

# Public Document Pack



Neuadd y Sir / County Hall, Llandrindod, Powys, LD1 5LG

Jeremy Patterson

Chief Executive

Os yn galw gofynnwch am - If calling please ask for

Carol Johnson

Ffôn / Tel: 01597826206

Ffôn Symudol / Mobile:

Llythyru Electronig / E-mail: carol.johnson@powys.gov.ukl

**PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE**  
Thursday, 22nd June, 2017

## **S U P P L E M E N T A R Y P A C K**

<b>1.</b>	<b>POWYS LOCAL ACCESS FORUM</b>
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To appoint a member to sit on the Powys Local Access Forum.

(Pages 1 - 6)

1.1. **Updates**

Any Updates will be added to the Agenda, as a Supplementary Pack, wherever possible, prior to the meeting.

(Pages 7 - 26)

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## CYNGOR SIR POWYS COUNTY COUNCIL

### PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

22<sup>nd</sup> June 2017

**REPORT BY:** Portfolio Holder Housing and Countryside and Head of Leisure and Recreation

**SUBJECT:** Local Access Forum [LAF] – appointment of a Council representative

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**REPORT FOR:** Decision

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#### 1. Background

The functions of the Local Access Forum is to advise the Council, the Natural Resources Wales, the Welsh Government and other bodies exercising functions under Part I of the Countryside & Rights of Way Act 2000 [CROW Act], as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area. These bodies must, by law, have regard to relevant advice given by the Forum.

Powys County Council is currently seeking the appointment of a Council representative (outside of the Brecon Beacons National Park), as required by s.94 and s.95 of the CROW Act.

The Council seeks to convene the Forum meetings at least three times a year, but not to exceed four meetings a year (including a site visit), at a time and place to be agreed by the Forum members. It is anticipated that site visits will take place where it is considered to be relevant and beneficial.

#### 2. Areas of Work

The LAFs will advise upon aspects of open-air recreation in the area, including public rights of way, the right of access to open country, WG woodland estate, registered common land, parks and amenity areas. The Forum will consider areas of work put forward as business by the Council and Natural Resources Wales and by the LAF itself.

The LAF also recommends permissive access arrangements for the Glastir agri-environment scheme upon a submitted application.

A work programme will be provided to provide advice on specific projects, for which a big aspect will be to advise on the review of the Rights of Way Improvement Plan which is currently taking place. Specific advice that Countryside Services wishes advice on from the

LAF may also be required. The LAF's Terms of Reference are given in Appendix A.

### 3. Selection Process

It has been agreed that the selection of a Council representative should be nominated from the Planning, Rights of Way and Licencing Committee. It is not considered suitable for the portfolio holder to be specifically selected to represent and the Council on the Local Access Forum, in the interests of transparency and ensure there is no conflict of interest between advice received and any forthcoming decisions based on that advice.

### 4. Criteria for Selection for LAF members

The following is a list of criteria against which applications have been judged. However, applicants will not necessarily have to comply with all of the criteria to be successful.

#### Essential criteria

It is essential that a LAF member who will be appointed for three years will:

- a) be committed to the function of the Forum:
- b) be willing and able to play a full part in all aspects of a LAFs work - persons who are only willing or able to represent a narrow specific interest may not be suitable members;

#### Desirable criteria

It is desirable that a LAF member who will be appointed for three years will:

- a) have a wide range of experience of access and open-air recreation issues in the area;
- b) have experience of working on, and contributing to, similar Forums in the past;
- c) reside in, be particularly familiar with, or have any other interests especially relevant to, the area of the Forum;
- d) be able to network with a wide range of organisations and individuals, with an aim to disseminating the LAFs work
- e) be able to attend all meetings of the Forum (deputies will not be permitted).

- f) These are unpaid positions but Forum members will be able to claim reasonable expenses.

<b>Recommendation</b>	<b>Reason for recommendation</b>
<b>To appoint a member of the Planning, Taxi Licensing and Rights of Way Committee to the Local Access Forum for a period of three years.</b>	<b>To ensure that the Council is represented on the Local Access Forum.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y</b>

<b>Relevant Local Member(s):</b>	<b>N/A</b>
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<b>Person(s) To Implement Decision:</b>	<b>Mark Stafford-Tolley</b>
<b>Date By When Decision To Be Implemented:</b>	<b>22<sup>nd</sup> June, 2017</b>

Contact Officer: Mark Stafford-Tolley Tel: 01597 827677 Email: mark.stafford-tolley@powys.gov.uk
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**Terms of Reference**

**Title**

1. The Local Access Forum shall be known as the Powys Local Access Forum (PLAF). The area of the Powys Local Access Forum is the land and water designated as Powys County Council (excluding the Brecon Beacons National Park Authority).

**Roles and Responsibilities**

2. The primary purpose of the PLAF is to provide statutory advice to Powys County Council (PCC), Natural Resources Wales (NRW), Welsh Government and others as appropriate as to the improvement of public access to land and water for the purposes of open-air recreation and the local public rights of way. Advice given should take account of land management, social, economic, environmental and educational interests.
3. The PLAF will fulfil this role by advising on issues of particular local relevance, including:
  - a. supporting the implementation of the right of access to open countryside;
  - b. maintaining and improving the public rights of way network; and
  - c. developing recreation and access strategies that cater for everyone.
4. The PLAF will work to:
  - a. develop a constructive and inclusive approach to the improvement of recreational access to the countryside;
  - b. respect local circumstances and different interests whilst operating within national guidance;
  - c. provide advice on issues of principle and good practice;
  - d. engage in constructive debate and seek consensus wherever possible; and
  - e. where consensus is not possible, make clear the nature of differing views, and suggest how they might be resolved.

**Membership**

5. The PLAF members will be appointed by PCC (the Appointing Authority) in accordance with the Countryside Access (Local Access Forums)(Wales) Regulations, 2001(The Regulations).
6. The membership will:
  - a. be balanced to avoid dominance by any single interest;
  - b. include users of local rights of way;
  - c. include owners and occupiers of access land or land where there are local rights of way;
  - d. represent a cross-section of interests in the area; and

- e. live or work within the area or have a sound knowledge of the area.
7. Members will be expected to:
- a. adhere to the sections relating to LAFs in the CROW Act and regulations made under the Act and these Terms of Reference;
  - b. show commitment to achieving the aims of the PLAF through constructive working with other members and organisations that it advises;
  - c. be able to devote the necessary time to attend meetings and to network outside meetings;
  - d. have sufficient experience of access to the countryside in the local area to be able to make an informed and constructive contribution to improving access provision; and
  - e. be capable of working with a wide range of interest groups.

### **Election of Chair and Deputy Chair**

8. The Chair and Deputy Chair will be elected for a period of 12 months (using the system described in Regulation 12 of the Regulations\*) at the first meeting of the PLAF. The first item of business to be conducted at the meeting following each 12 month period will be the election of the Chair and Deputy Chair.

### **Administration**

#### **Secretariat**

9. The PLAF will have a Secretary appointed by the Appointing Authority who will be responsible for:
- a. providing support to the Chair of the Forum;
  - b. ensuring that the Forum is set up and run according to the CROW Act 2000, Countryside Access (Local Access Forums)(Wales) Regulations, 2001 and these Terms of Reference;
  - c. managing any resources dedicated to its work;
  - d. arranging and promoting meetings, including arranging the delivery of papers and information to Forum members and the public;
  - e. producing minutes of Forum meetings.
  - f. ensuring that confirmed PLAF minutes are presented on the PCC website;
  - g. publicising the work of the PLAF as far as is reasonably practicable.

#### **Meetings**

10. Meetings will be held at least three times a year with one site visit per year.

11. The Quorum for the Forum will be 5.
12. Meeting agendas will be drawn up by the Secretary in consultation with the Chair and Deputy Chair - although any member may suggest agenda items for consideration through the Chair.
13. Meetings will be advertised in advance and the minutes published on the PCC web site.
14. The Chair will invite observers/advisors to the meeting when appropriate.
15. Observers/advisors will be able to contribute to the proceedings at the discretion of the Chair.
16. One representative of Natural Resources Wales and any Council Officer will automatically have observer status.
17. If necessary, PLAF committees will be set up by the Chair after agreement with the members. The chairing, membership, and terms of reference of committees will be agreed by the Chair and members.
18. All meetings of the PLAF will be held in public. However, the person presiding, following a request from a member or members, may decide that the public should be excluded for particular items for reasons of personal privacy or commercial confidentiality.



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

### Update Report

<b>Application No:</b>	P/2017/0134	<b>Grid Ref:</b>	316400.28 294538.45
<b>Community Council:</b>	Llandyssil	<b>Valid Date:</b>	<b>Officer:</b> 07/02/2017 Tamsin Law
<b>Applicant:</b>	Dolafon Gospel Hall Trust, Canal Close c/o Ivycroft Newtown Powys SY16 2HG		
<b>Location:</b>	Land adjacent to Abermule House, Abermule, Montgomery, Powys, SY15 6NH		
<b>Proposal:</b>	Full: Proposed residential development of 4 no. dwellings, new access, highways improvements and erection of new Church building (Place of Worship)		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for the update

Further information has been considered in relation to affordable housing and the agent has submitted additional information in relation to a Unilateral Undertaking.

### Officer Appraisal

#### Affordable Housing

Since the publication of the report further assessment of policy HP5 – Residential Developments has been undertaken. Whilst the UDP requires a contribution of affordable housing on developments of 5 or more dwellings policy HP5 states the following;

‘On allocated sites for 5 or more houses, a proportion of affordable housing is provided in accordance with policy HP7.’

The housing development is on an allocated site which was allocated for 5 dwellings. Whilst only four dwellings are proposed as part of this development the policy requires that on allocated sites that there is provision of affordable housing. As such it is recommended that a condition is attached to any consent requiring the submission of a scheme to secure one affordable dwelling.

#### Unilateral Undertaking

The agent for the application has submitted a Unilateral Undertaking to provide the Community Council with a financial contribution. Upon further discussion with the agent this

was discussed at a recent Community Council meeting whereby this sum was discussed to provide improvements to the community centre.

In determining whether a Planning Obligation should be sought on any applications Officers must consider whether such an obligation is necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale and kind to the proposed development; and reasonable in all other respects.

Officers consider that the proposed development provides a substantial community benefit through the provision of a footpath from the site into Abermule. Whilst the developer was willing to provide this sum it is considered, in planning terms, not to be necessary to make the development acceptable. As such, Officers will not be recommending that a planning obligation is attached to any consent.

### **Recommendation**

In light of the above, the application is considered to be in accordance with planning policy and is therefore recommended for approval subject to the following conditions.

### **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXX (drawing no's: QO26.1.3.100, QO26.1.3.103, QO26.1.3.104, QO26.1.3.105, QO26.1.3.106, QO26.1.3.107, QO26.1.3.115, QO26.1.3.116, QO26.1.3.117, QO26.1.3.118, QO26.1.3.123, QO26.1.3.125 and Preliminary Ecological Assessment (October 2016), construction Environmental Management Plan (January 2017), Flood Consequences Assessment (December 2016), Drainage Strategy (November 2016), Tree Report, Design and Access Statement (January 2017) and Planning Statement (January 2017)).
3. Prior to any works commencing on the development site detailed engineering drawings for all Highway Improvements as detailed on drawing numbers SK02 Rev A, SK03 Rev B, SK04 Rev C, SK05 Rev B, shall be submitted to and approved in writing by the Local Planning Authority. The Highway Improvements referred to shall include details of the access road within the site, new footway, forward visibility improvement, relocation of speed limit (the cost of which shall be met by the applicant), submission and approval of a Stage 1 / 2 Road Safety Audit and carriageway alterations on the B4368.
4. Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority.
5. Prior to the occupation of the dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

6. The gradient of the access road shall be constructed so as not to exceed 1 in 30 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

7. No other works shall commence on site until the access has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 96 metres distant in an Easterly direction and 60 metres in a Westerly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

8. Before any other development commences on site the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

9. Prior to the first beneficial use of the development, the off street parking bays and circulation areas as detailed on the approved drawing[s] shall be fully completed to the written satisfaction of the Local Planning Authority. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

10. Before any other development commences on site the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

11. Upon formation of the visibility splays as detailed in 7 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

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

13. Prior to the completion of the Highway Improvements, any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

14. The gradient of the access road shall be constructed so as not to exceed 1 in 20 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

15. No other development shall commence on the agricultural access until the access has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

16. Before any other development commences the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

17. Prior to the first beneficial use of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

18. Before any other development commences any existing means of access shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.

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

20. 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 Sundays and Bank Holidays

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

21. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning

Authority. The investigation and risk assessment must be undertaken by competent persons (*a contaminated land specialist with proven experience within the contaminated land industry*) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of land affected by contamination: a guide for developers' 2012 .

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

22. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the Local Planning Authority.

23. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.

24. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a

remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

25. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

26. The mitigation regarding hedgerows, watercourses, badgers, otters and white-clawed crayfish in Sections 4.3 and 4.4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

27. The recommendations regarding hedgerows, trees, bats, dormice, birds and reptiles identified in Sections 4.3 and 4.4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full.

28. The Landscaping Scheme specifications and aftercare measures identified in the Landscape Plan shall be adhered to and implemented in full.

29. The Construction Environmental Management Plan (Turnstone Ecology, January 2017) submitted with the planning application shall be implemented as approved and maintained thereafter.

30. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

31. The Tree and Hedgerow Protection Plan (Lingard Styles, 2016) in accordance with BS:5837:2012 submitted with the application shall be implemented as approved and maintained thereafter.

32. The finished floor levels for the two bungalows (Units A and B) which are closest to the River Mule must be at least 500mm above adjacent ground level.

33. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority.

The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of 1 dwelling;
- ii) the timing of the construction of the affordable dwelling and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable dwelling to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

### **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 interest of highway safety in accordance with Policy GP4 and TAN 18.
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17. In the interest of highway safety in accordance with Policy GP4 and TAN 18.
18. In the interest of highway safety in accordance with Policy GP4 and TAN 18.
19. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution
20. In order to protect the amenity of residents during construction in line with policy GP1.
21. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.
22. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.

23. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.
24. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.
25. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the Unitary Development Plan 2010.
26. 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
27. 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
28. To comply with Powys County Council's UDP Policies SP3 and ENV2 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.
29. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
30. 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.
31. 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
32. To ensure the development is in accordance with policy SP14 of the Powys UDP and TAN 15.
33. To ensure the development provides affordable housing in accordance with policy HP5 and TAN2 of the Powys UDP.

## **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.

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

It is an offence for any person to:

- Intentionally kill, injure or take any dormice.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.
- Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

<b>Application No:</b>	P/2016/0985	<b>Grid Ref:</b>	322356.84 312184.76
<b>Community Council:</b>	GUILSFIELD	<b>Valid Date:</b>	<b>Officer:</b> 26/09/2016 Kevin Straw
<b>Applicant:</b>	Mr C Wright, Gwreiddyn Lane, Sarn Meadow, Guilsfield, Welshpool, Powys, SY21 9DN.		
<b>Location:</b>	Sarn Meadow, Gwreiddyn Lane, Guilsfield, Welshpool, Powys, SY21 9DN.		
<b>Proposal:</b>	Outline application for 5 residential dwellings, improvement to existing vehicular access and formation of a pavement.		
<b>Application Type:</b>	Application for Outline Planning Permission.		

### Report Update

This report forms an update to the previous report submitted.

### Consultee Response

#### PCC Environmental Health

*Comments received on 12/06/2017;*

If they have confirmed that they are connecting to the main I have no objection, will it be to an adoptable standard, if so could I have a plan with the proposed pipe route to the sewage works?

I did have a look on the portal but couldn't see any documentation confirming the proposed mains connection.

*Additional comments received on 16/06/2017;*

If it's a mains connection I have no objection, but I would recommend that the proposed route is approved prior to the commencement of work.

### 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.

### Foul Drainage

Members will be aware that the PCC Environmental Health officer was previously consulted and provided an initial response. Further comments received from the officer indicate that they had no objection to the proposed connection to the mains system and that they requested the submission of a plan to indicate this. A plan was not available at this current time for consideration and as such the officer reiterated that they had no objection to the proposal for foul sewage connection, subject to the proposed route being approved prior to commencement of any work. To ensure that a suitable connection would be made a suitably worded condition will be attached to ensure that plans relating to the foul drainage system and connection are provided.

### Flood zone

Members will be aware that issues surrounding this element have been considered within the initial report. Factors affecting the proposed development have been given further consideration in relation to the flood zone and as such it is considered necessary to ensure that no further development takes place within the proposed site without due consideration from the Local Planning Authority. As such a suitably worded condition will be attached to remove any permitted development rights associated with the proposed dwellings within this site.

### Biodiversity

Consideration has been given to the need for an appropriate assessment under the Habitats Regulations. It is considered due to the distances between Granllyn SAC/SSSI and proposed development site and that no significant impacts have been raised from NRW or the Powys Ecologist that it is therefore considered that the proposed development will not adversely affect the site's integrity. An appropriate assessment is therefore in this instance not considered to be required.

## **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval to the amended conditions as listed below.

## **Conditions**

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

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
5. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
6. The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
7. Prior to first beneficial use of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 45 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway and 10 metres distant from the edge of the adjoining carriageway and 10 metres in each direction. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
8. Prior to first beneficial use of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
9. Prior to the occupation of any dwelling, provision shall be made within the curtilage of any dwelling for the parking of not less than 1 car per bedroom (maximum of 3) excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
10. The width of the access carriageway, constructed as Condition 8 above, shall be not less than 5.0 metres for a minimum distance of 5.5 metres along the access measured from

the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

11. Prior to the occupation of any dwelling a 1.5 metre wide footpath shall be provided from the access to the development up to the private driveway for the property called Trawscoed Lodge and shall be retained at for as long as the development hereby permitted remains in existence.

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

13. Upon formation of the visibility splays as detailed in condition 7 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

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

15. Finished floor levels of the proposed dwellings should be set 300mm above the corresponding 1% plus climate change flood level or 300mm above adjacent ground level, whichever is the greater.

16. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system including the use of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Local Planning authority. Surface water generated from the site shall be limited to the equivalent greenfield runoff rate for the site. The scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling and retained in perpetuity.

17. Prior to the commencement of development a pollution prevention plan should be prepared and agreed in writing by the Local Planning Authority. Development thereafter shall be completed in full accordance with the details as approved.

18. Prior to any works commencing on site detailed engineering drawings for the road widening of the C2104 and the ancillary footway works shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall thereafter be completed in full prior to the first occupation of any dwelling on site and retained in perpetuity.

19. Prior to any works commencing on site the road widening of the C2104 shall be fully completed to the written satisfaction of the Local Planning Authority.

20. Prior to the translocation of the hedgerow which bounds the site along Gwreiddyn Lane a detailed method statement shall be submitted to and approved in writing by the local planning authority. The method statement shall also include a timetable for the proposed works and all translocation works shall thereafter take place in accordance with the details as approved.

21. At the time of the submission of the reserved matters a detailed lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

22. No development shall take place (including vegetation site clearance) until a Reasonable Avoidance Measures Scheme (RAMS) for Great Crested Newt (GCN) and an amphibian friendly water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Development thereafter shall be completed in full accordance with the details as approved.

23. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

24. The affordable dwelling/s shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

25. 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 dwellings or alterations to the roofs (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.

26. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling and retained in perpetuity.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.

2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
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4. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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14. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
15. To protect the development from flooding and avoid impact on extreme flood flow routes in accordance with policies GP1 and DC14 of the Powys Unitary Development Plan.
16. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal in accordance with policies GP1 and DC13 of the Powys Unitary Development Plan.
17. To prevent pollution of the water environment in accordance with policies GP1 and DC9 and to protect the development from flooding in accordance with policies GP1 and DC14 of the Powys Unitary Development Plan.



18. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

19. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

20. 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 Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

21. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

22. In the interest of the protection and preservation of biodiversity in accordance with policies ENV3 and ENV7 of the Powys Unitary Development Plan.

23. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

24. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

25. 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.

26. In order to ensure that satisfactory foul drainage arrangements are provided in accordance with policies GP1 and DC10 of the Powys County Council Unitary Development Plan.

## **Informative Notes**

### Ecology

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

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

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;

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

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

#### 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.

#### NRW

Twll Brook and Guilsfield Brook are within Powysland Internal Drainage District (IDD). Any potentially increased flow or volume into either of these brooks due to increased runoff from the site will need to be calculated and SUDS proposed so this is mitigated.

The applicant should also be advised that any discharge via headwall to Twll Brook may require approval from the Powysland IDD. James West the Powysland IDD Technical Advisor Tel: 03000 655295 [James.West@cyfoethnaturiolcymru.gov.uk](mailto:James.West@cyfoethnaturiolcymru.gov.uk) should be contacted for further information on this aspect.

Any discharge outfall to the brooks will need to be detailed and submitted to NRW in order to obtain Land Drainage Consent. In addition to the requirement for such consent, if the development will increase flow or volume in either Guilsfield or Twll Brook, a Surface Water Development Contribution will also need to be paid.

No material should be deposited within 10m of any watercourse without discussion with Natural Resources Wales.

Pollution Prevention Guidance <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg> is still applicable in Wales and PPG5 'Works in, near or over watercourses' and PPG6: 'Working at construction and demolition sites' are relevant.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of bunded compound should be 110% of the capacity of the tank, all filling points, gauges, vents and sight glasses must be located within the bund. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund. Refuelling should be supervised at all times – and preferably done on an impermeable surface.

The activity of importing waste onto the site for use as, for example hardcore, must be registered by the Natural Resources Wales as an exempt activity under the Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit for any material imported to and exported from site.

Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified immediately on Tel: 03000 65 3000

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Case Officer: Kevin Straw - Planning Officer  
Tel: 01597 827092 E-mail: [kevin.straw@powys.gov.uk](mailto:kevin.straw@powys.gov.uk)

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