

PCC - Highways

The County Council as Highway Authority for the County Class III Highway, C1215 wish the following recommendations/observations be applied:

Recommendations/Observations:

The Highway Authority has no objection to the proposal on the basis that the new dwelling will replace the temporary accommodation required to service the poultry unit. Accordingly the Highway Authority recommends that the following condition be attached to any consent granted.

HC9 Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars. The parking areas shall be retained for their designated use in perpetuity.

Wales & West Utilities

Wales & West Utilities apparatus may be directly affected by these proposals and the information you have provided has been forwarded to Asset Management for their comments. If Wales and West are affected an Engineer will then contact you direct.

Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transported (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

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

Welsh Water

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

Sewerage

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

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on the application.

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

If you have any queries please contact the undersigned on 08009172652 or via email at developer.services@dwrcymru.com

PCC - Environmental Health

In relation to the above application, as the applicant is proposing to install a sewage treatment plant:

Can the applicant please confirm how the above plant will be discharged? If this is to a water course then consent would need to be obtained from NRW for the sewage discharge.

Consultation response received 08/03/2017:

Based on the supplied information Environmental Health have no objection to the above application.

PCC - Ecologist

Consultation response received 13/03/2017:

The site area is understood to be up to 0.2 hectares and includes 1 dwelling. 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.

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

The application site appears to be located within an agricultural field, with a mobile home currently located within it. There is an existing access to the site and I understand that no changes to this or any boundary features are required for the proposal.

There are records of otter and bat species from within 2km of the site. The footprint of the new building appears to be within an agricultural field, but the new septic tank would appear to discharge into a tree-lined stream via a marshy area of grassland. Insufficient information has been provided to determine the potential impact on otters and other wildlife associated with these habitats.

A Preliminary Ecological Assessment will therefore need to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys would need to be carried out prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

There are records of various breeding bird species, water vole, badger and common lizard from within 2km of the site. These species could be present within the marshy and riparian habitats potentially affected by the new septic tank discharge. Please refer to my comments above regarding the need for a Preliminary Ecological Assessment.

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.

There appears to be an area of marshy grassland to the south of the site. This could be a potential Section 7 Priority Habitat, but there is insufficient information available to determine this. Rivers and streams are also a Section 7 Priority Habitat.

I therefore recommend that these habitats are considered as part of the Preliminary Ecological Assessment, and appropriate measures to protect them from damage during the construction phase are outlined. If the area of marshy grassland is within the footprint of the proposed development, and it cannot be avoided via alternative design, appropriate mitigation/compensation would be required to avoid or reduce the impact of the development on this habitat.

As a biodiversity enhancement I recommend that native, locally-occurring species are incorporated within the landscaping scheme for this development. A Species List for the landscape planting should therefore be provided for local authority approval prior to development.

The closest component of the Afon Gwy SAC is located approximately 750m to the south via the closest apparent drainage pathway. I recommend that Natural Resources Wales are consulted regarding potential impacts to this European site as part of the registration process for the installation of and discharge from the proposed septic tank.

The closest component of the River Ithon SSSI is located approximately 750m to the south via the closest apparent drainage pathway. I recommend that Natural Resources Wales are consulted regarding potential impacts to this National site as part of the registration process for the installation of and discharge from the proposed septic tank.

A mobile home is currently located at the site (to be removed subject to planning permission for this development) and the site is adjacent to an existing chicken shed.

Insufficient information has been provided to determine the potential impact on otters and other wildlife associated with these habitats. A Preliminary Ecological Assessment will therefore need to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys would need to be carried out prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

The Afon Gwy SAC/River Ithon SSSI is located approximately 750m to the south via the closest apparent drainage pathway. I recommend that Natural Resources Wales are consulted regarding potential impacts to these designated sites as part of the registration process for the installation of and discharge from the proposed septic tank.

As a biodiversity enhancement I recommend that native, locally-occurring species are incorporated within the landscaping scheme for this development. A Species List for the landscape planting should therefore be provided for local authority approval prior to development.

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

Prior to planning permission, a Preliminary Ecological Assessment report undertaken by a competent ecologist shall be submitted to the Local Planning Authority and any recommendations incorporated within the proposed development.

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

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

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

Informatives

Birds - Wildlife and Countryside Act 1981 (as amended)

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

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird

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

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

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

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

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

It is therefore an offence to:

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

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

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

Consultation response received 18/05/2017:

We provided ecological observations on this application on 20/03/2017. Additional information provided subsequent to these comments includes a Preliminary Ecological Appraisal report by Mid Wales Ecology (April 2017).

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

The site area is understood to be up to 0.2 hectares and includes 1 dwelling. 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 development 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.

Additional information provided subsequent to our original comments includes a Preliminary Ecological Appraisal report by Mid Wales Ecology (April 2017). These observations are based on an interpretation of the PEA report, available aerial and street imagery, the submitted plans and planning design and access statement and historical biodiversity records provided by the Powys Biodiversity Information Service.

The application site appears to be located within an agricultural field, with a mobile home currently located within it. There is an existing access to the site and I understand that no changes to this or any boundary features are required for the proposal.

There are records of otter and bat species from within 2km of the site. The footprint of the new building appears to be within an agricultural field, but the new septic tank would appear to discharge into a tree-lined stream via a marshy area of grassland.

The PEA report (Mid Wales Ecology, April 2017) concludes that the potential for European protected species including otter and roosting bats within the proposed site is low.

Precautionary avoidance measures are proposed in Section 8 of the PEA report to avoid disturbance, harm and injury to otters and bat species during the construction phase. Additional bat boxes are proposed on the proposed building or on nearby suitable trees in order to provide additional roosting opportunities for the local bat population.

There are records of various breeding bird species, water vole, badger and common lizard from within 2km of the site. These species could be present within the marshy and riparian habitats potentially affected by the new septic tank discharge.

The PEA report (Mid Wales Ecology, April 2017) concludes that the potential for Nationally protected species including amphibians, reptiles, badger and water vole within the proposed site is low; the potential for nesting birds within boundary features is high.

Avoidance and mitigation measures for badgers, nesting birds, amphibians and reptiles are proposed within Section 8 of the PEA report. A sensitive lighting plan is proposed to safeguard against bat disturbance and displacement.

At least two bird nest boxes (with standard 32mm entrance hole) are recommended to be installed either on the proposed building positioned under the roof eaves preferably on a north to east facing aspect, or on nearby suitable trees within ownership of the client.

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

The PEA report (Mid Wales Ecology, April 2017) concludes that the habitats located within the proposed work area are existing native species – rich hedgerows and single mature birch tree which have high biodiversity value; scattered planted young broad-leaved trees which currently have low value but as they age they will have increased biodiversity value; semi-

improved neutral grassland; poor semi-improved grassland which has low biodiversity value, and hard standing parking area which has negligible biodiversity value. The wet channel has moderate biodiversity value.

The report confirms that habitat loss will be restricted to within the boundary area of the Site, to include small areas of existing poor semi-improved grassland, two young planted trees and hard standing area. All existing boundary features including hedgerows, single mature tree and wet channel will be retained in situ. Access will be through the existing route with no new access created. Tree and hedgerow protection measures in accordance with BS5837:2012 will be required during the construction phase.

Two existing young planted trees (one oak, one holly) located in the south western quarter of the small field, are likely to be lost during siting of septic tank discharge route. The PEA report recommends that these should either be dug out to include all main root systems during tree dormancy autumn/winter period and relocated within new guards within the small field, or replaced using similar tree species.

A proposed species list for the landscape planting consisting of locally occurring native tree species has been included within the PEA report and should be adopted for any landscape planting at the site.

The closest component of the Afon Gwy SAC is located approximately 750 metres to the south via the closest apparent drainage pathway. I recommend that Natural Resources Wales are consulted regarding potential impacts to this European site as part of the registration process for the installation of and discharge from the proposed septic tank.

The closest component of the River Ithon SSSI is located approximately 750 metres to the south via the closest apparent drainage pathway. I recommend that Natural Resources Wales are consulted regarding potential impacts to this National site as part of the registration process for the installation of and discharge from the proposed septic tank.

No invasive non-native species have been identified in the PEA report (Mid Wales Ecology, April 2017).

A mobile home is currently located at the site (to be removed subject to planning permission for this development) and the site is adjacent to an existing chicken shed.

I consider that sufficient information has now been provided to determine the ecological impact of this application.

The Afon Gwy SAC/River Ithon SSSI is located approximately 750 metres to the south via the closest apparent drainage pathway. I recommend that Natural Resources Wales are consulted regarding potential impacts to these designated sites as part of the registration process for the installation of and discharge from the proposed septic tank.

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

The mitigation and enhancement regarding bats, otters, badgers, reptiles, amphibians and nesting birds in Section 8 of the ecological report by Mid Wales Ecology dated April 2017 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

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

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

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

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.

The Species List for the Landscape Planting contained within Section 8 of the ecological report by Mid Wales Ecology (April 2017) shall be implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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

Informatives

Birds – Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

It is therefore an offence to:

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

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

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

NRW

Consultation response received 24/03/2017:

- 1) The current DAM map needs updating as the hydrological modelling is now 7 years old
- 2) We need updated hydrological modelling and an updated FCA so that we can determine the depth of flooding and advise on finished floor levels
- 3) This would be beneficial to the applicant for insurance purposes
- 4) There is no problem with flood storage at this location

Consultation response received 03/04/2017:

Thank you for referring the above consultation received by us on 27th February 2017. We understand that there have been previous applications at this location.

The Environment Agency Wales (EAW) objected to P/2010/1143 Full: Siting of a mobile home as a temporary agricultural worker's dwelling in connection with free range egg unit proposal, creation of new access and installation of a package treatment plant and the application was withdrawn

A subsequent planning application P/2012/1051 Change of use of land to permit the siting of an agricultural workers mobile home was given conditional consent although we have no record of an Environment Agency Wales consultation and conditions on flood risk are not attached to the permission.

We recommend that you should only grant planning permission for the scheme if it can meet the following requirements, to address significant concerns that we have identified. Provided these requirements are met, we would not object to the scheme.

Summary of Requirements

Requirement 1 – Updated Detailed hydraulic modelling and a Flood Consequences Assessment (FCA)

Flood Risk

Requirement 1 – Updated Detailed hydraulic modelling and a Flood Consequences Assessment (FCA)

The application site lies partially within zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15). Our flood map information, which is updated on a quarterly basis, confirms the site is partially within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Dulas

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15).

The current Development Advice Map (DAM) requires updating as the hydrological modelling is now more than seven years old. The updated hydrological modelling and FCA will enable us to determine the depth of flooding and advise on finished floor levels. This would be beneficial to the applicant for insurance purposes and flood storage is not a concern in this particular location.

We should be re-consulted when the necessary information is available so that we can give further advice on conditions that should be attached to any permission granted.

Foul Drainage

We note that the drawing submitted shows a Klargester Bio-disc with a discharge to the River Dulas which flows into the River Wye SAC downstream. Our permitting team should be contacted as soon as possible to determine whether a bespoke permit will be required as the proximity to the River Wye SAC may mean that it is not eligible for an exemption. More information, including a step by step bilingual guide to registering, is available on our website at; 'Do I need to apply for a permit' >><https://naturalresources.wales/apply-for-a-permit/water-discharges/discharges-to-surface-water-and-groundwater/environmental-permitting-for-discharges-to-surface-water-and-groundwater/?lang=en>

During determination of a bespoke permit the Permitting Service will assess whether there is any likely significant effect to the features of the River Wye SAC.

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The written consent of NRW or registration for exemption by the developer will be required for any discharge e.g. foul drainage to a watercourse/ditch etc, from the site and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our Permitting Service to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered.

Scope of NRW Comments

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.

Consultation response received 11/09/2017:

Thank you for re-consulting Natural Resources Wales (NRW) about the above, which was received on 10/08/2017.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

Condition 1 Flood Risk – Finished floor levels should be set at a minimum of 218.37 meters AOD

Flood Risk

The application site lies partially within zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15).

Development & Flood Risk and Flood Mapping & Data Management NRW teams have reviewed the supporting documents (2399-FCA vF1 (Aug 17) complete (NXPowerLite Copy).pdf) with this site, we can make the following comments:

- The hydrology estimates have been reviewed and approved by the Technical Hydrology team.
- In agreement with the DFR officer, a review of the modelling report has taken place only. No review of modelling files has taken place. This approach is because of the small scale of the proposed, historic modelling work and timescales stipulated by the Planning Authority.
- The modelling submission has taken a precautionary approach:
 - The design event has been considered as the 1 in 100+30% year scenario, instead of the required 25%.
 - The two culverts under the A44 have been blocked as part of the modelling submission.
- The model extent has been located far enough upstream and downstream to take into consideration any overland flow paths or downstream influences.
- Recognised modelling approach and software. 5m grid used, with a 5 second time step. Recommended time step should be half to quarter of model grid cell size.
- Figure 8 appears to show some oscillation in the stage hydrographs, this suggests there may be issues with model stability near the peak of the simulation for a short period of time.
- Appendix E includes a series of maps of model outputs, however there is no site boundary outlines on the map, to give a clear indication of the depth grid relative to the proposed development site.

This submission is purely a model to support a development site. Further work would be required (i.e. a full model review) if the applicant wishes to challenge the flood map in this area.

Given the comments above, there are no significant concerns with the outputs from this modelling exercise and are considered acceptable to support the development.

Given the scale and nature of the proposed and relative predicted low flood risk, the following flood levels have been extracted from the submissions in support of the recommended mitigation measures;

Existing ground level of the proposed building plot is 217.71 mAOD.

Peak flood levels range from 217.72 mAOD for the 1 in 20 year event to 217.79 mAOD for the 1 in 1000 year event, therefore theoretical flood depths are minimal.

Additional sensitivity analysis indicates that overland flow route on the western bank dominates and so any variations to flood levels at the development site are predicted to be minimal.

Mitigation measures described in section 7 of the FCA are acknowledged and reiterated below for inclusion in any planning approval;

Condition 1 Flood Risk – Finished floor levels should be set at a minimum of 218.37 meters AOD

Reason: To protect the development from predicted flood risk extents.

Advice: The proposed finished floor level is 600mm above the 1 in 100 plus 30% climate change elevation.

Recommendation: Registration to the NRW flood warning service is advised to allow for preparatory action to be taken and reduce residual flood risk, particularly in relation to safe access/egress.

Foul Drainage

We note that the drawing submitted shows a Klargestor Bio-disc with a discharge to the River Dulas which flows into the River Wye SAC downstream. Our permitting team should be contacted as soon as possible to determine whether a bespoke permit will be required as the proximity to the River Wye SAC may mean that it is not eligible for an exemption.

More information, including a step by step bilingual guide to registering, is available on our website at; 'Do I need to apply for a permit' <https://naturalresources.wales/apply-for-a-permit/water-discharges/discharges-to-surface-water-and-groundwater/environmental-permitting-for-discharges-to-surface-water-and-groundwater/?lang=en>

During determination of a bespoke permit the Permitting Service will assess whether there is any likely significant effect to the features of the River Wye SAC.

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The written consent of NRW or registration for exemption by the developer will be required for any discharge e.g. foul drainage to a watercourse/ditch etc, from the site and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our Permitting Service to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has

also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered.

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.

Representations

Following display of a site notice, 3 public representations have been received objecting to the application. In summary the following points have been raised:

- The character and appearance of the dwelling in relation to the surrounding environment.
- Flood plain
- The permanent residential need
- Whether or not there is an agricultural business being run
- Impact on the landscape
- Scale and size of the dwelling

Planning History

P/2010/1141 - Full: Erection of an agricultural building for free range eggs and creation of new access – Conditional Consent

P/2010/0520 - Full: Erection of an agricultural building for free range hens - Withdrawn

P/2010/0555 - Full: Change of use of land for the siting of a mobile home for use as a temporary agricultural worker's dwelling, creation of new vehicular access and installation of private treatment plant - Withdrawn

P/2012//1051 - Full: Change of use of land to permit the siting of an agricultural workers mobile home. – Conditional Consent

P/2010/1143 - Full: Siting of a mobile home as a temporary agricultural worker's dwelling in connection with free range egg unit proposal, creation of new access and installation of a package treatment plant - Withdrawn

P/2013/0862 - Full: Siting of mobile home (revision of external materials) (retrospective) – Conditional Consent

P/2015/1074 - Section 73 application to vary Condition no. 1 of planning permission P/2013/0862 to allow sitting of a mobile home for a further 3 years – Conditional Consent – 20/01/2016

P/2015/1076 - Section 73 application to vary Condition no. 1 of planning permission P/2013/0862 to allow change of use of land to extend domestic curtilage and formation of porch and timber decked area for a further 3 years. – Conditional Consent

P/2013/0173 - Full: Change of use of land for the siting of two mobile chalets, creation of new access and installation of private treatment plant – Conditional Consent

P/2016/0149 - Erection of extension to existing agricultural building – Conditional Consent

Principal Planning Constraints

Open Countryside

Principal Planning Policies

National planning policy

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note (TAN) 2: Planning and Affordable Housing (2006)

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

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

Technical Advice Note (TAN) 12 Design (2016)

Technical Advice Note 15: Development and Flood Risk (2004)

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

Technical Advice Note (TAN) 23: Economic Development (2014)

Local planning policies

Powys Unitary Development Plan (2010)

SP5 – Housing Developments

SP14 – Development in Flood Risk Areas

GP1 – Development Control

GP2 – Planning Obligations

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV7 – Protected Species

HP4 – Settlement Development Boundaries and Capacities

HP6 – Dwellings in the Open Countryside

HP10 – Affordability Criteria

HP14 – Sustainable Housing

DC11 – Non Mains Sewerage Treatment

DC13 – Surface Water Drainage

Powys Residential Design Guide (October 2004)

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

Officer Appraisal

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

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

Background of Development

Consent was granted in November 2012 under planning application P/2012/1051 for the change of use of land to permit the siting of an agricultural workers mobile home for a temporary period of three years together with the installation of a private treatment plant which has been occupied in connection with the poultry unit which was approved under the application reference number P/2010/1141.

The mobile caravan was implemented under the reference number P/2012/1051 and an additional application was made under the reference number P/2013/0862 which extended the temporary period. A further application was submitted under the reference number P/2015/1074 which was granted conditional consent on the 20/01/2016 to extend the period for a further three years until 2019.

Principle of Development

As an exception to housing policies, provision is made within Planning Policy Wales, Technical Advice Note 6 and the Powys Unitary Development Plan (2010) for new isolated residential development in the open countryside where the said accommodation is required to enable a rural worker to live at, or close to their place of work.

UDP policy HP6 sets out the general requirements applied to all residential developments within the open countryside such as this proposal. Proposals for dwellings in the open countryside will only be permitted for agricultural or forestry uses or in association with a suitable rural enterprise, such dwellings will only be permitted where they meet a required criteria. The criterion requires that the development:

- A. Clearly demonstrates that there is a functional need for the development and that the proposed enterprise would be financially viable.
- B. The dwelling should utilise an existing building in accordance with the conversion policy (GP6) or if none is available, any new dwelling shall be located adjacent to existing buildings wherever possible.

For the purposes of Technical Advice Note 6, qualifying rural enterprises are defined as those enterprises which comprise land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services (including agricultural contracting), tourism and leisure enterprises.

- Functional & Time Test

The functional test requires that it is demonstrated to be essential for a worker to be readily available at most times, at or in close proximity to the site of need, for an appropriate rural enterprise to function properly.

In terms of an existing functional need, the applicants have indicated that a residential accommodation adjacent to the business is essential for its continued running and expansion as it will enable the applicant to invest more time in the running of the business.

The free range unit has a substantial requirement for labour which is outside normal working hours. This involves ensuring that the pop holes are open at 8.00 a.m every morning of the year, rounding up the birds and the closing of the pop holes at 9.00 pm (or dusk) every night of the year. Monitoring of ventilation and temperatures, monitoring of feeding and water system and monitoring of the lighting system is also required. Failure of any of these system would have an adverse effect on bird welfare and production

The functional need is principally determined by the nature and scale of the enterprise operated and the agricultural systems employed. This business operates a free range egg enterprise of some 12 000 free range eggs which has a labour requirement of 2.4 full time workers, based on standard data from Poultry Farm Management Information. The availability of supervision is stated to be necessary to ensure that the business regulations 1994 and in the case of Poultry Enterprise, the Code of Recommendation for the Welfare of Laying Hens are adhered to.

- Financial Test

Accounts have been provided by A J Accountancy Limited (Chartered Accountants, Llandrindod Wells) that show the enterprise to be making a reasonable profit for a period of 3 consecutive years. The information within the submitted report demonstrates that the financial test have been complied with and that the rural enterprise can sustain a dwelling proposed.

- Other Dwellings

Having visited the site and reviewed the information that has been submitted it is considered that there are no agricultural buildings present on site that would be capable of conversion and no suitable alternative residential properties available.

In light of the above it is considered that the proposed development meets with policies HP6 and GP6 of the Powys Unitary Development Plan as well as Technical Advice Note 6.

Site Location and External Appearance

With respect to design, appearance and location specific reference is made to UDP policies GP1 and HP6. The respective policies indicate that development proposals will only be permitted where the design, scale, mass and materials used complement and wherever possible enhance the character and appearance of the surrounding area.

It is considered that the proposed dwelling would be grouped with existing buildings and would not appear as an isolated dwelling in the open countryside. The design is considered to complement the area. The proposed development is therefore considered to comply with policies relating to location and appearance.

Highways Safety

Powys UDP policy GP4 requires that all developments have a safe access, parking and visibility splays which are a fundamental requirement of any development.

Powys County Council's Highway Authority has been consulted on the proposed development and has stated that they would have no objections to the proposed development subject to the provision of an appropriately worded condition.

In light of the above the proposed development fundamentally complies with policy GP4 of the Powys Unitary Development Plan (2010) subject to the attachment of appropriately worded conditions.

Flooding

Policy SP14 of the Powys UDP refers to development in flood risk areas. The proposed development is within the C2 flood zone and is considered as highly vulnerable development. Policy SP14 states that highly vulnerable development and emergency services will not be permitted in C2 flood zones.

Natural Resources Wales (NRW) been consulted on the proposed development. NRW initially stated that they required an updated hydrological model and an updated FCA in order to determine the depth of flooding so as to advise on the finished floor levels and confirmed from the outset that there is not a problem with flood storage in this location. NRW confirmed that the site lies partially within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Dulas within the C2 flood zone as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk.

Following the submission of a Flood Consequence Assessment (FCA) NRW were re-consulted and confirmed that they would no longer object to the proposed development subject to the attachment of an appropriately worded condition to address their concerns. The condition will ensure that the finished floor levels are set at a minimum of 218.37 metres AOD. NRW have stated that there are no significant concerns with the outputs from the modelling exercise and are considered acceptable to support the development. NRW have recommended that the applicant register to the NRW flood warning service.

In light of the above advice received from NRW and the submitted FCA it is considered that flood risk can be managed to an acceptable level.

Biodiversity

Policy ENV3 and ENV7 of the Powys Unitary Development Plan (2010) seeks to ensure that protected species and their habitats are safeguarded and enhanced wherever possible. This is further emphasised within Technical Advice Note (TAN) 5.

Powys County Council's Ecologist has been consulted on the proposed development and noted that no ecological information had initially been submitted in support of the application. The Ecologist has stated that there are records of otter and bat species within 2km of the site. A preliminary ecological assessment will be required to be submitted prior to determination to identify the habitats present on and adjacent to the site and the potential to support protected species as well as the presence of invasive non-native species.

A Preliminary Ecological Appraisal report by Mid Wales Ecology (April 2017) was submitted as additional information and the Ecologist has been re-consulted. The Ecologist has noted that precautionary avoidance measures are proposed within Section 8 of the preliminary ecological appraisal report to avoid disturbance, harm and injury to otters, badgers, nesting birds, amphibians, reptiles and bat species during the construction phase. Additional bat boxes are proposed on the proposed building and nearby suitable trees in order to provide additional roosting opportunities for the local bat population. A sensitive lighting plan has also been proposed to safeguard against bat disturbance and displacement. The Ecologist has now confirmed that sufficient information has been submitted to identify that the proposed development would not have a detrimental impact upon protected species and their habitats and provides enhancement measures through the development. The Ecologist therefore considers that should planning permission be granted consent that appropriately worded conditions be attached to any granting of consent in order to ensure compliance with policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5.

In light of the above and subject to an appropriately worded condition it is considered that the proposed development fundamentally complies with policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010) and TAN 5.

Environmental Health

Policy DC11 of the Powys UDP states that where it is not feasible for development proposals to connect to the public foul sewerage system, permission will be granted for the provision of private sewage treatment plants and septic tanks where appropriate. Powys County Council's Environmental Health Officer has been consulted on the proposed development and requested that clarification be sought as to how the plant will be discharged. Confirmation was received that the foul drainage will be discharged to a water course and therefore Powys County Council's Environmental Health Officer has stated that no further information is required and the application would need to obtain a permit/consent for NRW for the sewage discharge.

In light of the above it is considered that the proposed development fundamentally complies with policy DC11 of the Powys UDP.

Other Legislative Considerations

Crime and Disorder Act 1998

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

Equality Act 2010

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

Having due regard to advancing equality involves:

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

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

Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. Given the scale of the development and the need for the development to contribute towards the economy of the area, it is considered that there would be no unacceptable effect upon the use of the Welsh language or culture.

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

Subject to conditions it is considered that flood risk can be managed to an acceptable level. The recommendation is therefore one of conditional consent.

Consent

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XX/XX/XX (drawing no's: 2016/03/07, 2016/03/08, 2016/03/06, 2016/03/05, 2016/03/02, 2016/03/01, 2016/03/09 & 2016/03/03).
3. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars. The parking areas shall be retained for their designated use in perpetuity.
4. The mitigation and enhancement regarding bats, otters, badgers, reptiles, amphibians and nesting birds in Section 8 of the ecological report by Mid Wales Ecology dated April 2017 shall be adhered to and implemented in full.
5. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval. Development shall be carried out in accordance with the approved scheme.
6. 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.
7. The Species List for the Landscape Planting contained within Section 8 of the ecological report by Mid Wales Ecology (April 2017) shall be implemented as approved and maintained thereafter.
8. Finished floor levels should be set at a minimum of 218.37 meters above Ordnance Datum.
9. The occupancy of the dwelling shall be restricted to:
 - a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or if it can be demonstrated that there are no such eligible occupiers,
 - b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no extensions to the dwelling or alterations to the roof (including the introduction of roof lights or dormers), or the erection of garages or sheds shall be undertaken without the prior express consent of the local planning authority.
11. Within two months of occupation of the new dwelling hereby approved, the existing temporary mobile home on the site shall be removed.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
4. To comply with Powys County Council's UDP policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
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 the Environment (Wales) Act 2016.
6. 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.
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 protect the development from flooding in accordance with policies GP1 and DC14 of the Powys Unitary Development Plan.
9. The dwelling is proposed for a site which would not normally be permitted other than for the running of the defined rural enterprise in accordance with the requirements of policy HP6 of the Powys Unitary Development Plan.
10. In order to control further development which has the potential to have adverse effects on privacy and/or amenity in contradiction to policy GP1 of the Powys Unitary Development Plan.
11. To prevent the establishment of separate use in the interests of privacy and amenity in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

Informative Notes

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the

case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

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

It is therefore an offence to:

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

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

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

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