

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

<b>Application No:</b>	P/2017/1083	<b>Grid Ref:</b>	304552.43 251819.55
<b>Community Council:</b>	Llanelwedd	<b>Valid Date:</b>	<b>Officer:</b> 27/09/2017 Thomas Goodman
<b>Applicant:</b>	Powys County Council		
<b>Location:</b>	Ysgol Gynradd, Wirfoddel A Reolir, Llanelwedd, Disserseth, Builth Wells, Powys, LD2 3TY		
<b>Proposal:</b>	Full: Installation of refurbished mobile classroom and associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

Powys County Council is the applicant.

### Site Location and Description

Consent is sought for the installation of a mobile classroom and associated works. The mobile classroom will measure approximately 9.6 metres in length by 8.6 metres in width by 3.4 metres in height and be finished in timber cladding under a EPDM membrane roof.

Located v to the north of the application site is agricultural land, to the south, east and west is land associated with Llanelwedd Primary School, including the playground and other classrooms.

### Consultee Response

#### Llanelwedd CC

No response received at the time of writing this report.

#### Powys Highways

Powys County Council as Highway Authority do not wish to comment on this application as the access is onto a trunk road which comes under the jurisdiction of the Welsh Government.

#### Powys Building Control

Building Regulations approval will be required for this proposal.

#### Wales and West Utilities

Wales & West Utilities have no objections to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.

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 & 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 Transporter (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.

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

### Sewerage

#### Conditions

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

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

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of

the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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 0800 917 2652 or via email at [developer.services@dwrwymru.com](mailto:developer.services@dwrwymru.com)

Please quote our reference number in all communications and correspondence.

### Powys Ecologist

I have reviewed the proposed plans, as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 236 records of protected and priority species within 500m of the proposed development.

There are three statutory designated sites present within 500m of the proposed development:

- Llanelwedd Rock – SSSI
- River Wye (Upper Wye) – SSSI
- River Wye - SAC

In considering the location and nature of the proposed development in relation to the River Wye SAC it is considered that there is no likelihood of direct or indirect impacts between the site of the proposed development and the River Wye SAC. This assessment has taken into account the fact that there are Buildings and roadway between the proposed development and SAC. Given the lack of connection between the proposed development and the nature of the development it is considered that there is no potential for a Likely Significant Effect to the SAC or its associated features and that a HRA would not be required.

There are no non-statutory designated sites present within 500m of the proposed development.

The proposed siting of the refurbished mobile classroom appears to be a play area surrounded by amenity grassland which is considered a habitat of low ecological value.

With regards to protected and priority species identified as present in the local area by the data search it is not considered likely that the proposed development would result in negative impacts to these species and no surveys are considered necessary.

The proposed developments and all associated work will not result in the loss of any features of ecological importance and it is considered the proposed plans will not result in negative impacts to biodiversity in the wider area.

## Powys Land Drainage

No response received at the time of writing this report.

## NRW

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 29/09/2017.

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

### Summary of Conditions:

Condition 1 - The classrooms must be sited on high ground in the northeast of the site in accordance with the drawings within the submitted FCA (WSP, September 2017) and the finished floor level must be set at 126.5mAOD (above the 0.1% flood level).

Condition 2 - Where stilts are used to raise the flood level of the classrooms, the area beneath must remain open space in perpetuity.

### Flood Risk

The planning application proposes the construction of 3 mobile classrooms (highly vulnerable development) within DAM Zone C2. With reference to Section 6 of TAN15, this development category should not be permitted in Zone C2. If your Authority is minded to approve the application contrary to TAN15, the applicant should be required to undertake a FCA prior to determination of the application.

We should then be asked for advice on this assessment in accordance with TAN15. The purpose of the FCA is to ensure that all parties, including your Authority, are aware of the risks to, and from, the development, and ensure that if practicable, appropriate controls can be incorporated in a planning permission to manage the risks and consequences of flooding.

The FCA submitted in support of the application (WSP, September 2017) states the following:

The existing site topography varies from 127.5mAOD to 123.5mAOD and is near to two watercourses, the Henllan Brook and the River Wye (Section 1.2)

The development will consist of three mobile classrooms in the north of the existing school compound. These units are anticipated to have a lifetime of around 15 years (Section 1.3)

The site is located within DAM Zone C2 and is considered highly vulnerable development (Section 2.2).

NRW flood data for has been obtained for the River Wye. The model doesn't include risk from the Henllan brook. The model shows flooding to part of the site in a 1 in 20 year (5%) event due to River Wye floodwater backing up the Henllan Brook to low lying parts of the site.

Flood depths reach between 1.1m to 2m in the 1 in 100 year (1%) and 1 in 1000 year (0.1%) scenarios respectively, with velocities of 0.03m/s and 0.3m/s. Along the access route (through the existing school), flood depths and velocities vary between 0.3m to 2.4m for 0.1% event, with velocities of 0.2m/s to 1.8m/s (Section 4.1).

There is a record of flooding from the Henllan Brook to the school grounds during the winter of 2015, resulting in flooding of the car park, playground and playing field.

Accounting for climate change, the 1% scenario including a 20% climate change allowance run in the NRW model indicates 1.45m flood depths and 0.15m/s velocities on site. This has been aligned to the 15-year lifespan for the site (2050s) (Table 3 in Section 4.1)

The site does not meet the threshold criteria in TAN15 as it shown to flood in 1% scenario, depths and velocities in the 0.1% scenario exceed the guidance levels for both the site and access given in TAN15 Section A1.15. The site is located within a flood warning area, within an expected time to inundation of around 7 hours given the large size of the River Wye catchment. Flooding from the Henllan Brook would be more rapid, but it should be noted that the extreme modelled depths are expected from the River Wye (Section 4.2).

It is proposed to raise the threshold of the development above the 0.1% level of 126.5mAOD, giving around 500mm freeboard above the 1%+25% CC level. The buildings will be raised by use of stilts, stability under flood conditions and debris impact must be considered in the design (Section 4.3).

Access will not be possible during larger floods. During a 1% event on the River Wye, a possible access/egress is available through the current school building to dry ground. During the 0.1% scenario, this route floods to a depth of 300mm with flood velocities of 0.2m/s. The residual risk is to be managed through use of the NRW flood warning service and site specific emergency evacuation procedures. The school is currently registered on this service and emergency plan will be revised to include this facility (Section 4.3).

Should stilts not be feasible it is proposed to raise ground levels depending on final design. It is estimated that less than 100m<sup>3</sup> of flood storage would be lost in the 0.1% event which is considered negligible in terms of a River Wye flood. Localised effects on flood flow routes would not have any significant effect on flow conveyance (Section 5.1).

Doors should be located at the northern side of the classroom in the area at least risk (Section 7.2).

With reference to the content of the FCA, we have the following comments:

It is noted that a potential lifetime of development of 15 years is given in the FCA. The lifespan of the classrooms is not stated within the planning application and there is no guarantee that the classroom will not be retained/replaced past the 15 year design life. We would therefore recommend that the 75 year lifetime of development is used (2080s) as standard. The FCA appears to reference the incorrect climate change scenario in Table 3 and refers to the values for West Wales. The Severn catchment values are applicable for this site. (<http://gov.wales/docs/desh/publications/160831guidance-for-flood-consequence-assessments-climate-change-allowances-en.pdf>) In this case the 2080 value for the Severn

catchment is the same as the 2050 value for the West Wales area (25%) and does not affect the results of the FCA.

The site emergency access route is not compliant with the criteria in Section A1.15 of TAN15, (0.3m/s velocity, 60mm flooding), and is significantly exceeded in low-lying locations adjacent to the Henllan Brook. Safe evacuation of the site will be dependent on an effective flood emergency plan as noted in the FCA. NRW flood warnings are only issued for the River Wye and are not available for the Henllan Brook. Whilst a lesser flood extent and depths is anticipated from the brook, risk from this source should be considered in the emergency plan given the predicted rapid rate of inundation to low lying areas of the site.

The proposed use of stilts may be acceptable at this location where appropriate measures are taken to ensure stability under flood conditions and debris impact. We would recommend a suitable condition is applied to ensure the area beneath the classrooms remains open space in compliance with A1.14 in TAN15, although due to the site topography this area is unlikely to be suitable for other purposes (i.e. storage/parking).

If your Authority is minded to approve the application contrary to TAN15, we therefore have no objection subject to conditions:

Condition 1 - The classrooms must be sited on high ground in the northeast of the site in accordance with the drawings within the submitted FCA (WSP, September 2017) and the finished floor level must be set at 126.5mAOD (above the 0.1% flood level).

Reason: To ensure the built development remains flood-free in accordance with the requirements in TAN15.

Condition 2 - Where stilts are used to raise the flood level of the classrooms, the area beneath must remain open space in perpetuity.

Reason: To ensure the built development remains flood-free in accordance with the requirements in TAN15

#### - Recommendations

The flood emergency plan for the school should be revised to include the new facility and agreed with the Local Authority to ensure the safe evacuation of the site during a flood event. The site is within the Flood Warning area for the River Wye at Builth Wells.

As recommended in the FCA, the classroom entrances/exits should be located on the high ground to the northeast of the buildings to ensure safe evacuation via the existing school in the event of a flood.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend that you consider consulting other professional advisors on the acceptability of the developer's proposals, on matters that we cannot advise you on such as emergency plans, procedures and measures to address structural damage that may result from flooding. We refer you to the above information and the FCA to aid these considerations.

Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

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.

#### Welsh Gov Transport

No response received at the time of writing this report.

#### Emergency Planning Officer

No response received at the time of writing this report.

#### Powys Environmental Health

I would recommend the following be attached should permission be given in order to protect the local residents from adverse noise at unreasonable times

Due to the residential nature of the area and giving consideration to possible noise creation, I would recommended that the construction period working hours and delivery times be restricted as follows:

All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

0800 - 1800 hrs Monday to Friday

0800 – 1300 hrs Saturday

At no time on Sunday and Bank Holidays

Deliveries to and removal of plant, equipment, machinery and waste, including soil, from the site must also only take place within the permitted hours detailed above.

Reason: - to protect the amenity of residents from noise

## **Representations**

Following the display of a site notice and a press advertisement, no public representations have been received at the time of writing this report.

## **Planning History**

No history as per GIS

## **Principal Planning Constraints**

Open Countryside  
C2 Flood Zone

## **Principal Planning Policies**

### National planning policy

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note (TAN) 5 – Nature Conservation and Planning (2009)  
Technical Advice Note (TAN) 6 – Planning for Sustainable Rural Communities (2010)  
Technical Advice Note (TAN) 11 – Noise (1997)  
Technical Advice Note (TAN) 12 – Design (2016)  
Technical Advice Note (TAN) 15 - Development and Flood Risk (2004)  
Technical Advice Note (TAN) 18 – Transport (2007)  
Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2017)  
Technical Advice Note (TAN) 23 – Economic Development (2014)

### Local planning policies

Powys Unitary Development Plan (2010)

SP4 – Economic and Employment Developments  
SP9 – Local Community Services and Facilities  
SP14 - Development In Flood Risk Areas  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highway and Parking Requirements  
ENV2 – Safeguarding the Landscape  
ENV3 – Safeguarding Biodiversity and Natural Habitats  
ENV7 – Protected Species  
HP4 – Settlement Development Boundaries and Capacities  
CS5 – Educational Developments  
DC10 – Mains Sewage Treatment  
DC13 – Surface Water Drainage  
DC14 – Flood Prevention Measures

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



## **Officer Appraisal**

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

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

### Principle of Development

Policy CS5 of the Powys Unitary Development Plan states that proposals for the extension or improvement of existing schools and other education facilities or the provision of new facilities will be supported where located in accordance with the sustainable strategic settlement hierarchy. The Powys Unitary Development Plan's Sustainable Strategic Settlement Hierarchy emphasises the importance of locating new residential developments within reasonable travelling distance of existing educational establishments. Similarly, new or expanded education facilities should be provided at locations convenient to the main residential areas. Llanelwedd is classed as a small village in the Powys UDP and is located within walking distance of Builth Wells (an Area Centre) which has a large number of facilities. Whilst it is noted that the development site is located outside of a settlement development boundary, it is an extension to an existing education facility and is supported by sufficient transport links and connectivity to Builth Wells. On this basis it is therefore considered that the proposed development fundamentally complies with this planning policy.

### Design and External Appearance

With respect to design, appearance and location specific reference is made to UDP policy GP1. 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.

The existing school is single storey in construction using a mixture of design styles and materials. Consent is sought for the erection of a single storey, timber clad mobile classroom which will measure approximately 9.6 metres in length by 8.6 metres in width by 3.4 metres in height.

It is noted that the materials proposed do not match those of the existing school. However, the existing school comprises of a range of materials, including stone, brick and render and therefore the introduction of a timber clad mobile classroom would not have a detrimental impact upon the character and appearance of the surrounding area. Furthermore it is considered that the design of the proposed mobile classroom is similar to the majority of mobile classrooms across Powys.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy with regards to design.

### Highway Safety

Policy GP4 of the Powys Unitary Development Plan (2010) requires a safe access, parking and visibility splays which are a fundamental requirement of any development.

The proposal does not seek to alter the existing means of access and the proposed development will not impact upon the current level of parking available. Powys County Council's Highway Authority and the Welsh Government Trunk Road Agency have been consulted on the proposed development. No response has been received from the Trunk Road Agency on this occasion, however, given the current parking and access available at the existing facility and that the proposed development will not reduce those levels afforded, it is considered that the proposed development fundamentally complies with policy GP4 of the Powys UDP.

### Biodiversity

Policies ENV3 and ENV7 of the Powys Unitary Development Plan (2010) seeks to safeguard and wherever possible enhance protected species and their habitats. This is further emphasised within the Welsh Government Technical Advice Note (TAN) 5.

Powys County Council's Ecologist has been consulted on the proposed development. The Ecologist has stated that having completed a data search 236 records of protected and priority species were identified within 500 metres of the development site. Within the 500m range 3 statutory designated sites are present, which include the River Wye (upper Wye) – SSSI, Llanelwedd Rock – SSSI and the River Wye SAC. Given the proximity of the River Wye SAC the Ecologist has stated that there is no likelihood of direct or indirect impacts between the site of the proposed development and the River Wye SAC and therefore there is no potential for a likely significant effect to the SAC and therefore a HRA would not be required.

The development site is acknowledged as part of a play area surrounded by amenity grassland which is considered a habitat of low ecological value. It is therefore considered that the development would not result in negative impacts to protected species and no further surveys would be necessary.

In light of the above comments received from the Ecologist it is considered that the proposed development fundamentally complies with Powys County Council's Powys Unitary Development Plan (2010) policies ENV3 and ENV7 as well as Technical Advice Note (TAN) 5.

### Environmental Health

Powys County Council's Environmental Health Officer has been consulted on the proposed development. The Officer has requested that should planning permission be granted then an appropriately worded condition be attached. The condition would protect the local residents from adverse noise at unreasonable times and therefore seeks to restrict the construction period working hours and delivery times.

In light of the above and subject to the attachment of an appropriately worded condition the proposed development complies with policy GP1 of the Powys Unitary Development Plan (2010).

## 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 have noted that the application site lies entirely within the C2 flood zone as defined by the Development Advice Map (DAM). A Flood Consequence Assessment has been submitted in support of this application which NRW have commented on. Whilst not objecting NRW have stated that they have significant concerns with the proposed development. The development site is located entirely within a C2 flood zone as defined by TAN 15 and access to the site will not be possible during larger floods. Furthermore whilst the proposed classroom would be on stilts at a height above the flood level the access would not be. The site emergency access route is not compliant with the criteria in Section A1.15 of TAN15. However, although NRW have stated that they have significant concerns they have recommended that appropriately worded conditions should be attached to any granting of consent and should these not be attached NRW would object to the proposed development.

NRW have advised that a decision of conditional consent would be contrary to Technical Advice Note 15. The conditions would ensure that the classroom would be set at a specific height Above Ordnance Datum and should stilts be used the area beneath must remain open space in perpetuity, however where stilts are used appropriate measures would need to be taken to ensure stability under flood conditions and debris impact.

In light of the above consultation response received from NRW and the advice contained within SP14 of the Powys UDP and TAN15 it is considered that there would be an increase in highly vulnerable development within a C2 flood zone in this location and therefore would be contrary to policy SP14 of the Powys UDP and TAN 15. Refusal should therefore be carefully considered.

## 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**

It is considered that the proposed development would result in highly vulnerable development within a flood zone, contrary to policy SP14 and Technical Advice Note 15 – Development and Flood Risk. This policy objection in addition concerns regarding the flooding depth at the property access, is considered to justify the refusal of the proposed development. The recommendation is therefore one of refusal.

### **Conditions**

1. The proposal will lead to an increase in highly vulnerable development within Zone C2 as defined by the development advice maps referred to under TAN15 Development and Flood Risk (2004). The development is contrary to policy SP14 of the Powys Unitary Development Plan (2010), Technical Advice Note 15 (TAN 15) Development and Flood Risk (2004) and Planning Policy Wales (2016).