

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2017/0172 **Grid Ref:** 312042.17 256269.52

Community Council: Glascwm Community **Valid Date:** 10/02/2017 **Officer:** Lorraine Jenkin

Applicant: Mr Selfe & Mrs Lewis, The Rhos, Franksbridge, Llandrindod Wells, Powys LD1 5SA

Location: The Rhos, Franksbridge, Llandrindod Wells, Powys, LD1 5SA

Proposal: Outline: Erection of two dwellings, a treatment plant and all associated works (all matters reserved)

Application Type: Application for Outline Planning Permission

The reason for Committee determination

The application comes before Members as it is a departure from the Powys Unitary Development Plan.

Site Location and Description

The application site is on an area of land on the far north-eastern edge of the village of Franksbridge. The site is currently farmland and has the primary school and its playing fields to the west, open farmland to the east, south and north.

The site is reached by an un-surfaced dead-end track. A public footpath (Footpath GC1576) passes to the west of the site, but will not be affected by the proposal.

The site is outside of the development boundary of Franksbridge by approximately 12 metres. Therefore, for the purposes of the Powys Unitary Development Plan (UDP) the site is defined as open countryside.

Outline consent is sought for two detached dwellings. They will sit side by side, facing the access track. Each will have separate accesses onto the track. A treatment plant and soakaways serving the dwellings will be located to the west of the site. The existing ditch parallel to the road will be culverted. A passing bay will be installed to ease traffic flow.

All matters have been reserved for future consideration.

Consultee Response

Glascwm Community Council
13th March, 2017

Members discussed the application and raised concerns over the following issues – the lay of the ground would mean that drainage could be a problem. The extra vehicles travelling the road next to the primary school could be dangerous. It is against the UDP policy to build outside of the boundary.

PCC - Building Control
15th February, 2017

Building Regulations approval will be required for this proposal.

PCC - Highways
5th April, 2017

The Highway Authority is satisfied that the proposed provision of a vehicular passing bay in addition to the drainage improvements proposed along the U1019 county highway, as detailed on the submitted drawing 4650/1A, will adequately mitigate the small increase in vehicular movements this proposal will generate. Accordingly, the Highway Authority recommends that the following conditions be attached to any consent granted.

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

HC2 The gradient of each access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 The centre line of the first 5.5 metres of each access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development the access for each dwelling shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 33 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

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

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

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

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

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

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

HC37 Prior to any works being commenced on the development site the applicant shall construct the passing bay on the U1019 county highway, (as detailed on the approved "Proposed Site Plan") to adoptable standard which is to be agreed in writing by the Local Planning Authority.

Wales & West Utilities

17th February, 2017

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

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

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

PCC - Environmental Health

10th February, 2017

I have no further concerns (*after clarifying details*)

PCC - Rights of Way
17 February, 2017

Footpath GC1576 passes close to the area outlined for development, and if the development is approved, then the applicant must ensure that this footpath remains open and available for public use.

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public footpath be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the footpath can be legally stopped-up for a defined period.

Countryside Services therefore has no objections to the proposed application at this time, subject to the guidance information detailed above.

PCC - Ecologist

First Response
27th February, 2017

Ecological Topic		Observations
EIA Screening Requirement	No	The site area is understood to be 0.14 hectares and includes 2 dwellings. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application	No	No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service. I have also referred to information that was submitted for a recent similar planning application opposite the application site (P/2016/0876). The application site appears to be located within an agricultural field and is bounded by hedgerows to the south and west (which are to be retained, according to plan ref. 4650/1). There are historical records of bat species from within 2km of the site, including a roost of brown long-eared bats approximately 100m to the west. The large trees within the hedgerow that borders the southern side of the site could provide roosting habitat for bat species and it appears that

<p>Protected Species & Habitats¹</p>	<p>European Species</p>	<p>some of these would need to be removed to accommodate the proposals. Bat tree-roosts are extremely difficult to identify, and it should be assumed that any mature native-species tree is an actual roost.</p> <p>All British bat species are European Protected Species by virtue of their listing under Annex IV of EC Directive 92/43/EEC ('The Habitats Directive'). This Directive has been transposed into British Law under the <i>Conservation of Habitats and Species Regulations 2010</i>. Regulation 9(5) of the 2010 Regulations requires all local planning authorities, in the exercise of all their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by those functions. Under Regulation 41 of the 2010 Regulations it is an offence to:</p> <p><i>(1) deliberately capture, injure or kill any wild animal of a European protected species;</i></p> <p><i>(2) deliberately disturb animals of any such species. Disturbance of animals includes in particular any disturbance which is likely—</i></p> <p><i>(a) to impair their ability—</i></p> <p><i>(i) to survive, to breed or reproduce, or to rear or nurture their young; or</i></p> <p><i>(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or</i></p> <p><i>(b) to affect significantly the local distribution or abundance of the species to which they belong</i></p> <p><i>(3) deliberately take or destroy the eggs of such an animal; or</i></p> <p><i>(4) damage or destroy a breeding site or resting place of such an animal</i> (including sites that are currently unoccupied).</p> <p>Furthermore all British bats are protected under Schedule 5 of the Wildlife and Countryside Act (1981) (as amended). This legislation makes it an offence to intentionally to kill, injure, take from the wild, possess or trade in any species of British Bat, as well as intentionally or recklessly damage, destroy or obstruct access to any structure or place which bats use for shelter or protection. It is also an offence to disturb a bat/bats whilst they are using such a place.</p> <p>It is therefore recommended that the applicant and contractors be informed of the possibility of encountering bats unexpectedly during tree works. If bats are encountered on site works should stop immediately and NRW should be contacted.</p> <p>As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations:</p> <p>Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.</p> <p>If the tree trunk is smaller than 200mm diameter and if it has no dense ivy, suitable holes, loose bark, and no holes</p>
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	<p>associated with the root system, work can be carried out on the tree between September and February (<i>i.e.</i> avoiding the bird breeding season).</p> <p>To avoid disturbing nursery roosts, work will never be carried out between June and August inclusive.</p> <p>If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should only be cut only in September and October when bats, including young are still mobile and able to fly-out.</p> <p>Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.</p> <p>Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.</p> <p>The southern and western boundary hedgerows could also provide commuting and foraging habitat for bat species. If external lighting is required for this development I recommend that an external lighting scheme sensitive to bats and other nocturnal wildlife, including low-powered and short-timed PIR lighting sensitive to large objects only, is used.</p> <p>There are no historical records of Great Crested Newts from within 2km of the site, but a previous consultation reply from the Radnorshire Wildlife Trust for an adjacent planning application.</p> <p>(P/2016/0876) indicated the presence of GCN within 20m of that site. Therefore, since the hedgerows that border the application site could provide suitable habitat for GCN it is considered that some impact could take place to this species without mitigation.</p> <p>Great Crested Newts are European Protected Species (EPS); the animals and their resting and breeding habitats are fully protected under European law, where impacts to EPS are identified, the LPA have to apply the three tests of the Habitats Regulations to ensure that there will be no adverse impact on the favourable conservation status of the EPS. In order for the LPA to satisfy this requirement, full details of the potential impacts and proposed mitigation, are required to be submitted for approval prior to determination.</p> <p>The three tests that must be satisfied are:</p> <p>That the development is “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.</p> <p>That there is “no satisfactory alternative”</p> <p>That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”</p> <p>Therefore, a Newt Reasonable Avoidance Method Statement, produced by a suitably qualified and experienced ecologist to demonstrate that the proposed works, including construction</p>
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		activities, will be undertaken in a manner to ensure no negative impacts to GCN and/or their habitats on site needs to be provided before the planning application can be determined.
	UK Species	The boundary hedgerows and trees would appear to provide nesting habitat for a variety of bird species and there are various records of bird species from within 2km of the site. Please see comments below in Section 7 species and habitat.
	Section 7 Species & Habitat	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>The boundary hedgerows and trees would appear to provide suitable nesting habitat for a variety of bird species. House Sparrow and Starling (Section 7 priority species in Wales) have been recorded nearby and could use the application site for nesting.</p> <p>There would appear to be suitable habitat for Hedgehog and Polecat (both Section 7 priority species) within the hedgerows at the site. There is a previous record of Polecat from within 2km of the application site.</p> <p>I understand that the southern and western boundary hedgerows are to be retained and new hedgerow and trees planted within the application site, which is welcomed. Locally-occurring, native species will need to be used for this and a Species List will therefore be required for approval by the local planning authority. I also recommend that any mature trees within the retained hedgerows are retained and protected within the development site.</p> <p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing. An ecologist should also check for Hedgehogs immediately in advance of site and vegetation clearance works commencing.</p> <p>As a biodiversity enhancement, I recommend that suitable woodcrete nest boxes for House Sparrows and Starlings are</p>

		installed at the site.
	LBAP Species & Habitat	Bird species of Conservation Concern in Powys recorded nesting nearby that could nest at the application site include Goldfinch, Blue Tit and Great Tit. As a biodiversity enhancement, I recommend that suitable woodcrete nest boxes for Blue Tits and Great Tits are installed at the site. See previous comments regarding new hedgerow and tree planting.
Protected Sites	International Sites ²	The Afon Gwy SAC is located approximately 460m west of the application site, on the other side of Franksbridge. Considering its location and distance from the application site and lack of hydrological pathways between them it is concluded that the proposals are unlikely to have any negative impact on this site or its associated features
	National Sites	The Caeau Coed Mawr SSSI is located approximately 590m north-west of the application site and the River Wye (Tributaries) SSSI approximately 460m west of the application site. Considering their location and distance from the application site and lack of hydrological pathways between them it is concluded that the proposals are unlikely to have any negative impact on these sites or their associated features.
	Local Sites (within 500m)	The Werndryd Local Wildlife Trust reserve and Roadside Verge nature reserve are located approximately 5m south of the road widening element of the application site. The close proximity of these sensitive sites to the road widening element of the proposals means that they could be at risk of receiving pollution from any site-generated run-off. A pollution prevention plan demonstrating how site-generated pollution will be prevented from entering these sites is therefore required before a planning application can be determined.
Invasive Non-Native Species	Unknown	No ecological information has been submitted with this application.
Cumulative Effect	Unknown / Unconfirmed	Two new dwelling house plots were approved on the southern side of the road to the application site in December 2016 (P/2016/0876).
Summary of recommendations / further assessment or work		I recommend that the applicant and contractors be informed of the possibility of encountering bats unexpectedly during tree works. If bats are encountered on site works should stop immediately and NRW should be contacted. As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations: Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season. If the tree trunk is smaller than 200mm diameter and if it has

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

	<p>no dense ivy, suitable holes, loose bark, and no holes associated with the root system, work can be carried out on the tree between September and February (<i>i.e.</i> avoiding the bird breeding season).</p> <p>To avoid disturbing nursery roosts, work will never be carried out between June and August inclusive.</p> <p>If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should only be cut only in September and October when bats, including young are still mobile and able to fly-out.</p> <p>Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.</p> <p>Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.</p> <p>The southern and western boundary hedgerows could also provide commuting and foraging habitat for bat species. If external lighting is required for this development I recommend that an external lighting scheme sensitive to bats and other nocturnal wildlife, including low-powered and short-timed PIR lighting sensitive to large objects only, is used.</p> <p>A Newt Reasonable Avoidance Method Statement, produced by a suitably qualified and experienced ecologist to demonstrate that the proposed works, including construction activities, will be undertaken in a manner to ensure no negative impacts to GCN and/or their habitats on site needs to be provided before the planning application can be determined.</p> <p>I understand that the southern and western boundary hedgerows are to be retained and new hedgerow and trees planted within the application site, which is welcomed. Locally-occurring, native species will need to be used for this and a Species List will therefore be required for approval by the local planning authority. I also recommend that any mature trees within the retained hedgerows are retained and protected within the development site.</p> <p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing. An ecologist should also check for Hedgehogs immediately in advance of site and</p>
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	<p>vegetation clearance works commencing.</p> <p>As a biodiversity enhancement, I recommend that suitable woodcrete nest boxes for House Sparrows, Starlings, Blue Tits and Great Tits are installed at the site.</p> <p>The close proximity of the Werndryd Local Wildlife Trust reserve and Roadside Verge nature reserve to the road widening element of the proposals (5m) means that they could be at risk of receiving pollution from any site-generated run-off during this work. A pollution prevention plan demonstrating how site-generated pollution will be prevented from entering these sites is therefore required before a planning application can be determined.</p>
<p>Recommended Conditions</p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to planning permission, a Newt Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> 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.</p> <p><i>Prior to planning permission 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.</i></p> <p><u>Reason:</u> 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.</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> 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.</p> <p><i>Prior to commencement of development a lighting design</i></p>

	<p><i>scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><u>Reason:</u> 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.</p> <p><i>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.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>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.</i></p> <p><u>Reason:</u> 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.</p> <p>Informatives</p> <p>Birds - Wildlife and Countryside Act 1981 (as amended)</p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> intentionally kill, injure or take any wild bird intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built intentionally take or destroy the egg of any wild bird intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. <p>The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.</p> <p>The applicant is therefore reminded that it is an offence under</p>
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	<p>the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p> <p>Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>It is an offence for any person to: Intentionally kill, injure or take any bats. Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not. Under the Habitats Regulations it is an offence to: Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved. The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk</p> <p>Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</p> <p>Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).</p> <p>It is therefore an offence to: Deliberately capture, injure or kill a great crested newt; Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young; Damage or destroy a great crested newt breeding site or</p>
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		resting place; Intentionally or recklessly disturb a great crested newt; or Intentionally or recklessly obstruct access to a breeding site or resting place. If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.
Relevant UDP Policies		SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species
Comments on Additional Information		N/A

Second Response

Thank you consulting me with regards to the additional information submitted with regards to planning application P/2017/0172 which concerns an outline application for the erection of two dwellings, a treatment plant and all associated works (all matters reserved).

The additional information submitted concerns a Great Crested Newt Reasonable Avoidance Method Statement and Pollution Prevention – these have been submitted following the consultation response provided by my colleagues at YGC with regards to the application.

I have reviewed the information submitted with regards to the great crested newt reasonable avoidance method statement and pollution prevention plan and consider that the measures and recommendations identified are appropriate and in accordance with National Guidelines. I recommend that implementation and adherence to the measures outlined within these documents is secured through appropriately worded conditions. In addition I recommend the other conditions previously identified in the response provided by YGC are also relevant and should be included should you be minded to approve the application – I have included these conditions in my recommendations below.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

The measures regarding great crested newts, bats, birds and hedgehogs identified in Appendix 1 of the Reasonable Avoidance Measures Method Statement Report by Jon Sloan Ecological Consultants dated April 2017 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 Part 1 Section 6 of the Environment (Wales) Act 2016.

The Pollution Prevention Measures identified in the Pollution Prevention Plan produced by Garner Southall Partnership dated April 2017 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and 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 Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development 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, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

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

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

In addition I recommend inclusion of the following 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.

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

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

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or

- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

Representations

A public site notice as erected on the 2nd March, 2017 and a press advertisement issued. To date no public representations have been received in respect of the application.

Planning History

No history on plan viz or historic plans on the site. Two dwellings were given consent under application P/2016/0876 on the land south of the site on the opposite side of the access track.

Principal Planning Constraints

None.

Principal Planning Policies

National planning policy

Planning Policy Wales (Edition 9, 2016)

Technical Advice Note 1 - Joint Housing Land Availability Studies (2015)

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

Technical Advice Note 12 Design.

Technical Advice Note 18. Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Local planning policies

SP2 – Strategic Settlement Hierarchy

SP3 – Natural Historic And Built Environment

SP5 - Housing Development

SP6 – Development and transport.

SP9 – Local Community Services and Facilities

GP1 – Development Control

GP3 – Design and Energy conservation.

GP4 – Highway and Parking Requirements

ENV 1 – Agricultural Land

ENV2 – Safeguarding the landscape

ENV 3 – Safeguarding Biodiversity and Natural Habitats.

HP3 – Housing Land Availability

HP4 – Settlement Development Boundaries and Capabilities

HP5 – Residential Development

HP6 – Dwellings in the open countryside.

CS3 – Additional Demand for community facilities

T2 – Traffic Management
RL6 – Public Rights of Way and Access to the Countryside.
DC8 – Public Water Supply
DC9 – Protection of Water Resources
DC11 – Non-mains Sewage Treatment
DC13 – Surface Water Drainage

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

Officer Appraisal

Introduction:

The application is for outline consent with all matters reserved. Should permission be granted, reserved matters (appearance, landscaping, layout and scale, access) will form a separate application for consideration at a later date.

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

Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside and proposes open market dwellings. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan (2010).

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. TAN 1 states:

‘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 would otherwise comply with development plan and national planning policies’.

Sustainable Development:

Consideration must be given to whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Franksbridge (defined as a small village within the UDP). Franksbridge benefits from a school and chapel. The village is located approximately 1.75 kilometres distant from the nearest settlement of Hundred House which has a village hall and a public house. Transport links are also available to access the larger centres of Builth Wells and Llandrindod Wells where a range of services exist. Given the proximity of these facilities, future occupiers would have reasonably good access to existing facilities and services.

Appearance, Layout and Scale

Guidance contained within UDP policy HP5 (Residential Development) indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Although this application has been submitted in outline (with all matters reserved), an indicative site layout and supporting Planning Statement have been submitted. This indicates two detached dwellings, each with a separate access from the U01019 county highway. The Planning Statement indicates that the dwellings are to be 2 storeys with 3 bedrooms with an approximate size of 154 square metres. An approximate eaves height of between 4.6-4.7 metres and an overall ridge height of between 8.1 and 8.5 metres have been given. The frontage width of each dwelling would be approximately 11 metres with depths of approximately 8 metres.

Existing designs within the settlement of Franksbridge have been considered and there are a mix of single storey and two storey dwellings using a mix of materials including brick, stone and render. Closer to the site in question, the existing school building is a predominantly two storey building in stone with slate roof. The dwelling (Tyn-Wern) located approximately 30 metres distant from the application site in a south-westerly direction is single storey in character with rendered elevations and tiled roof. A scrubby woodland area exists between the proposed application site and Tyn-Wern which provides an existing screen between the two sites.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating two dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

Impact on residential amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. More specific guidance is set out in the Powys Residential Design Guide.

The application site is bounded to the west by a fence into the school playing fields. To the south across the access track is outline consent for two dwellings – in a position slightly skewed from the proposed, not directly in front. There is plenty of scope for design at reserved matters stage to ensure that impact on neighbours is not going to be a problem.

It is therefore considered that the proposal will not unacceptably adversely affect the amenity of the neighbouring properties and therefore accords with Policy GP1 of the UDP.

Landscape and visual impacts

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory integration into the landscape'.

The site occupies an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change.

In terms of landscaping, the indicative layout indicates that the proposal will retain some hedgerow along the southern boundary of the site with new fencing and hedgerow of native species to be planted along the north and east boundaries. The existing hedgerow between the proposed and the playing fields of Franksbridge school will be retained. The native landscaping will assist in mitigating visual impact in this area. It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage.

The site would be visible from the U01019 county highway and right of way; however land rises away from the application site in a southerly direction which would help screen any future development. Whilst the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location on the edge of settlement, it is considered that the proposal is acceptable and in accordance with Policy ENV2 of the UDP.

Highway Safety and movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The proposed development will be accessed from the U01019 county highway. Improvements to the road are included within the application, including a slight widening of the highway and the installation of a passing bay.

Consultation with the Highway Authority has confirmed that there are no fundamental objections to the proposal subject to conditions. It is noted that the application is submitted as outline with all matters reserved; therefore the access and highway issues will be considered at reserved matters stage with no highway conditions included at this stage of the process.

Drainage

Percolation test results were submitted with the application. These have been scrutinised by the Environmental Health Officer who states has raised no objection to the proposal.

It is considered that the proposal therefore accords with Policy DC13 of the UDP.

Ecology and Biodiversity

The Council's Ecologist has provided comments with regard to the proposed development.

In light of the consultee responses by NRW, a Reasonable Avoidance Measures Method Statement was submitted in April 2017 by Jon Sloan Ecological Consultants due to the presence of Great Crested Newts having been reported by Radnorshire Wildlife Trust some 20 metres from the site. The Reasonable Avoidance Measures Method Statement states that the development of the site will cause the direct loss of negligible value habitat which is likely to result in a negative impact of negligible significance.

The Council's Ecologist does not object to the proposal subject to a number of conditions being included relating to the compliance with the details set out in the Pollution Prevention Plan and the Reasonable Avoidance Measures Method Statement Report submitted by the applicant, plus more standard conditions relating to conserving wildlife on the site.

It is therefore considered, subject to conditions that the application accords with Policies ENV3 and ENV7 of the UDP.

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. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Franksbridge has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Llanelwedd Ward reported that 13.9% of the population spoke Welsh. This is an increase from the 2001 census which stated that 12.56% of the population of Llanelwedd spoke Welsh. Officers consider that the development of two dwellings in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

Planning (Wales) Act 2015 (Welsh language)

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

Wellbeing of Future Generations (Wales) Act 2015

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

RECOMMENDATION

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. Consideration has been given to all material planning matters and it is considered that all issues can be adequately dealt with through the imposition of conditions and through a future reserved matters application. The recommendation is therefore one of conditional approval.

Conditions:

1. Details of the access, layout, appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

2. Any application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the documents: Planning Statement (dated January 2017), 4650/1A proposed site plan, 4620/2A – Proposed site location, 4650/1 Proposed Site Plan, 4650/2, Pollution Prevention Plan (April, 2017), Reasonable Avoidance Measures Method Statement, (April 2017).
5. The measures regarding great crested newts, bats, birds and hedgehogs identified in Appendix 1 of the Reasonable Avoidance Measures Method Statement Report by Jon Sloan Ecological Consultants dated April 2017 shall be adhered to and implemented in full.
6. The Pollution Prevention Measures identified in the Pollution Prevention Plan produced by Garner Southall Partnership dated April 2017 shall be adhered to and implemented in full.
7. Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
8. 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.
9. 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.

Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To 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 Part 1 Section 6 of the Environment (Wales) Act 2016.
6. To comply with Powys County Council's UDP Policies SP3, 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 Part 1 Section 6 of the Environment (Wales) Act 2016.

7. 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.

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

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

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

It is an offence for any person to:

- Intentionally kill, injure or take any bats.

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

Under the Habitats Regulations it is an offence to:

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

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

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

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.