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PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE Thursday, 5th July, 2018

The use of Welsh by participants is welcomed. If you wish to use Welsh please inform us by noon, two working days before the meeting

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

1.	MINUTES OF THE PREVIOUS MEETING	2
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 14 June 2018 as a correct record.

(Pages 3 - 10)

1.1. **Updates**

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

(Pages 11 - 30)

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MINUTES OF A MEETING OF THE PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE HELD AT COUNCIL CHAMBER - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON THURSDAY, 14 JUNE 2018

PRESENT

County Councillor E M Jones (Chair)

County Councillors L V Corfield, L George, H Hulme, M J Jones, K Laurie-Parry, H Lewis, I McIntosh, D R Price, D Selby, K S Silk, E Vaughan, D H Williams, J Williams and R Williams

Apologies for absence were received from County Councillors K Lewis (Chair), F H Jump, G Pugh, J Wilkinson and G I S Williams

1.	APOLOGIES
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Apologies for absence were received from County Councillors

2.	MINUTES OF THE PREVIOUS MEETING
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The Chair was authorised to sign as a correct record the minutes of the meeting held on 24 May, 2018.

Planning

3.	DECLARATIONS OF INTEREST
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(a) County Councillor D. Price declared a prejudicial interest in application P/2018/0103 because the applicant is a friend.

County Councillor K Laurie-Parry declared a prejudicial interest in application P/2014/0009 because she leases land from Radnorshire Wildlife Trust, which is an objector to the application.

(b) The Committee noted that no Member requested that a record be made of their membership of a Community Council where discussion had taken place of matters for the consideration of this Committee.

(c) The Committee noted that no Member (who is a member of the Committee) would be acting as 'local representative' in respect of any application on the agenda.

(d) The Committee noted that no Member (who is not a member of the Committee) would be speaking as the 'local representative' in respect of any application on the agenda.

4. PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE

The Committee considered the report of the Head of Regeneration, Property and Commissioning (copies filed with the signed minutes).

4.1. Updates

The Members confirmed that they had received and had time to read the update circulated the previous day and prior to the meeting.

County Councillor K Laurie-Parry having declared a prejudicial interest left the meeting room for the next application.

4.2. P/2014/0009 New Broiler Unit, Banc Gwyn, Llawrllan Hill, St Harmon, Rhayader, Powys, LD6 5NG

Grid Ref: 300294.42 272355.33

Valid Date: 06/01/2014

Officer: Tamsin Law

Community Council: St Harmon Community Council

Applicant: Mr Carl Thomas, Beili Ddol Farm, Rhayader, Powys, LD6 5NS

Location: New Broiler Unit, Banc Gwyn, Llawrllan Hill, St Harmon, Rhayader, Powys, LD6 5NG

Proposal: Full: Erection of 2 broiler units, link control room, boiler building, feed bins, hard standing and access improvements

Application Type: Application for Full Planning Permission

Councillor G. Davies spoke on behalf of St Harmon Community Council.

Mrs J. Loveridge spoke against the application.

Mr I. Pick spoke as the agent on behalf of the applicant.

The Committee noted that this was an EIA development.

In response to questions regarding the highways issues raised by the objectors the Highways Authority advised that usage of the road was low and that the five new passing bays were recommended. The Highway Authority noted that the agent, on behalf of the applicant, had offered a further two passing bays and these were acceptable to the Authority.

The Principal Planning Officer in response to questions advised that Natural Resources Wales [NRW], the Ecologist and other consultees would consider the cumulative impact of this development with existing units and any future applications. The Professional Lead Development Management advised that the

Committee had to consider the landscape visual impact and the fact that the proposed development was not located with other farm buildings. In response to questions regarding farm diversification he advised that the expansion of existing rural enterprises should be given weight under TAN 23 and was supported by the Local Development Plan [LDP].

The Highways Authority advised that the passing bays could be developed using the current verges. The Principal Planning Officer confirmed that the conditions required a Manure Management Plan and that any manure kept on site should be covered.

In response to questions the Solicitor advised that it was legally correct for the Committee to give weight to the expert opinions of NRW and the Ecologist.

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the Update report which is filed with the signed minutes and that the condition relating to the passing bays be amended to seven from five, as offered by the applicant.	As officers recommendation as set out in the report which is filed with the signed minutes. In the interests of highways safety.

County Councillor K Laurie-Parry having declared a prejudicial interest left the meeting room for the next application.

4.3. P/2017/0764 Bryn Titli Wind Farm, North of Rhayader, South of Llangurig, Powys

Grid Ref: 294795.69 274076.13

Valid Date: 17/07/2017

Officer: Holly Hobbs

Community Council: St Harmon Community Council

Applicant: Zephyr Investments Ltd, 11th Floor, 200 Aldergate Street, London, EC1A 4HD

Location: Bryn Titli Wind Farm, North of Rhayader, South of Llangurig, Powys

Proposal: Section 73 application for variation of condition no. 6 and condition no's. 11-18 of planning permission R4297/D

Application Type: Application for Removal or Variation of a Condition

The Principal Planning Officer advised that if the Committee was minded to approve the application the conditions were those contained in the update report.

In response to questions regarding the noise levels the Environmental Health Officer advised that the proposed noise level conditions related to those recommended by the Authority's noise consultant and differed from those proposed by the applicant. He confirmed that the noise levels for the day time operation should also cover the night time operation.

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	As officers recommendation as set out in the report which is filed with the signed minutes.

County Councillor J Williams arrived at the meeting.

County Councillor D Price having declared a prejudicial interest left the meeting room for the next application.

4.4. P/2018/0103 Land Opposite The Walk, Beulah, Llanwrtyd Wells, Powys

Grid Ref: 291873.94 251225.81

Valid Date: 25/01/2018

Officer: Thomas Goodman

Community Council: Treflys Community Council

Applicant: Mr G Walker, H & W Developments, 9 Broad St, Builth Wells, Powys, LD2 3DT

Location: Land Opposite The Walk, Beulah, Llanwrtyd Wells, Powys

Proposal: Reserved matters in respect of approved planning permission P/2015/0039

Application Type: Application for Approval of Reserved Matters

In response to questions the Planning Officer advised that this was an allocated site in the Unitary Development Plan [UDP].

Questions were raised about the provision of community play area. The Chair adjourned the meeting to allow the Planning Officer to speak to a representative of the Community Council. On reconvening the meeting, the Professional Lead Development Management advised that he had to declare an interest because he knew the member of the public to whom the Planning Officer had just spoken. The Planning Officer advised that currently there was a play area but that the Community Council may be considering its future use. The Principal Planning

Officer advised that the outline planning permission had been agreed in 2005 under different planning policies and the Committee could not reconsider this issue. The Principal Planning Officer advised that when the Section 73 application to extend the planning permission was agreed, there was an oversight by the Planning Officer dealing with the application at that time and a S106 agreement regarding affordable housing was not included in the permission.

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	As officers recommendation as set out in the report which is filed with the signed minutes.

County Councillor D Price returned to the meeting room.

4.5. P/2018/0370 Carreghofa Primary School, Llanymynech, Powys, SY22 6PA

Grid Ref: 326056.73 320693.8

Valid Date: 05/04/2018

Officer: Sara Robinson

Community Council: Carreghofa Community Council

Applicant: Powys County Council

Location: Carreghofa Primary School, Llanymynech, Powys, SY22 6PA

Proposal: Full: Erection of an extension, alterations and all associated works

Application Type: Application for Full Planning Permission

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	As officers recommendation as set out in the report which is filed with the signed minutes.

The Professional Lead Development Management was asked to review the plans provided with the Committee reports.

4.6. DIS/2018/0068 Land at Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU

Grid Ref: 309310.69 306336.61

Valid Date: 05/04/2018

Officer: Sara Robinson

Community Council: Llanfair Caereinion Community Council

Applicant: S M & G D Jones, Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU

Location: Land at Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU

Proposal: Discharge of conditions no's 5, 19 & 22 of planning consent P/2017/1071

Application Type: Application for Approval of Details Reserved by Condition

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.	As officers recommendation as set out in the report which is filed with the signed minutes.

4.7. AGRI/2018/0024 Fronhowey, Painscastle, Builth Wells, LD2 3JJ

Grid Ref: 315527.3 246484.71

Valid Date: 17/05/2018

Officer: Thomas Goodman

Community Council: Painscastle Community Council

Applicant: Powys County Council

Location: Fronhowey, Painscastle, Builth Wells, LD2 3JJ

Proposal: AGRI: Application for prior notification of proposed agricultural building

Application Type: Application for prior Notification of Agricultural or Forestry development

RESOLVED:	Reason for decision:
that the application be granted consent, subject to the conditions set out in the report	As officers recommendation as set out in the report which is filed with the signed minutes.

which is filed with the signed minutes.	
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5. DECISIONS OF THE HEAD OF REGENERATION AND REGULATORY SERVICES ON DELEGATED APPLICATIONS

The Committee received for information a list of decisions made by the Head of Regeneration and Regulatory Services during the period between 16 May, 2018 and 7 June, 2018.

The Committee noted that P/2017/0549 [page 162] was not a delegated decision but one that had been considered by the Committee.

6. APPEAL DECISIONS

The Committee received a copy of the Planning Inspectorate's letters regarding the appeals in respect of the following applications:

- P/2017/0551 - Land opposite South Bank, Middletown, SY21 8DF
- P/2017/0464 - Land adjacent to Middletown, Welshpool, Powys
- P/2017/0458 - Ash Cottage, Bleddfa, Knighton, LD7 1PA
- P/2017/1279 - Dyffryn, Breidden Way, Guilsfield, Welshpool, SY21 9PU

The Committee noted that the Inspector had dismissed all the appeals.

The Committee also received the Planning Inspectorate's letter regarding the appeals in respect P/201/0119 - Wyeside Caravan Park, A470 from Wye View Terrace Rhayader to Junction with C1216 at Marteg Bridge, Rhayader LD6 5LB and noted that the Inspector had upheld the appeal. The Professional Lead Development Management advised that they were awaiting the Planning Inspector's decision regarding costs.

The Solicitor advised that a prosecution had been taken against the proprietor of Brown's Buses' Llangammarch Wells as an enforcement notice had not been complied with. The defendant had pleaded guilty and was fined by the court and ordered to pay the Council's costs. He had now engaged a planning consultant.

County Councillor E M Jones (Chair)

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4.1

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2018/0330	Grid Ref:	330174.56 312559.09
Community Council:	Trewern Co	Valid Date:	Officer: 14/03/2018 Gemma Bufton
Applicant:	Trimwright Homes Ltd, Red Bank, Croft House, Welshpool, Powys, SY21 7PL.		
Location:	Land adjoining Ivy House, Middletown, Welshpool, Powys, SY21 8EL.		
Proposal:	Full: Erection of 3 no. dwellinghouses, formation of new vehicular access including partial demolition / alterations of existing stone wall together with construction of new 1.8m high boundary wall and all associated works		
Application Type:	Application for Full Planning Permission		

REPORT UPDATE

Officer Appraisal

Highway Safety

It has been brought to our attention that Condition 14 required for the existing access to be stopped up prior to the commencement of development. Given that this is the only access to serve the existing property (Ivy House) this would leave that property without an access during construction. I have therefore amended the wording to Condition 14 to now read 'Prior to first occupation' to ensure that the access is appropriately blocked up prior to the first use of the site.

RECOMMENDATION

In light of the previous officers report and subject to the amended conditions as listed below it is considered that the proposed development complies with relevant planning policy and the recommendation is therefore one of conditional consent.

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 XXXX (drawing no's: XXX).
3. Prior to the occupation of any 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.

4. 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.

5. 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

6. Prior to the commencement 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 0.6 metres above ground level at the edge of the adjoining carriageway and 34 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.

7. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 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.

8. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom 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.

9. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 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.

10. The width of the access carriageway, constructed as Condition 7 above, shall be not less than 5.5 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 the development a radius of 6 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

12. There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.

13. 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.

14. Prior to the first occupation of any dwelling 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.

15. Upon formation of the visibility splays as detailed in Condition 6 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.

16. No surface water drainage from the site shall be allowed to discharge onto the county highway.

17. All works and ancillary operation 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.

18. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

19. No new plumbing, pipes, soil stacks, flues, vents, ductwork grilles, security alarms, lighting, cameras or other fixtures shall be attached to the front or side elevations of the proposed terrace other than those already shown on the approved drawings.

20. Prior to the first use full details of all windows to be installed shall be submitted to and approved in writing by the Local Planning Authority. The windows proposed should be flush fitted and should include cross section of glazing bars to the scale of not less than 1:20. The details thereafter should be completed in full accordance with the details as approved and shall remain thereafter in perpetuity.

21. The recommended measures in section 6 of the Preliminary Environmental Appraisal Report produced by Greenscape Environmental Ltd dated November 2017 shall be adhered to and implemented in full.

22. Prior to the first installation of any external lighting a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval and implemented as approved and maintained thereafter.

23. No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- i) A statement setting out the design objectives and how these will be delivered;
- ii) earthworks showing existing and proposed finished levels or contours;
- iii) means of enclosure and retaining structures;
- iv) other vehicle and pedestrian access and circulation areas;
- v) hard surfacing materials;
- vi) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.), and
- vii) water features.

Soft landscape works shall include written specifications (including cultivation and other operations associated with plant and grass establishment; schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; an

implementation programme including phasing of work. Development thereafter must be completed in full accordance with the details as approved.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
4. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
5. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
6. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
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8. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
9. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DC13.
10. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
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15. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
16. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
17. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
18. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies SP7 and DM13 of the Powys Local Development Plan and the Councils Residential Design Guide.
19. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies SP7 and DM13 of the Powys Local Development Plan and the Councils Residential Design Guide.
20. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
21. To comply with Powys County Council's LDP Policies DM2, DM4, DM13 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. To comply with Powys County Council's LDP policies DM2, DM4 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

23. To comply with Powys County Council's LDP Policies DM2, DM4, DM13 and SP7 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.

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.

Reptiles – Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Case Officer: Gemma Bufton- Principal Planning Officer
Tel: 01597 827505 E-mail: gemma.bufton1@powys.gov.uk

The following ecology reports have been submitted with the application –

- Extended Phase 1 Survey Report (School Site) produced by BSG Ecology dated 6th November 2017
- Extended Phase 1 Survey Report (Access and Highways Improvements) produced by BSG Ecology dated 7th November 2017
- Salop Road Bat Survey Interim Report produced by RPS dated March 2017

Having reviewed the above information it is considered that the survey effort is in accordance with current guidelines and that sufficient information has been submitted to enable the LPA to assess the potential for the proposed development to impact biodiversity.

The extended phase 1 surveys for the school site and access and highways improvements were undertaken on the 27th September 2017, the reports identify that the site of the proposed development is an area of amenity grassland with perimeter hedgerows along the south-east and north-east boundaries and a woodland strip along the north-western boundary between the proposed development site and the Montgomery Canal SAC/SSSI. The proposed development including the access and highway improvements will result in the loss of an area of amenity grassland – a habitat of relatively low ecological value, 106m of hawthorn dominated hedgerow and approximately 40m² of young plantation woodland – these habitats are considered to be of moderate to high ecological value.

Consideration was given to the potential for the site of the proposed development to support protected species, the survey found no evidence of protected or priority species on the site of the proposed development, it has been identified that the adjacent Montgomery canal has potential to support otter and water vole, whilst the proposed development site lacks features suitable to support these species there is some potential that they may move through the woodland habitats present along the north-western site boundary. It has also been identified that common species of reptiles and amphibian were also considered likely to be present along the banks of the Montgomery canal and adjacent habitats, it was noted that the extent of habitats suitable for reptiles within the proposed development site boundary is limited and considered insufficient to support a significant population Appendix 5 of the reports identifies a method statement to prevent killing or injuring of any reptiles present at or around the site during the proposed development.

Consideration has been given to the potential for great crested newts to be present and or affected by the proposed development, no records of GCN within the last 10 years were identified during the data search however it was noted that 2 records for this species from 1989 were identified for Gungrog Flash SSSI approximately 240m north of the proposed development site. Given the barriers between the proposed development site and the SSSI where GCN have historically been recorded as well as lack of suitable terrestrial habitat and breeding sites on the proposed development site it was considered that the potential for GCN to be present at the proposed development site is low and likelihood of an impact to GCN being negligible – the proposed method statement to prevent killing or injuring of any reptiles present at or around the site during the proposed development will also serve to reduce risk to any amphibian species present at or around the proposed development site.

The report identifies that mitigation will be required to ensure negligible effects on species using the hedgerow and woodland areas affected by the proposed development including provision of compensatory hedgerow and tree planting within the scheme design – it is noted that both a section of new hedgerow planting and tree planting is shown on the proposed block plan drawing reference 0939-WSP-CW-XX-DR-LA-1000 Rev P01 produced by WSP.

The identification of these provisions is considered to be appropriate to provide compensation for the loss of hedgerow and woodland planting, it is recommended that full details of these provisions including aftercare measures is secured through an appropriately worded planning condition.

A bat survey was undertaken in August 2016 of the 'Gallows Tree', a mature located within the proposed development site. The survey comprised a preliminary ground inspection, climbing survey and emergence survey. The surveys confirmed that the tree supports a small transitional roost of soprano pipistrelle bats, the report concludes that the tree has value for soprano pipistrelle but is likely to only make a minor contribution to the local population. I note from the submitted plans that the tree which has been confirmed as a bat roost will be retained within the proposed development and therefore the roost features will not be directly impacted as a result of the proposed development, there is potential for any external lighting installed through the proposed development to indirectly result in negative impacts to the bat roost as well as other nocturnal foraging and commuting species. Therefore I recommend that a planning condition is included to secure an appropriate external lighting scheme that ensures that there will be no negative impacts to the identified and retained bat roost features as well as local nocturnal wildlife.

Given the proximity of the proposed development to the Montgomery Canal SAC a Habitats Regulations Assessment has been undertaken in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017. When undertaking the HRA Screening the following information submitted with the application has been considered in conjunction with the findings of the Extended Phase 1 Habitat Surveys when determining the potential for the proposed development to result in a likely significant effect to the Montgomery Canal SAC and/or its associated features:

- Construction Management Plan produced by Dawnus Construction Holdings Ltd dated February 2018
- Dust Pollution Prevention Statement produced by Dawnus Construction Holdings Ltd dated February 2018
- Method Statement: Pollution Prevention and Control produced by Dawnus Construction Holdings Ltd dated February 2018

The Screening Assessment concluded that the proposed development would not result in a likely significant effect to the Montgomery Canal SAC and/or its associated features, I have attached a copy of the Screening Assessment for your records.

Taking into account the results of the ecological surveys and the proposed mitigation measures it is considered that the proposed development would not result in a net loss or negative impacts to biodiversity at the site or in the local area. Therefore should you be minded to approve the application then I recommend inclusion of the following planning conditions:

The mitigation measures regarding biodiversity identified in the Extended Phase 1 Survey Report (School Site) produced by BSG Ecology dated 6th November 2017 and Extended Phase 1 Survey Report (Access and Highways Improvements) produced by BSG Ecology dated 7th November 2017 shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's UDP Policies DM2 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 Section 6 of the Environment (Wales) Act 2016.

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's LDP DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: To comply with Powys County Council's LDP Policy in relation to ecological qualities of the landscape and 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.

In addition I recommend inclusion of the following informatives:

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email enquiries@bats.org.uk

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.

Reptiles – Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Officer Appraisal

Biodiversity

As an update to my previous comments I can confirm that the Powys Ecologist has now provided comments in respect to the above application.

Having considered the information submitted in support of the application the Ecologist has confirmed that the survey effort is in accordance with current guidelines and that sufficient information has been submitted to enable the LPA to assess the potential for the proposed development to impact biodiversity.

In addition to the above and given the proximity of the proposed development to the Montgomery Canal SAC a Habitats Regulations Assessment has been undertaken in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017. The Screening Assessment concluded that the proposed

development would not result in a likely significant effect to the Montgomery Canal SAC and/or its associated features.

Taking into account the results of the ecological surveys and the proposed mitigation measures it is considered that the proposed development would therefore not result in a net loss or negative impacts to biodiversity at the site or in the local area.

In light of the additional comments therefore now received the recommended conditions have been updated to reflect those comments from the Powys Ecologist. Subject to the recommended conditions it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

RECOMMENDATION

In light of the above and subject to the receipt of satisfactory comments from the Powys Ecologist it is considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore one of conditional consent.

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 XXX (drawing no's: XXX).
3. Prior to any other works commencing on the development site, detailed engineering drawings for the proposed carriageway and footway along the Unclassified U4422 and associated works, shall be submitted to and approved in writing by the Local Planning Authority
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 and shall be retained for their designated use for as long as the development hereby permitted remains in existence.
5. Prior to the first beneficial use of the development a scheme for the stopping up/diversion of the section of the U4422 shown on drawing number 70030941 and schedule for the implementation of the scheme shall be submitted and approved in writing and shall be completed thereafter in accordance with the details as approved.
6. Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 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.
7. The gradient of the access shall be constructed so as not to exceed 1 in 30 for the first 20 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.
8. Prior to the commencement of the development clear visibility shall be maintained above a height of 0.6 metres above carriageway level over the full frontage of the developed site to the Unclassified U4422 road effective over a bandwidth of 2.4 metres measured from 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.

9. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 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.

10. Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than 114 car parking bays provided and one coach parking bay 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.

11. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 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.

12. The width of the access carriageway, constructed as Condition 9 above, shall be not less than 6 metres for a minimum distance of 20 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.

13. All access to the development hereby permitted shall be gained via the proposed private driveway as detailed on drawing number 0939-WSP-CW-XX-DR-LA-1000 Rev P01. No alternative vehicular or pedestrian access shall be used or created to service the site directly from the county highway for as long as the development remains in existence.

14. Prior to the first beneficial use of the new school all on-site infrastructure including car parking spaces, access and circulations areas as detailed on drawing number 0939-WSP-CW-XX-DR-LA-1000 Rev P01 shall be completed to written satisfaction of the local Planning Authority.

15. Upon formation of the visibility splays as detailed in Condition 8 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.

16. No surface water drainage from the site shall be allowed to discharge onto the county highway.

17. The avoidance measures for great crested newts as identified in the Ecological reports identified in the Phase 1 surveys shall be implemented in full and maintained thereafter.

18. The avoidance measures for bats, otters and water voles as identified in the Ecological reports identified in the Phase 1 surveys shall be implemented in full and maintained thereafter.

19. Prior to the commencement of development a Biosecurity Risk Assessment shall be submitted to and approved in writing by the Local Planning Department. Development thereafter shall be completed in full accordance with the details as approved.

20. No development shall take place within 10 metres of the toe (bottom) of the canal embankment until a Risk Assessment and Method Statement outlining all works to be carried out adjacent to the canal 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.

21. Prior to the construction of the building hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

22. Prior to the commencement of development, an investigation and risk assessment, shall be undertaken to assess the nature and extent of any contamination within the application site. The contents of the contamination report shall be submitted to and approved in writing by the Local Planning Authority. The contamination report must include: (i) A survey of the extent, scale and nature of contamination; (ii) An assessment of the potential risks to (a) Human health (b) Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes (c) Adjoining land (d) Groundwaters and surface waters (e) Ecological systems (f) Archaeological sites and ancient monuments (iii) 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.

23. The approved remediation scheme shall be fully implemented as approved prior to the commencement of development, unless otherwise agreed in writing by the Local Planning Authority. Upon the completion of the remediation scheme a verification report (validation report) that demonstrates the effectiveness of the remediation undertaken shall be submitted to and approved in writing by the Local Planning Authority.

24. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, development works shall cease immediately. An investigation and risk assessment, remediate implementation shall be undertaken in accordance with the requirements detailed within the contamination conditions attached to this grant of consent.

25. Prior to the commencement of development, a Contamination Monitoring and Maintenance Method Statement for the application site shall be submitted to and approved in writing by the Local Planning Authority. The Contamination Monitoring and Maintenance Method Statement shall be implemented as approved, unless otherwise agreed in writing by the Local Planning Authority.

26. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

27. Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition. Development thereafter shall be completed in the next planting season after the first use of the school.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

3. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy T1 and DM13.
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20. To protect the structural stability of the canal infrastructure which could be adversely affected by the development and to accord with Planning Policy Wales and Policy DM10 of the Local Development Plan.
21. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies DM13 of the Powys Local Development Plan and Planning Policy Wales.
22. In order to manage the risk of contamination to an acceptable level, in accordance with guidance contained within policy DM10 of the Powys Local Development Plan (2018) and Planning Policy Wales (Edition 9, 2016).

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Informative Notes

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