

# Planning, Taxi Licensing and Rights of Way Committee Report

## UPDATE REPORT

<b>Application No:</b>	P/2016/0397	<b>Grid Ref:</b>	322207.34 244602.32
<b>Community Council:</b>	Clyro Comm	<b>Valid Date:</b>	<b>Officer:</b> 22/02/2017 Tamsin Law
<b>Applicant:</b>	Mr Lloyd JR Lloyd & Son, Lower House Farm, Clyro, Hereford, HR3 5RU		
<b>Location:</b>	Lower House Farm, Clyro, Hereford, HR3 5RU		
<b>Proposal:</b>	Erection of two poultry units, creation of access track, installation of a package treatment plant and all associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for the update

Additional correspondence has been received from third parties and the Campaign for the Protection of Rural Wales (CPRW). This update also provides further clarification on the historic landscape and Offa's Dyke footpath.

### Representations

Further correspondence has been received from four individuals regarding the development. The issues have already been raised in the original report however for the avoidance of doubt these are the issues raised since the publication of the original report;

- Concerns regarding the response received from NRW regarding the impact of the proposed development on white clawed crayfish and ancient woodland
- Concerns regarding the impact of the proposed development on protected species and designated sites (SSSIs and SACs)
- Colour of the proposed building has not been stated
- Concerns over impact on existing tourism enterprises
- Concerns regarding odour and noise and potential impact on health

The following response was received by CPRW on the 25<sup>th</sup> January 2018

Brecon & Radnor Branch of CPRW object to this application on the following grounds:

- Landscape
- Proximity to neighbours
- Proximity to neighbouring holiday park business
- Failure to consider alternative site
- Unacceptable environmental impacts: Ancient Woodlands, water pollution risks, European Protected Species

These grounds for objection are amplified below. We believe that the application should be refused and appeal to the committee to follow the lead of the Carmarthenshire planning committee in rejecting a poultry unit application with such obvious impacts on near neighbours and the local landscape.

### Farm Diversification

CPRW Brecon and Radnor Branch understands the pressures facing small family farms in Powys and the need for on-farm diversification and entirely supports those forms of diversification which seek to minimize impacts on local communities and the environment. This is also the approach recommended for Planning Authorities in Technical Advice Note 6 para. 3.2.1.

However, like many other NGOs, local and national, CPRW Brecon & Radnor is increasingly alarmed at the severity and long-term nature of the environmental impacts of intensive poultry farming, and is aware that these have not to date been given due weight in the planning process, in contravention of the requirements of the Environment (Wales) Act 2016.

### Landscape

We are aware that because NRW's remit excludes the assessment of landscape impacts outside the national parks and AONBs, and because Powys does not have an inhouse Landscape Officer, the impact of development on landscape tends to be minimized or overlooked in the determination of intensive poultry applications.

The applicant's LVIA does not make any reference to the fact that this application site lies within the Bryn-yr-hydd character area of the Middle Wye Valley Registered Historic Landscape, a 'diverse and well-preserved Historic Landscape'. [CPAT/CADW1] Key characteristics of this character area are set out as:

"Small medieval nucleated church and castle settlements on valley edge, and medieval and later scattered farmsteads on lower-lying hill land in landscape of small irregular fields, representing gradual encroachment on upland commons... The modern agricultural landscape is dominated by small and irregularly-shaped fields, with lynchet formation on the steeper slopes indicating more widespread cultivation in the past... A pattern of early winding roads, lanes and footpaths links the farms, townships and village centres, many of which are likely to be of medieval origin."

The Registered Historic Landscape and individual character areas within the RHL are described in CPAT Report 420. The purposes of such historic landscape characterization include informing planning decisions, with a view to protecting local distinctiveness and sense of place. We note that while the planning officer has referred to the RHL as a 'principal planning constraint' (page 54 of Officer's Report) she has made no reference to the RHL in her evaluation, has sought no expert guidance, has relied wholly on the applicant's assessment of landscape impacts, and has not noted the discrepancies in design – particularly building materials and external appearance – throughout the application documents.

This area has strong cultural associations with diarist and clergyman Rev. Francis Kilvert, whose full and lively descriptions of the local community and landscapes are still much read today. This additional interest, together with the coherent and distinctive historical character of the landscape and the outstanding visual characteristics of the Middle Wye Valley, contribute to this being a landscape treasured by local people and valued by its very many visitors.

We are surprised that there is no report from either CPAT or the Council's Built Heritage Officer to assist the Planning Officer in understanding the importance of the historic landscape and the proper evaluation of impacts on this landscape. These are very significant omissions and we do not believe the Planning Officer has sufficient information to reach any conclusion on landscape impacts.

The application seeks to place a set of buildings which will have the appearance of a single block 45m by 111m by 5.3m in height at an elevation above a main road into Wales from the midlands. There are also to be large ridge fans and gable end fans, four 7.7m high silos for feed storage, solar panels on the south-facing roofs, large-scale earthworks (no plans for which are included in the application) to create a raised flat plateau for the buildings, a new artificial landform at the eastern end of the development, a large area (7700 sq. m) of hardstanding and substantially widened access from the road. The LVIA states that the buildings will be timber clad with dark grey metal roofs to minimize visual intrusion. (Other application documents state that the buildings will be faced and roofed in juniper green sheet metal, while from Condition 3 it is clear the applicant can decide on the colour of external walls post determination.)

It is argued in the LVIA that the development will be 'an extension of the established agricultural use, which is itself a contributor to the character of the landscape setting'. We consider that the scale and design of the building bears no relation to the traditional agricultural buildings which contribute to local landscape character. The development is also out of scale with more modern farm buildings. The new buildings will not be assimilated into the existing farm complex or into the receiving landscape. Inspector Clarke (APP/W1850/W/16/3162464 Bage Court, Dorstone, appeal refused) said of a significantly smaller poultry building a few miles away in the Golden Valley (19.5m x 76m) 'Due to a combination of its length, enclosed and utilitarian design, and facing materials, it would have an austere industrial appearance' and concluded that 'the appeal proposal would lead to substantial harm to the character and appearance of a valued landscape'. (Note that intensive poultry applications at Bage Court have twice been refused, and both appeals have been dismissed. In her decision (Dec 2015) Inspector Jones also cites the 'industrial' appearance of the buildings and states: 'It is clear to me that the scheme would cause very substantial harm to the character and appearance of the countryside'.)

The LVIA does not, as would be usual, include a photomontage representation of the development. However, the scale of landscape impacts can be seen from similar sheds already built. For a comparable development in the immediate area, see new poultry sheds at Ffordd Fawr Farm (P/2013/1031) on the B4350 between Glasbury and Hay on Wye, dimensions 18 x 109m, which are prominent, and uncompromisingly industrial and jarring, in the landscape from both elevated and valley bottom viewpoints (including the A438 towards Glasbury) across the valley.

We cannot understand the need for the scale of the buildings, the plans for which are identical to P/2016/0069 and P/2015/1001 – both designed to hold 30,500 birds. Logically, it would seem if the applicant intends to house 23,500 birds that the building could be reduced in size by something approaching a quarter, thus reducing its visual impact.

The site is set immediately adjacent to and above the A438, a major tourist route into Wales, the Middle Wye and the Brecon Beacons. The LVIA dismisses impacts on users of the A438. Given the drama of the views from this stretch of the road as the Middle Wye Valley opens up, and the significant visitor use of this road, we consider that the sensitivity of users of the road is underestimated. We believe that for LVIA purposes this road is analogous to the A44, about which Inspector Nixon (APP/T6850/A/13/2198831 Pentre Tump, appeal refused) says: 'I recognise that road travellers are generally classified as visual receptors of low sensitivity. However, the A44 is a principal leisure route into Wales, recognised as having scenic value. Given this, and the volume of use as a principal route, I regard the effects of the development as perceived by users of the A44 as significant'.

While we welcome the applicant's intention to plant new woodland behind the buildings, we can't accept the LVIA argument that the 'existing landscape baseline has a weakened structure' and that the applicant's 'landscape proposals' (which we take to refer to this planting) will 'strengthen some of the landscape elements identified in the LANDMAP assessment as contributing to the landscape setting'. Nor can we accept that this assumed and unevidenced benefit from a planting proposal (which will have no screening effect and cannot reduce actual impacts) can legitimately be used to reduce the reported magnitude of the harmful landscape impacts of the development.

Conclusion: The LVIA does acknowledge that the earthworks and building represent a significant change which will not easily be reversed. However, it omits to mention the Registered Historic Landscape, and understates the sensitivity of the receiving landscape and receptors within that landscape. The LVIA uses unevidenced assumptions to downgrade the magnitude of landscape impacts (see para above). Excessive reliance is placed on hedge and tree planting for screening which will take many years to establish, on the assumed agricultural nature of the building (see Inspector Clarke comments above), and on the use of materials which are not specified elsewhere in the application documents. Design changes to site access, increasing the visual impact and made after the date of the LVIA, have necessarily not been considered. The conclusions of the LVIA are unsound and undervalue both impacts on landscape character and visual impacts. The planning officer has not made an independent evaluation of landscape impacts nor obtained independent expert consultee advice.

This application should be refused on grounds of unacceptable impacts on an important local landscape.

Proximity to neighbours & proximity to neighbouring holiday park business

We will not repeat the arguments which have been made so effectively by local residents but we are very concerned about:

1. the potential for nuisance and harmful health effects from emissions on close neighbours to the development; and

2. the real potential for emissions from the development to damage the business of the Black Mountain View Caravan Park, a long established business which in addition to supporting its owners and family makes a very substantial contribution to the economy of the local area.

The branch wholly supports these objections.

We would also like to point out Carmarthenshire Planning Committee cited breach of the TAN 6 400m recommended separation between livestock units and protected buildings as one of the grounds for their refusal (October 2017) of intensive poultry application E/33695.

Failure to consider alternative site

Schedule 4 Part 1 2 requires 'An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects [our underlining].' We cannot find that this requirement is adequately met within the application. In view of the sensitivity of the site this is an important omission and the applicant should set out environmental reasons for preferring this site to his other landholdings, including Cefn y Blaen Farm.

Similarly the tests applying where there is a potential threat to European Protected Species require an applicant to evidence that there is no 'satisfactory alternative' at the same time as demonstrating that there are 'imperative reasons of overriding public interest' for development. We cannot see that these tests are satisfied.

Unacceptable environmental impacts

Ancient woodlands: Ammonia depositions on almost 2Ha of the adjacent ancient woodland site Gibbons Covert substantially exceed the 100% (of critical level) threshold for nature sites without national or international designation, with a maximum estimated deposition of 707%. Exceedances are also predicted at Wet Covert ancient woodland. Critical Levels are defined as "concentrations of pollutants in the atmosphere above which direct adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur according to present knowledge".

It is suggested that these exceedances are acceptable because the applicant has proposed additional woodland planting, to the north and to the east of the poultry units. We are advised that tree planting for ammonia screening provides negligible screening benefit for around 15 years while the trees establish. NRW have advised that 1) such planting might reduce ammonia deposition by 25% (once established) and 2) that the applicant's own survey has confirmed no sensitive plant populations on site in Gibbons Covert which would justify the lower critical level of 1% being applied as opposed to the higher critical level of 3%. In spite of this NRW advice the higher critical level would still be substantially exceeded, even when the new woodland planting is established and providing some screening benefit.

Wet Covert does not belong to the applicant so could not be surveyed and no evidence is put forward regarding potential sensitive plant populations which could be adversely impacted by ammonia deposition. The proposed woodland planting (above) will not provide screening for this site.

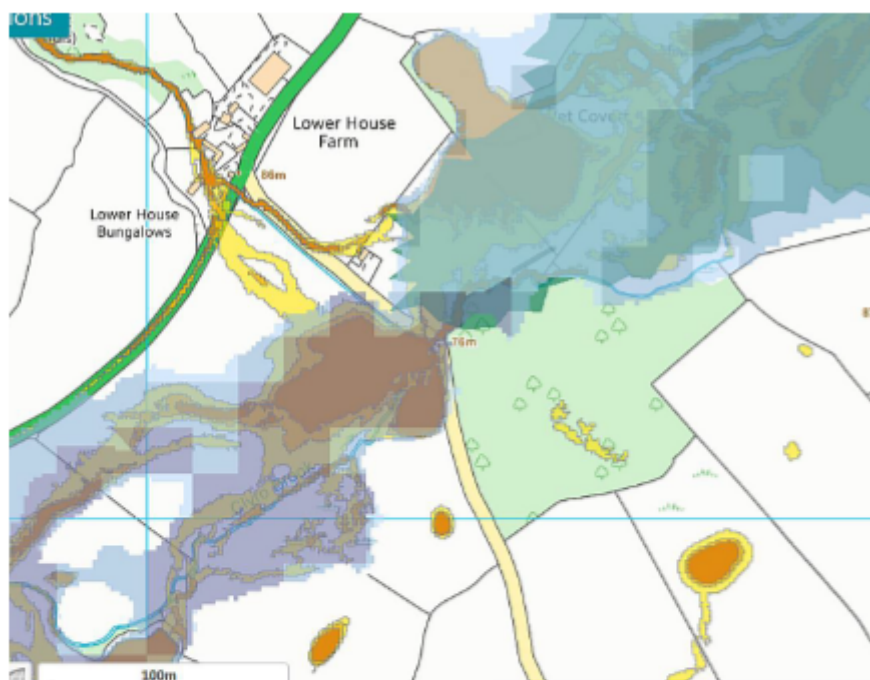
Also adjacent to the site is Radnorshire Wildlife Trust's nature reserve Cwm Byddog, the rarity and sensitivity of which has already been set out in the trust's objection.

We cannot see that the applicant's proposals offer adequate protections for ancient woodland sites, which are likely to be adversely impacted by ammonia depositions.

Ancient woodlands are irreplaceable, uniquely rich and diverse ecosystems. Even felled and replanted ancient woodlands such as Gibbons Covert retain many of the features of ancient woodland whether in existing ground flora or in seed banks and soils and these sites too deserve protection.

We support the objections to this application made by the Woodland Trust and Radnorshire Wildlife Trusts.

Potential water pollution: The flood risk map below is taken from NRW website <https://naturalresources.wales/evidence-and-data/maps/long-term-flood-risk/?lang=en>



The key is set out below:

Flood Information		Reservoir Flood Risk	
—	Flood Defences	■	Risk of Flooding from Reservoirs - Extent
Risk of Flooding from Rivers & Sea		High Surface Water Flood Risk	
Risk of Flooding from Rivers & Sea		■	High Surface Water Flood Risk - Extent
■	High	Medium Surface Water Flood Risk	
■	Medium	■	Medium Surface Water Flood Risk - Extent
■	Low	Low Surface Water Flood Risk	
■	Very Low	■	Low Surface Water Flood Risk - Extent

We have reproduced this map to demonstrate the high likelihood of any uncontained washwater or manure spillages or contaminated runoff from hardstanding or roofs entering the Wye. The flow of floodwaters down the hill past the farm entrance and on towards the Wye SAC, Clyro Brook and also Wet Covert is clear. There will be a tendency for any heavy run off from the roofs and impermeable hardstanding surrounding the buildings to descend

the incline<sup>2</sup> to the farm entrance and join flood waters, unless there is adequate provision for capture of all rainwater, even in extreme rainfall events.

Construction Management and Pollution Prevention Plans have not been provided. The application contains no detailed plans, or no legible plans, setting out how contaminated waters will be safely captured and stored. We consider that there is insufficient information to demonstrate that pollution of Wet Covert and the Wye SAC can be prevented.

White clawed crayfish:

We note that new information, in particular the County Ecologist's report of 3rd January, has appeared in the Officer's report which has not previously been available to the public. We cannot trace the drainage plans referred to by the Ecologist (possibly due to illegibility of some plans uploaded to the website) and cannot see whether issues such as permeability of hard standing (crushed stone per LVIA) have been adequately resolved.

White clawed crayfish have been reported as found in both the Clyro Brook and Wet Covert. The Ammonia Report sets out that Wet Covert will be exposed to ammonia deposition in excess of 100% of critical load (see above). Proposed new plantings will not provide screening mitigation for Wet Covert. Both Wet Covert and Clyro Brook are in the path of floodwaters descending past the development.

Dr. Fred Slater, consultant ecologist with a long standing interest in and experience of white clawed crayfish has requested that a full survey is required to establish the potential for harmful impacts on white clawed crayfish and/or other protected species in the vicinity of the proposed development. He also points out that to ignore the potential presence of protected and ecologically very important species would contravene law and the purposes of the SAC designation.

The LPAs' duties regarding protected species are set out in PPW9 (Nov 2016):

## Protected species

5.5.11 The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat<sup>32 33 34</sup>. Local planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site concerned, and should consult Natural Resources Wales before granting permission. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the planning decision.

5.5.12 Developments are always subject to the legislation covering European protected species<sup>35</sup> regardless of whether or not they are within a designated site. New developments for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitats Directive. A derogation<sup>36</sup> may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving 'public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'<sup>37</sup>. Derogations are granted by a licence issued by Natural Resources Wales<sup>38</sup>. Local planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted derogations in relation to European protected species, planning authorities should take the above three requirements for derogation into account when considering development proposals where a European protected species is present.

There is no satisfactory and publically available evidence of adequate drainage plans to eliminate all risk of harmful pollution to water and aquatic populations, if this is even in practice possible.

We cannot see that any resolution has been proposed for the excess (above the critical load) aerial ammonia deposition on Wet Covert as reported in the applicant's ammonia study and cannot see the relevance of comparison to an alternative, entirely hypothetical, source.

Determination of this application should be deferred until the required survey has taken place or the application must be refused on grounds of insufficient information.

We note that Development Management refused planning application P/2016/0881 and grounds for refusal included inadequate information regarding protection of biodiversity. We believe there are very substantial gaps in the ecological information supplied in support of this application – as set out above.

Context: Committee members see only a small minority of the applications for intensive poultry units and may be unaware of the scale of the industry in the county. Please see CPRW Brecon & Radnor webpage [http://www.brecon-and-radnor-cprw.wales/?page\\_id=44](http://www.brecon-and-radnor-cprw.wales/?page_id=44) for interactive map depicting poultry units in Powys as at 8/11/2017. The density of poultry units in Powys is now unparalleled in Europe, with approximately 7 million chickens in 200 intensive poultry units<sup>3</sup> across the county. In 2015 NRW report 'Powys Pilot Poultry Study' emphasized the need for great care in the assessment of environmental impacts of further applications.

Please

see



<http://mailer.wyeuskfoundation.org/display?e=93d0e66c516f6833c2b314f07d9b2f1f&code=c6ca305a02> for Wye and Usk Foundation News Update 24th January 2017 concerns regarding inadequate protection through the planning system of our rivers and streams.

Conclusion: This application should be refused on the following grounds:

- Unacceptable landscape impacts
- Proximity to neighbours
- Proximity to neighbouring holiday park business
- Failure to consider alternative site
- Unacceptable environmental impacts on Ancient Woodlands
- Inadequate information regarding risk of water pollution
- Inadequate information regarding European Protected Species

The Campaign for the Protection of Rural Wales (CPRW) established in 1928 is Wales' foremost countryside Charity. Through its work as an environmental watchdog it aims to secure the protection and improvement of the rural landscape, environment and the well-being of those living in the rural areas of Wales.

### **Officer Appraisal**

The responses received from third parties as outlined above have already been considered in the original Officer Report.

However further clarification and consideration is provided below on landscape impact and the Offa's Dyke footpath;

### Landscape Impact

The impact of the proposed development is considered in detail in the original Committee Report, however Members attention is drawn to policy ENV16: Landscapes, Parks and Gardens of Special Historic Interest. This policy states that during consideration of development proposals, the protection of the special historic interest of historic landscapes will be sought.

The site lies within the Middle Wye Valley Registered Historic Landscape and the key characteristics are stated as follows;

“Small medieval nucleated church and castle settlements on valley edge, and medieval and later scattered farmsteads on lower-lying hill land in landscape of small irregular fields, representing gradual encroachment on upland commons... The modern agricultural landscape is dominated by small and irregularly-shaped fields, with lynchet formation on the steeper slopes indicating more widespread cultivation in the past... A pattern of early winding roads, lanes and footpaths links the farms, townships and village centres, many of which are likely to be of medieval origin.”

Cadw are the statutory consultee for development within a registered historic landscape and were duly consulted. In their response they offer no objection to the impact of the proposed development on the historic landscape.

The proposed development is grouped with the existing building at Lower House Farm, does not seek to change field boundaries or any existing highways, roads, lanes or footpaths. These are characteristics of the Historic Landscape which will not be altered by the proposed development.

In terms of the proposed development it is relatively low lying, being 5.3 metres to the ridge with a maximum height of 7.7 metres for the feed silos. Whilst concern has been raised over the final colour of the building, Members attention is drawn to the condition on the original report which requires the submission of this information prior to the construction of the building. As such, only colours that would be acceptable in terms of landscape and visual impact will be considered acceptable. Additional landscaping is also proposed which will aid in the screening of the development.

As such, it is considered that the proposed development, grouped with the existing farm buildings, would not have a detrimental impact on the character of the historic landscape.

In looking at the impact of the proposed development cumulatively with other buildings in the area, little development in the terms of large scale agricultural buildings have occurred and the grouping of the proposed development with the existing farm buildings along with the proposed landscaping would aid in assimilating the development into the landscape. It is considered that the proposed development does not cumulatively with other buildings have a detrimental impact on the landscape.

The Powys Unitary Development Plan through policy EC9 seeks to ensure that the harm from new agricultural buildings is minimised through sensitive design and siting. Guidance within EC9 suggests that wherever possible, new buildings should be grouped with existing buildings and utilise materials which are sympathetic to the site's surroundings. Whilst Officers acknowledge that the proposed poultry development represents a substantial addition to the rural landscape, given the proposed grouping, it is considered that whilst the development would have an impact on the surrounding landscape, and particularly from the adjacent road.

In light of the above, taking into consideration the landscape impact along with the proposed landscaping, Officers consider that on balance, the application is in accordance with the relevant policies.

### Offa's Dyke Footpath

For the purposes of clarification Officers would draw Members attention to the fact that part of the Offa's Dyke long distance right of way is included within the Landscape and Visual Impact Assessment. The Zone of Theoretical Visibility identifies that the development would be visible from a short section of the Offa's Dyke. The Offa's Dyke lies approximately 690 metres to the east of the proposed development.

Officers consider that whilst the development will be visible, this will be over a distance of approximately 690 metres and the development will be viewed as grouped with the existing farm buildings. The implementation of the landscaping will also aid in reducing the visibility of the proposed development from the Offa's Dyke.

In terms of the cumulative impact of the proposed development on tourism and rights of way, as stated above little development of large scale or intensive agricultural buildings have been permitted in proximity to the site.

## **RECOMMENDATION**

Development Management considers that the proposed poultry development is compliant with planning policy. On this basis, the recommendation is one of consent subject to the conditions outline in the original report.

All information submitted with the application, including the Environmental Statement have been considered.

---

Case Officer: Tamsin Law- Principal Planning Officer  
Tel: 01597 82 7230 E-mail:tamsin.law@powys.gov.uk