumstances, the land was colonised by pioneer species such as brambles, hogweed, Japanese Knotweed and willow herb and, over the years, has had the potential to provide habitat for a number of species.

It was, therefore, considered (supported by advice from NRW), that an ecological survey and assessment of the site had become necessary and this was provided in a report by Churton Ecology which was sent on for comment to NRW and the County Ecologist.

The most significant features on site are the three mature trees on the river bank which have bat roost potential. On the negative side there are notifiable invasive species for which the applicant's ecologists suggest eradication measures.

NRW have considered the assessment and have recommended conditions to be applied to any approval. As with many new developments there is the opportunity for biodiversity enhancements and improvements and there are a number suggested by the applicant's ecologists which are capable of being conditioned.

### Noise during Construction

It has been suggested by local residents that there could be disruption during the construction of the development and it is agreed that, given the topography and the presence of residential areas in the vicinity that it would be appropriate to place a restriction on working hours on any approval.

### The possibility of a footpath link with housing at Glan-yr-Afon

The application site abuts Glan-yr-Afon and a footpath link from the dwellings to the Health Centre and it was previously suggested (and agreed by the applicant), that this be included in the scheme and with a contribution.

This formed part of the original Section 106 instruction and can be incorporated again if members consider it to be necessary.

### Bank stability

In the past concern has been expressed to the effect that development on the site may be detrimental to the stability of the steep slopes at the boundaries of the site and in particular that rising to existing health centre and housing to the south east.

As previously noted the submission includes a proposal to stabilise this bank and there is no evidence to suggest that the construction works below would have a detrimental effect on the structural integrity of the existing buildings.

With regard to river bank stability the installation of foundations and floor pads have had no discernible effect on the integrity of the bank.

### Housing Land Supply

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

Housing supply is a material consideration that should be given considerable weight in the determination of this application and balanced against compliance with national planning policies as set out within Section 6.2 of TAN 1:

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

The proposed development offers a contribution to housing provision in the settlement of Llanfair Caereinion at a density which accords with current guidance on development in urban areas.

### 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

Re-advertisement and re-consultation on the application has led to a number of concerns being raised by a consultee and some local residents. These have been fully taken into account in the appraisal of the application.

In spite of the fact that the application has remained undetermined for a considerable length of time, re-consultation and re-appraisal on the basis of the current policy context and legislative requirements leads to the conclusion that the proposal is acceptable subject to the updating of conditions to be applied to any approval and compliance with the following additional legislation.

The recommendation is on eof conditional consent (part retrospective) subject to the signing of a Section 106 Agreement relating to a financial contribution of £10,000 towards recreational facilities and the provision of a footpath link to Glan-yr -Afon, and the following conditions:

### 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.Notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E and part 2, class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), no extensions, additions, roof alterations or buildings, gates, fences, walls or other means of enclosure shall be erected other than those expressly authorised by this permission and shown on the approved plan
3. Prior to their first use full details or samples of materials to be used externally on walls and roofs of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.
4. Areas of hard surfacing and the gabion and retaining walls on the south east boundary of the site within the development hereby permitted shall be constructed in materials of a type and colour to be agreed in writing by the Local Planning Authority prior to their first use.
5. All hard and soft landscape works shall be carried out in accordance with the approved details(plan no:06/121/01) and the recommendations contained in the Churton Ecology report dated 03/02/2017. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme to be agreed in wriing by the Local Planning Authority.
- 6.The approved landscaping scheme shall thereafter be maintained for a period of five years. Such maintenance is to include the replacement of any plant/tree/shrub/hedge that is removed, significantly damaged, diseased or dying, with plants/trees/shrubs/hedges of the same species and size within the next planting season, unless otherwise agreed in writing by the Local Planning Authority.
7. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the arrangements for the management of the affordable housing;
- ii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iii) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

8. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling).

9. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

10. A lighting scheme for the development shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development.

11. The development/construction platform shall be raised/ levelled to 117.25mAOD and finished floor levels set at 117.55mAOD.

12. The level of the highway and flat parking area shall be set below surrounding ground levels.

13. The gradient of the access shall not exceed 1 in 30 for the first **9 metres** measured from the edge of the adjoining carriageway along the centre line of the access.

14. Additional clear visibility shall be provided from a point **1.05 metres** above ground level at the centre of the access and **5.5 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 **12 metres** distant in each direction measured from the centre of the access along the edge of the adjoining carriageway, prior to the commencement of the development.

15. Nothing shall be planted, erected, or allowed to grow on the areas of land so formed which would obstruct the visibility described in condition 13.

16. The area of the access to be used by vehicles is to be constructed to a minimum of 450mm depth, comprising of 350mm of sub –base material, 60mm of bituminous macadam base course material and 40mm of bituminous macadam wearing course material, for a distance of **15 metres** from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed with the Local Planning Authority prior to commencement of any works on site.

17. Prior to the first occupation of the development, provision shall be made within the curtilage of the site for the parking of not less than two cars per house and 1.5 cars per flat, excluding any garage space provided.

18. Prior to commencement of any construction works, 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 may park within the site and both enter and leave the site in a forward gear.

19. The estate road carriageway and one footway shall be constructed to and including base course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of any building and to the junction with the county highway before that building shall be occupied.

20. The estate road carriageway and all footways shall be fully completed, to a standard 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.

21. The area of the access to be used by vehicles shall be completed to base course level, as specified in condition 15 above, prior to the commencement of any other works on site, and fully completed prior to the occupation of the development.

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

23. No building or construction works shall take place on the site between 18.00 and 8.00 hours on weekdays and Saturdays and none at all on Sundays.

24. Prior to commencement of any works on site the tree protection measures shown on the approved plan no 06/121/01 shall be implemented in full and all construction works shall thereafter comply with the measures outlined in the Churton Ecology Report dated 03/02/2017.

25. The Habitat Enhancement Recommendations contained in section 4.3 of the Churton Ecology Report dated 3/02/2017, including amendments to plant species in the approved landscaping plan no:06/121/01, shall be fully implemented, in accordance with a scheme to be submitted to, and approved in writing by the Local Planning Authority prior to the first occupation of a dwelling unit on the site.

## **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. In order to control further development, which has the potential to have an impact upon the integrity of the design of the development and upon the character and appearance of the surrounding area, in contradiction to Policy GP1, of the Powys Unitary Development Plan (2010), and Planning Policy Wales (2016).
3. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies GP1, GP3 and HP5 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
4. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the development in accordance with policies GP1, GP3 and HP5 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
5. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies GP1, HP5, and ENV2 of the Powys Unitary Development Plan (2010)
6. To ensure a satisfactory and well planned development, and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies GP1, HP5, and ENV2 of the Powys Unitary Development Plan (2010)
7. In order to ensure the provision of affordable housing in accordance with Policy HP9 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
8. In order to ensure that the dwelling serves an affordable need in perpetuity in accordance with the Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011), Policies HP9 and HP10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016)
9. To ensure that the development is provided with a satisfactory means of sustainable drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies DC10 and DC13 of the Powys Unitary Development Plan (2010).



10. To reduce the impact on wildlife and protected species in accordance with Policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010), Planning Policy Wales (2016) and Technical Advice Note 5: Nature Conservation and Planning (2009).
11. To minimise risk in the event of extreme flooding events and minimise impact on flood flow routes in accordance with Policy SP14 of the Powys Unitary Development Plan (2010), Planning Policy Wales (2016) and Technical Advice Note 15: Development and Flood Risk (2004).
12. To maintain a flood flow route through the site if required during an extreme event in accordance with Policies SP14 and DC13 of the Powys Unitary Development Plan (2010).
- 13-22 In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
23. In the interests of the protection of the amenity of local residents and in accordance with Policy GP1 of the Powys Unitary Development Plan (2010)
24. To ensure a satisfactory and well planned development, and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies GP1, HP5, and ENV2 of the Powys Unitary Development Plan (2010).
25. In the interests of the protection of species and enhancement of biodiversity on the site in accordance with Policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010).

## Notes

Severn Trent Water advise that there are public sewers located within the application site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provision of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

If you require any further information please contact 01902 793883.

The Flood and Water Management Act 2010 (Schedule 3), which has not been commenced, requires new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards. The Welsh Government has published interim national standards on an advisory basis until such time as it determines the most effective way of embedding SuDS principles in new developments in the longer term. This will enable designers, property developers, local authorities and other interested parties to both demonstrate that they have taken account of the Welsh Government's planning advice on Development and Flood Risk, Nature Conservation and Planning and to test the standards.

These interim non statutory national standards and guidance can be downloaded from The Welsh Government's website at

<http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>. They set out the hierarchy standard and minimum design criteria on the design, construction, operation and maintenance of SuDS serving new developments in urban or rural areas. They also contain links to additional supporting information relating to SuDS.



**Montgomeryshire Planning Committee Report: 3/10/2013 and 7/11/2003**

**M2003 0613**

**Erection of 10 dwellings, conversion of existing building into 2 self contained residential units, erection of a building to form 10 self contained residential units, construction of vehicular access and car parking at former Morgan Bros depot Bridge Street Llanfair Caereinion Welshpool Powys SY21 OSA**

**SITE/APPLICATION**

The site is an area of 0.5 hectare comprising the builders yard and shop adjoining the river Banwy with access to Bridge Street.

The development comprises:

Conversion of the retained frontage building to 2

flats 4 two storey three bedroom houses

1 one or two bedroom flats in a four storey block

6 two bedroom three storey town houses

A new access road to Bridge Street with a crib retaining wall on the south-east side

A possible footpath link to Glanyrafon.

The scheme has been revised to meet highway requirements, including alterations to the railings on the bridge and the installation of collapsible bollards at the junction of Parsons Bank. A perspective view from the river north-east of the bridge has been supplied

**PHOTOGRAPH**



**APPLICANTS PLANNING SUBMISSIONS** Applicant is willing to agree to the provision of a footpath route to Glanrafon and the limitation of 4 units to local needs occupation. He is in direct contact with the Town Council over the provision of amenity facilities. The requirements of the highway authority have been met by the revised scheme.

#### **SITE HISTORY**

**M25860**      Erection of a storage building and formation of vehicular access  
Granted 9/2/1996

**M2586**      Conservation Area Consent for partial demolition of building  
Granted 8/2/1996

**M1996 0198** Residential development      Granted 9/7/1996  
(outline) All three permissions have now  
lapsed.

**M2003 0584** CAC for partial demolition      Granted 5/9/2003

#### **CONSULTATIONS**

Llanfair Caereinion Town Council: consider that a maximum of 15 dwellings should be allowed, there are insufficient parking spaces for 22 units, local needs and affordable housing should be provided for, there should be two-way access, concerns over overloading of schools and doctors, quid pro quo of public parking spaces. State that there has been no direct contact with the developer over the provision of amenity facilities.

Highway Authority: recommend conditions based on revised scheme.

Severn trent water: public sewer crosses site and must be safeguarded.

No objections subject to conditions.

Environment Agency: no objections subject to comments and conditions.

Assessment of bank required.

Land drainage officer:

Ancient Monuments Society: The scheme tries hard to heal what might otherwise be a damaged townscape. Suggest changes to the design of the alterations to the retained building.

CPAT: request photographic survey of buildings of local interest

Landscape Officer: the site is in a prime location in the town and is screened by existing trees. The steep bank at the rear of the site is also tree covered. A complete tree survey is required including an assessment of the trees including those on the riverbank. Link footpath should be considered.

**REPRESENTATIONS** Site and press notices expired 4/7/2003

Councillor request for committee determination: Councillor Miss V Evans  
9/6/2003

Letter from councillor Miss V Evans

The town wished to acquire this area as a car park, and amenity area overlooking the river, with access to the clinic. The car park would have provided much needed public car parking and served the Institute. Despite meetings with the WDA the project did not proceed. Questions if the development ties in with planning gain of providing public car parking for the town.

## OBJECTION

- Grounds: A. Felling of 10 trees  
B. Loss of natural view from dwellings and the bridge.  
C. damage to conservation of the river and wildlife  
D. Adverse effect on flow of floodwater and increased risk of flooding  
E. Increased traffic on local roads  
F. Loss of privacy to dwellings  
G. Possible bat roosts in old buildings proposed for demolition

## PRINCIPAL PLANNING CONSTRAINTS

MLP: Conservation Area Flood Plain  
Highway: Class 2

## PRINCIPAL PLANNING POLICIES

MLP DC02 Housing layout and designs  
MLP DC05 Housing densities and infill developments MLP HD11 Affordable housing in settlements  
MLP LD21 Outdoor play space  
PSP HOS Housing on unallocated sites in settlements PSP H07 Housing development criteria  
NAW TAN02 Planning and Affordable Housing MLP DC08 Conservation Area development  
MLP ENV13 Development in Conservation Areas  
NAW WO Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas  
PSP EC13 Conservation Areas  
MLP HD09 Welsh language and culture  
The Welsh Language - Unitary Development Plans and Planning Control  
Development and Flood Risk  
NAW TAN05 Nature Conservation and Planning

MLP Draft Montgomeryshire Local Plan **PSP=Powys** Structure Plan  
WSPG=Welshpool Supplementary Planning Guidance NAW=National  
Assembly for Wales TAN=NAW Technical Advice Note

**OFFICER APPRAISAL** The scheme represents a "brownfield" housing development close to the town centre, and follows previous permissions on the site. The development is a high-density scheme and the buildings will be quite high in comparison to buildings in the locality. They will be seen against a background of higher land to the south-west.  
The application was considered at a Site Inspection Panel meeting held on 24/9/2003. Members considered that the site was in urgent need for re-development and did little for the town in its present condition. The access would be on to a busy road, and Members felt that a total of 22 dwellings might generate too much traffic at the proposed junction. There was also a feeling that the apartment type dwellings that were proposed would not be in keeping with the town and would probably not be appealing to local buyers. The Panel's Advice was that further negotiations take place with the developer, and expressed the hope that this would lead to a total of 17 dwellings on the site, including the 2 proposed conversion units, in a design which was more in keeping with the town. Also local needs dwellings should

be offered within the scheme and the existing screening should be retained or replaced.

In response to the meeting, the agent submitted the attached letter.

At the Planning Committee meeting held on 3/10/2003, consideration was deferred to seek a higher proportion of affordable dwellings (10) within the scheme. The response to this suggestion is also attached, stating that 6 units will be designated as affordable units.

**RECOMMENDATION** Grant permission subject to a prior section 106 agreement relating to the provision of affordable housing, a footpath link to Glanyrafon, highway requirements and a contribution towards open space/ play area provision in the town, and conditions:

1. The development to which this permission relates must be begun not later than five years beginning with the date on which this permission is granted.

2. Details of the type, colour and texture of all external materials and fenestration and the detailed treatment of the bargeboards and eaves details of the retained part of the frontage building shall be submitted to and approved by the local planning authority prior to any work commencing.

3. The roofs of the buildings shall be clad with natural or synthetic slates of a type as may be approved by the local planning authority prior to commencement of development.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order) nothing in Article 3 of, or Schedule 2 to that Order, shall operate so as to permit (within the area subject of this permission) any development referred to in Part 1 of the Second Schedule to the Order and no such development shall be carried out at any time within that area without the express grant of permission by the local planning authority.

5. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection in the course of the development.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

Development shall not commence until an appropriate photographic survey of the existing buildings on site has been carried out in accordance with details to be submitted to and approved by the local planning authority. The resulting photographs should be deposited with the County Sites and Monuments Record, operated by the Clwyd Powys Archaeological Trust (7a Church Street Welshpool, Powys, SY21

7. Development shall not commence until surface water drainage works have been carried out in accordance with details to be submitted to and approved by the local planning authority.

8. Highway conditions as recommended.

Notes also to be attached relating to the requirements of the Environment Agency, safeguarding of protected species and safeguarding of public sewers.

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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: M D Broxton & Co

Location: Former Morgan Bros Depot,  
Bridge Street, Llanfair Caereinion

