

Public Document Pack



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

Os yn galw gofynnwch am - If calling please ask for
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PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE Thursday, 16th June, 2022

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

SUPPLEMENTARY PACK

- 1.1. **22/0384/REM Hill View, Fron Grian, Cefn Coch, Welshpool, SY21 0AG**
(Pages 1 - 10)

- 1.2. **21/1511/FUL The Old Orchard, Llanigon, Hereford, Powys, HR3 5PN**
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Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 22/0384/REM

Grid Ref: E: 306269
N: 302477

Community Council: Dwyriw Community

Valid Date: 30.03.2022

Applicant: Gabrielle Prince

Location: Hill View, Fron Grian, Cefn Coch, Welshpool, SY21 0AG

Proposal: Section 73 application to vary condition no's 4 & 5 attached to outline planning approval M96539 (to allow occupancy restriction rewording)

Application Type: Removal or Variation of Condition

Reason for Committee determination

The Elected Member for Dwyriw called the application for Committee determination as follows:

I wish to call in the above planning application due to the potential loss of an agricultural farm dwelling going outside of a local agricultural occupancy and feel it would benefit from a committee decision.

I reserve the right to withdraw the call in if I feel circumstances warrant it.

Consultee Responses

Consultee

Received

Community Council

9th Apr 2022

The council object to this proposal as they do not want the property price to go beyond the reach of those the restrictions were originally intended for.

The council would welcome an investigation by the planning department into the current valuation and recent 'for sale' and offer details on the property.

PCC-(M) Highways

1st Apr 2022

Based on the information provided, the Highway Authority does not wish to comment on this application.

Hafren Dyfrdwy

5th Apr 2022

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

Representations

Following the display of a site notice on 4th May 2022, no public representations have been received.

Planning History

App Ref	Description	Decision	Date
M/1996/0539	Erection of an agricultural bungalow (outline) and installation of a septic tank	Conditional consent	01/11/1996
M/1997/0284	Erection of an agricultural bungalow and installation of a septic tank (Details)	Conditional consent	06/05/1997

Principal Planning Constraints

Right of Way 236/75/1
Mineral Safeguarding Sand Gravel

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
NATPLA	Future Wales - The National Plan 2040		National Policy
PPW	Planning Policy Wales (Edition 11, February 2021)		National Policy
TAN2	Planning and Affordable Housing		National Policy
TAN6	Planning for Sustainable		National Policy

	Rural Community	
SP1	Housing Growth	Local Development Plan 2011-2026
SP5	Settlement Hierarchy	Local Development Plan 2011-2026
SP6	Distribution of Growth across the Settlement Hierarchy	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
H1	Housing Development Proposals	Local Development Plan 2011-2026
DM8	Minerals Safeguarding	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

Officer Appraisal

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

This application has been considered 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.

Site location and description

Hill View is a detached 3-bedroom brick bungalow with an approximate floor area of 106m². The dwelling is located on the northern side of the U2373 unclassified highway approximately 480 metres east of Llanllugan. Outline permission for erection of an agricultural bungalow and installation of a septic tank was granted conditional consent under reference M/1996/0539 on 1st November 1996.

The application seeks to vary condition no's 4 and 5 attached to the outline approval M/1996/0539 to allow occupancy restriction rewording. Conditions 4 and 5 are as follows:

4. The occupation of the proposed dwelling shall be limited to a person solely or mainly employed, or last employed prior to retirement, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any dependents normally residing with such a person.

Reason: It is the approved policy of the local planning authority not to permit residential development outside settlements in the absence of special agricultural needs and this permission is granted specifically to provide accommodation for a person employed in agriculture.

5. The occupation of the existing dwelling Fron Green, shall be limited to a person solely or mainly employed or last employed prior to retirement, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any dependents normally residing with such a person.

Reason: The dwelling referred to needs to be used in connection with the agricultural unit, and the local planning authority considers it necessary to restrict the occupation for the purposes specified to protect the countryside against the risk of pressure for new dwellings.

The application seeks a variation of the wording of the conditions to the broader occupancy condition recommended within Technical Advice Note 6 and the associated Rural Enterprise Dwellings Practice Guidance.

Variation of occupancy conditions

Section 73 of the Town and Country Planning Act 1990 (as amended) provides for applications to be made for planning permission to develop land without complying with conditions previously imposed on a planning permission i.e. to vary or remove a condition. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue.

As stated above, the application seeks to vary the occupancy conditions relating to the dwellings, Hill View and Fron Green which are both subject to the historic 'agricultural

occupancy condition'. At the time that permission was granted for the construction of Hill View, the dwellings were in the open countryside, outside of any settlement boundary and that position remains the same.

Any new dwellings constructed outside of settlement boundaries currently, would be considered under Policy SP7 and Criterion 4 of Policy H1 of the Powys Local Development Plan which require that new housing developments in the open countryside are only permitted where the development relates to a need for housing which meets current national policy on housing in the open countryside. Current national planning policy on housing in the open countryside contained within Planning Policy Wales (Edition 11) and Technical Advice Note (TAN) 6 strictly control new dwellings in the open countryside, however it has been recognised that, within this policy of general restraint of development, there are particular circumstances of housing need which can only be met through the provision of individual dwellings in the countryside. Historically such circumstances were limited to agricultural and forestry enterprises. However, Welsh Government has recognised that there is a wider concern in respect of access to appropriate and affordable housing on the part of the rural community. The TAN6 Practice Guidance advises that shortage of affordable housing to buy or rent is recognised as one of the greatest challenges facing many communities in Wales. Consequently, a range of policy measures has been introduced to improve access to housing in rural areas.

As part of this package of measures, the Welsh Government reviewed the scope of the exception to policy which enables individual dwellings to be in the countryside where there is an essential need. As a consequence of the review, the exception which was historically available to agricultural and forestry workers was extended to a wider range of workers in rural enterprises. This extension applies primarily to land-related businesses which, directly or indirectly, need to be located in the countryside rather than in existing settlements and the five groups of enterprises which are covered by the TAN 6 policy are:

- agriculture and forestry;
- activities which obtain their primary inputs from the site;
- land management related activities;
- land related tourism and leisure; and
- support services related to rural-based activities.

To control the occupancy of permitted dwellings and their potential transfer to meet general affordable housing needs, TAN 6 currently advises that all new rural enterprise dwellings should be subject to the following rural enterprise dwelling occupancy condition:

“The occupancy of the dwelling shall be restricted to:

- a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,

b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.”

This application seeks to vary the original agricultural occupancy conditions to the newer occupancy condition advised by TAN6 above. Paragraph 4.13.5 of TAN6 states, 'where planning applications are received to lift existing agricultural occupancy conditions, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition. This will often be justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing'.

Therefore, it is considered that the proposed variation of the conditions to limit the occupancy of the dwellings which were considered necessary at the time of the original application and continues to be necessary is in accordance with the approach set out within TAN6. It should also be clarified that where proposals for dwellings are permitted on enterprises where there are already dwellings occupied in association with them, local planning authorities still can restrict not only the future occupancy of the new dwellings but of others on the enterprises whose occupancy is not currently controlled. As such, given the reason for the occupancy condition relating to Fron Green (the existing dwelling at the time permission was granted for Hill View), it is still considered appropriate to restrict occupancy of that property.

In respect of the Local Member's concerns, the variation of the conditions would not result in the loss of a dwelling or dwellings which are available to members of the agricultural community, as the rural enterprise occupancy condition permits persons employed in agriculture to occupy the dwelling as well as other persons working in qualifying rural enterprises in the locality.

Value and marketing of property

The Community Council has raised concerns because they do not want the property price to go beyond the reach of those the restrictions were originally intended for. In addition, they have requested that investigations into the current valuation and recent for sale and offer details.

In terms of the value of the property, the Rural Enterprise Practice Guidance advises that the value of any property subject to an occupancy restriction will be less than its value on the open market. Traditionally agricultural dwellings have been marketed at prices generally between 70 and 75% of their open market value. With the wider range of compliant rural enterprise workers and local affordability constraints, this will continue to be the case. The valuation of properties will require professional advice and, in the case of affordability criteria, assistance from the local authority.

In terms of the concerns over valuation and marketing efforts, no marketing details accompany the application, apart from stating that there have been failed marketing

attempts. However, as stated above, given that the variation of the conditions is considered appropriate and in compliance with national planning policy, no marketing evidence is required at this stage. If an application is submitted to remove the rural enterprise occupancy condition(s), there will be a need to demonstrate, with supporting evidence, that there is no longer a rural enterprise need for the dwellings or a local affordable housing need in the area. The longstanding mechanism for demonstrating the absence of need has been market testing. Evidence of effective market testing will be required over a reasonable period, usually at least 12 months. The critical aspects of market testing are that:

- the availability of a property is advertised in such a manner that compliant purchasers or tenants are likely to be made aware of it; and
- the price or rent attached to a property reflects the restrictive occupancy requirement.

Therefore, whilst the comments from the Community Council are noted, at this stage, no marketing information or consideration of the valuation of the property are required to determine the proposed variation of the conditions to the rural enterprise occupancy condition recommended within TAN6.

Review of other conditions

The outline consent included other conditions relating to the submission of the reserved matters, the roofing materials, the submission, approval and implementation of a landscaping scheme and the submission, approval, and implementation of the foul drainage details. Given the age of the consent and that the development has been constructed and occupied for some years, it is not considered necessary to reattach the conditions.

Other matters

It is noted that a public right of way has been identified within the application site. Public right of way 236/75/1 appears to exit the unclassified highway via the access to the property and curve up the land to the north of the property and around the edge of the property boundary. Given that the property is already in existence, there will be no further adverse impact upon the use of the right of way arising from the alteration to the occupancy conditions in compliance with LDP Policies SP7 and DM13.

It is also noted that the site is located within a minerals safeguarding area for sand and gravel (category 2). Again, given that the construction of Hill View has occurred, the requirements of LDP Policy DM8 are not applicable.

Placemaking and Wellbeing Goals

Planning Policy Wales has been amended following the introduction of Well-being of Future Generations Act. PPW plays a significant contribution to the improvement of well-

being in all its aspects as defined by the statutory well-being goals. It embeds the spirit of the Well-being of Future Generations Act, through moving us towards a low carbon, resilient society, of providing secure and well-paid jobs, and of building well-connected environments for everyone in Wales that improves our lives and health and enhances our well-being.

PPW also promotes placemaking and states the following;

Productive and Enterprising places are those which promote our economic, social, environmental and cultural well-being by providing well-connected employment and economic development in pleasant surroundings. These places are designed and sited to promote healthy lifestyles and tackle climate change by making them easy to walk and cycle to and around, access by public transport, minimising the use of non-renewable resources and using renewable and low carbon energy sources.

Ministers advised in June 2019 that placemaking should form part of all decisions and have considered measures to call in applications where strategic placemaking has not been considered.

Placemaking is a holistic approach to the planning and design of development and spaces, focused on positive outcomes. Placemaking considers the context, function and relationships between a development site and its wider surroundings. This will be true for major developments creating new places as well as small developments created within a wider place.

The key principles for ensuring 'Right Development in the Right Place' according to PPW are as follows;

- i. Growing our economy in a sustainable manner – the planning system should enable development which contributed to long term economic well-being, making the best use of existing infrastructure and planning for new supporting infrastructure and services.
- ii. Making the best use of resources - The planning system has a vital role to play in making development resilient to climate change, decarbonising society and developing a circular economy for the benefit of both the built and natural environments and to contribute to the achievement of the well-being goals.
- iii. Facilitating accessible and healthy environments - Our land use choices and the places we create should be accessible for all and support healthy lives. High quality places are barrier-free and inclusive to all members of society. They ensure everyone can live, work, travel and play in a way that supports good physical and mental health.
- iv. Creating and sustaining communities - The planning system must work in an integrated way to maximise its contribution to well-being. It can achieve this by creating well-designed places and cohesive rural and urban communities which can be sustained by ensuring the appropriate balance of uses and density, making places where people want to be and interact with others.

- v. Maximising environmental protection and limiting environmental impact - Natural, historic and cultural assets must be protected, promoted, conserved and enhanced. Negative environmental impacts should be avoided in the wider public interest.

PPW provides guidance on the national sustainable placemaking outcomes and their relationship to PPW themes and Well-being Goals. It is considered that the proposed development is in accordance with both the placemaking and well-being goals on the following grounds:

- The proposal will retain the occupancy of an existing rural dwelling to those persons employed in suitable rural enterprises in the locality; thereby assisting in sustaining the economy and local communities;
- If no occupiers can be found for the rural enterprise part of the condition; the occupancy will be broadened to persons in need of affordable housing; thereby assisting in supporting local communities.
- There are no other adverse planning impacts arising from the proposal.

Climate Change

PPW states that the planning system has a vital role to play in making development resilient to climate change, decarbonising society and developing a circular economy for the benefit of both the built and natural environments and to contribute to the achievement of the well-being goals. The Environment (Wales) Act 2016 sets a legal target of reducing greenhouse gas emissions in Wales by at least 80% in 2050 with interim targets set for 2020, 2030 and 2040. Welsh Government also have a legal commitment to net zero by 2050 and an ambition to achieve this sooner if possible.

There are two parts to the issue of climate change within planning, these being the extent a development contributes towards the generation greenhouse gasses and the extent a development has considered and adopted means to make the operation resilient to the effects of climate change.

Given that the properties have been constructed and are occupied and the proposal does not seek to change this situation, it is considered that there will be no or a very limited impact upon climate change arising from the proposal.

Conclusion

Whilst the comments from the Local Member and Community Council are noted, the replacement of the historic agricultural occupancy condition with the rural enterprise occupancy condition is in accordance with the approach recommended within TAN6. Therefore, the recommendation is one of approval as set out below.

RECOMMENDATION

Approve

Conditions

1. The occupancy of the dwelling known as Hill View shall be restricted to:
 - a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,
 - b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.
2. The occupancy of the dwelling known as Fron Green shall be restricted to:
 - a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers,
 - b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.

Reasons

1. The dwelling was permitted as an exception to normal housing policies and as such the occupancy is controlled to comply with Policies SP6 and H1 of the Powys Local Development Plan (2011-2026), Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010) and Planning Policy Wales (Edition 11, 2021).
2. To assist in protecting the countryside against the risk of pressure for new dwellings in accordance with Policies SP6 and H1 of the Powys Local Development Plan (2011-2026), Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010) and Planning Policy Wales (Edition 11, 2021).



Planning, Taxi Licensing

Committee Report

and Rights of Way

Application Number: 21/1511/FUL

Grid Ref: E: 321636

N: 241383

Community Council: Llanigon Community

Valid Date: 16.08.2021

Applicant: Mr and Mrs Metcalfe

Location: The Old Orchard, Llanigon, Hereford, Powys, HR3 5PN

Proposal: Erection of a new 4 bedroom dwelling and associated works

Application Type: Full Application

The reason for Committee determination

The application has been 'called in' by the Local Member

Consultee Responses

Consultee

Received

PCC - Highways

31st Aug 2021

This site is served from the Class III, C0075 county highway via a private access which was significantly upgraded as part of an earlier planning consent 2017/0507. The site does therefore benefit from an appropriate means of access and the as such, the HA has no objection to the proposal.

Welsh Water

7th Sep 2021

Sewerage

Since the proposal intends utilising an alternative to mains drainage we would advise that

the applicant seek advice from Natural Resources Wales and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

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

Surface Water Drainage

The proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010.

The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in preapplication consultation with the Local Authority, as the relevant SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

Should it be determined that SAB consent is not required, we request that if you are minded to grant Planning Consent for the above development that the following Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

PCC - Environmental Protection

28th Sep 2021

Due to the residential nature of the setting, Environmental Protection will require that measures are in place to control the level of noise disturbance to neighbouring properties during the construction phase of the development.

This department would recommend that the construction period working hours and delivery times be restricted as follows:

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

- o 0800-1800 hrs Monday to Friday
- o 0800-1300 hrs Saturday
- o 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."

We would also recommend that due to the proximity of the neighbouring agricultural building (18/0438/NMA and P/2017/0507), that a tie be placed on this new property, to prevent any future potential noise issues.

PCC - Land Drainage

No comments received at the time of writing this report

Natural Resources Wales

3rd Sep 2021

We refer to your consultation dated 26/08/202. We have concerns with the application as submitted because inadequate information has been provided in support of the proposal.

To overcome these concerns, you should seek further information from the applicant regarding foul drainage. If this information is not provided, we would object to this planning application. Further details are provided below.

We note the application site is within the catchment of the River Wye Special Area of Conservation (SAC). As you are aware, on the 21st January 2021, we published an evidence package outlining phosphorus levels for all river SACs across Wales. As part of this package, we issued a Planning Position Statement, in which we advised that any proposed development that might increase the amount of phosphate (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC. Therefore such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC. We have also issued Planning Advice (May 2021) which gives specific advice in respect of foul drainage arrangements for new developments.

We note from the information submitted that a new package treatment plant is to be installed to provide foul drainage for the new dwelling. The development has the potential to increase the amount of phosphorus being discharged from the site, as such, we refer you to our Planning Advice and advise you to seek further information from the applicant. We note that information has already been submitted in respect of a drainage plan and percolation test, however the daily discharge rate has not been included amongst the information. We advise you to seek further information as identified in the bullet point list given in the section titled 'What does this mean for development proposals involving private sewage treatment systems' of that advice.

Provided this advice is followed and you are able to conclude that the development is not likely to have a significant effect on the SAC, we would have no objection to the proposal. However, should you conclude that the proposed development is likely to have a significant effect on the SAC, please consult us on your Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

We also advise you seek assess any potential in combination effects, by checking if there are other discharges to ground should within 200m of the proposed discharge to ground. The density of discharges to ground should also not be greater than 1 for every 4ha (or 25 per km²).

Additional comments received 28th October 2021 -

We refer to your consultation dated 20/10/21. We have no objection to the proposed development as submitted and provide the following advice.

As stated in our response email of 03/09/2021, the application site is within the catchment of the River Wye Special Area of Conservation (SAC). We have reviewed the proposed drainage scheme plan (drawing OML 03) dated 09/08/2021, the percolation test calculation document and the 'Further Planning Statement A' and recognising the specific nature of the application submitted, private sewage treatment system which meets the screening criteria set out in our Planning Advice (May 2021), we are satisfied that it is unlikely to increase the amount of phosphorus entering the catchment. Therefore, we are satisfied that the proposal is not likely to have a significant effect on the River Wye SAC.

Health & Safety Executive (Gas)

27th Aug 2021

Thank you for your email seeking HSE's observations on application 21/1511/FUL

HSE is a statutory consultee for certain developments within the consultation distance of major hazard sites and major accident hazard pipelines and has provided planning authorities with access to the HSE Planning Advice Web App - <https://pa.hsl.gov.uk/> - for them to use to consult HSE and obtain HSE's advice. If you require details of your organisation's web app account, then please contact us.

I would be grateful if you would ensure that the HSE Planning Advice Web App is used to consult HSE on developments including any which meet the following criteria, and which lie within the consultation distance (CD) of a major hazard site or major hazard pipeline.

- o residential accommodation;
- o more than 250m² of retail floor space;

- o more than 500m² of office floor space;
- o more than 750m² of floor space to be used for an industrial process;
- o transport links;
- o or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

There are additional areas where HSE is a statutory consultee. For full details, please refer to annex 2 of HSE's Land Use Planning Methodology: www.hse.gov.uk/landuseplanning/methodology.htm

Additional comments received 21st September 2021 –

The proposed development site which you have identified lies within the consultation distance (CD) of at least one major hazard and/or major accident hazard pipeline, HSE needs to be consulted on any developments on this site.

This advice report has been generated using information supplied don the 21st September 2021.

PCC-Building Control

31st Aug 2021

Just to inform yourself the agent and the client that this scheme will require a Building Regulation application to be submitted prior to commencement of the works on site. We can be contacted at any time to discuss

Llanigon Community Council

No comments received at the time of writing this report

Ward Councillor

27th Aug 2021

I wish to call this application into committee.

Additional comments received 11th October 2021 -

I am writing with regards to a planning application, 21/1511/FUL Erection of a new 4 bedroom dwelling and associated works | The Old Orchard Llanigon Hereford Powys HR3 5PN. I hope that these plans are supported by Powys County Council and that the

ambitions of this local family can be realised and that planning committee members will have the opportunity to support this application.

PCC – Ecologist

Reference: 21/1511/FUL

Proposal: Erection of a new 4 bedroom dwelling and associated works | The Old Orchard Llanigon Hereford Powys HR3 5PN

Recommendation:

Holding objection – further information is required

Policy background:

- Planning Policy Wales, Edition 11, 2021
- Technical Advice Note (TAN) 5
- Powys Local Development Plan 2011 – 2026:
 - DM2 – The Natural Environment
 - DM4 – Landscape
 - DM7 – Dark Skies and External Lighting
- Powys Supplementary Planning Guidance: Biodiversity and Geodiversity (2018)

Legislative background:

- The Conservation of Habitats and Species Regulations 2017 (as amended)
- Environment (Wales) Act 2016

Statutory sites within 500m:

- none

Non-statutory sites within 500m:

- One or more Ancient Woodland (AW) sites are located within 500m of the development

Records of protected and/or priority species identified within 500m? Yes

Comments:

The application is informed by the following information:

No ecological information has been submitted with the application; the following comments are based on review of the proposed plans and aerial images, as well as records of protected and priority species and designated sites within 500m of the proposed development.

The proposed development is located within an existing orchard which retains several mature fruit trees bordered by at least two native species hedgerows. Orchards are an Environment (Wales) Act 2016 priority habitat and a Powys Local Biodiversity Action Plan habitat. The development will result in the loss of part of the orchard habitat; three trees are identified on and within the red-line boundary in addition to the associated grassland area. Aerial imagery also identifies 2-3 other trees not identified on the submitted plans. No assessment has been made of the grassland habitat and potential

impact to protected or priority species as a result of development. Insufficient information has been provided to assess the impact of the proposal on biodiversity. Granting of planning permission in lieu of adequate information would be contrary to LDP Policy DM2.

An area of wildflower habitat and planting of two silver birch trees has been identified on the plans, which is welcome. However, mitigation, compensation and enhancement measures should be informed by the results of an Ecological Impact Assessment of the site and reflect the priority habitats and species affected. Consideration should also be given to ensuring that development does not result in further degradation of the adjacent orchard habitat, for example, to increase amenity value. Conservation and enhancement of this area would be very welcome.

The location of the drainage field is 6m from the trunk of the nearest tree. Given the girth of the trunk, the tree's root protection area requires a distance of 7.2m from the trunk to be free from impact where possible (in accordance with BS 5837:2012). To comply with BS 6297:2007+A1:2008 there should be a minimum of 1m of undisturbed ground around the perimeter of the drainage field. The location of the drainage field should be reconsidered to avoid impact to all trees and most importantly to ensure that phosphate will be retained within the drainage field. A Tree Protection Plan will need to be secured for the construction phase to safeguard priority habitat features. Provision of sufficient information prior to determination of the application will avoid the need for a pre-commencement condition.

Soil percolation test results are acceptable, drainage field construction to BS6297:2007+A1:2008 is confirmed and no other discharges to ground are confirmed within 200m.

Further information required prior to determination:

1. An Ecological Impact Assessment to include details of mitigation, compensation and enhancement measures
2. Tree and Hedgerow Protection Plan

Notes for the applicant:

Details of ecological consultants working in Powys can be found at www.cieem.net (please note this is not a Powys County Council approved list of ecological consultants but lists ecological consultants who are members of the Chartered Institute of Ecology and Environmental Management). Also attached are some guidance notes regarding the commissioning of ecological consultants to undertake survey work.

Additional comments received 24th March 2022 –

Recommendation:

No objection – subject to planning conditions and/or planning obligations

Policy background:

- Planning Policy Wales, Edition 11, 2021
- Technical Advice Note (TAN) 5
- Powys Local Development Plan 2011 – 2026:
 - DM2 – The Natural Environment
 - DM4 – Landscape
 - DM7 – Dark Skies and External Lighting
- Powys Supplementary Planning Guidance: Biodiversity and Geodiversity (2018)

Legislative background:

- The Conservation of Habitats and Species Regulations 2017 (as amended)
- Environment (Wales) Act 2016

Comments:

Previous comments provided 16/12/2021.

The application is informed by the following information:

- Williams, P. & Hudej, M. (February 2022) Land near Llanigon, Hereford, HR3 5PL. A Preliminary Ecological Appraisal By: Just Mammals.

Survey effort and methods employed in accordance with current national guidelines?

Yes, although survey time was sub-optimal for vegetation survey but is not considered to significantly affect outcome of assessment.

The site is located within an established orchard comprising scattered fruit trees of various ages bordered by a species-poor native hedgerow with one oak standard. One fruit tree was identified as having bat roost potential and will be retained within the development. Two other trees on site had no potential bat roosting features. Trees in the adjacent orchard area outside of the development area possessed potential bat roost features but will not be impacted by the proposal. The surrounding hedgerows provide commuting and foraging habitat for bats. The grassland was confirmed to be relatively species-poor and subject to grazing. No evidence of badger or hedgehog was found but the habitats present are suitable for both. The trees and hedgerow on site have potential to support nesting birds. The site was considered unsuitable for supporting dormouse, otter and great crested newt due to a lack of suitable habitat features.

Tree protection measures will be employed to protect the tree with potential bat roost features. The two other young trees within the site will be transplanted into the adjacent orchard area. It has been confirmed that the drainage field can be installed without impact to existing tree root zones. A Tree and Hedgerow Protection Plan has been submitted with the application. It is advised that no external lighting reaches the retained tree with potential bat roost features. Given the nature of the adjacent habitats, a wildlife sensitive external lighting scheme is strongly advised. Precautionary working methods are also recommended to safeguard both badger and hedgehog during construction.

Welsh River SACs and phosphate contributions

The proposed development is located within the catchment of the River Wye Special Area for Conservation (SAC). In accordance with NRW's current planning advice, it is necessary to demonstrate that all proposed developments within the River Wye SAC

catchment will not result in an adverse effect on the integrity of the River Wye SAC through further addition of phosphate to the SAC, either directly or indirectly.

In assessing the proposal in accordance with NRW's current planning guidance, it is considered that the proposed development is not likely to result in a Significant Effect on the designated features of the River Wye SAC in terms of phosphate inputs. I have attached a copy of the Screening Assessment for Phosphate Inputs for your records.

Biodiversity enhancement:

The submitted revised Landscaping and Drainage Plan confirms that a wildflower area will be created along the northern part of the site, which is welcome. The ecology report identifies a number of recommendations, including the applicants proposal to reduce grazing pressure within the remaining orchard area, installation of at least three bird boxes and additional orchard tree planting. The measures are welcome and it is recommended that adherence to the recommendations is secured through an appropriately worded planning condition.

Subject to inclusion of the conditions below, would the development result in a significant negative effect on biodiversity? No

Conditions:

Should Development Management be minded to approve this application, inclusion of the following conditions is recommended

1. The development shall be undertaken in strict accordance with Section 10 Recommendations in Land near Llanigon Hereford HR3 5PL A Preliminary Ecological Appraisal, By Just Mammals, dated February 2022. The measures identified shall be adhered to and implemented in full.
2. The development shall be undertaken in strict accordance with the Landscaping and Drainage Plan, Drawing no. OML 3B, dated 09/08/2021. The measures identified shall be adhered to and implemented in full.
3. The development shall be undertaken in strict accordance with the Tree and Hedgerow Protection Plan, Drawing no. OML 10, dated March 2022. The measures identified shall be adhered to and implemented in full.
4. 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, including bats and otter, in accordance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018). The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM7 and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.

Informatives:

The following advice for the applicant is also considered appropriate

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 on 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.

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

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 (as amended) 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.

National Grid Gas

An assessment has been carried out with respect to National Grid Gas Transmission plc's apparatus and the proposed work location. Based on the location entered into the system for assessment the area has been found to be outside the High Risk zone from National Grid Gas Transmission plc's apparatus and can proceed. Should the work area change or type of activity being undertaken, a new enquiry shall be submitted for assessment.

Please carefully read the guidance notes on the next pages.

May we remind you that it is imperative that you use the HSE Land Use Planning App (LUP), available from the HSE's website. Should the work area change, evidence of this must be submitted to National Grid prior to receiving a formal response.

You will have received pipeline route drawings if your enquiry is located within the Medium Risk zone from National Grid Gas Transmission buried assets. Please familiarise yourself with the location of these assets and should the works location change a new enquiry shall be submitted for assessment. Please note this response and any attached map(s) are valid for 28 days.

Cadent Gas

Your planning application – No objection

We have received a notification from the Line search before U dig (LSBUD) platform regarding a planning application that has been submitted which is in close proximity to our gas asset/s. We have no objection to this proposal from a planning perspective.

What you need to do

To prevent damage to our assets or interference with our rights, please add the following Informative Note into the Decision Notice:

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. Prior to carrying out works, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to. Your responsibilities and obligations
This letter does not constitute any formal agreement or consent for any proposed development work either generally or related to Cadent's easements or other rights, or any planning or building regulations applications. Cadent Gas Ltd or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements. If you need any further information or have any questions about the outcome, please contact us at

plantprotection@cadentgas.com or on 0800 688 588 quoting your reference at the top of this letter.

Wales & West Utilities

Thank you for contacting us regarding Wales & West Utilities equipment at the above site. According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. Safe digging practices, in accordance with HS(G)47, Avoiding Danger from underground services must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus. Safe working procedures should be defined and practiced. If you require advice in connection with your proposals please contact the relevant number below.

Public Representations

Following the display of site notice there has been 2 letters of public representation received in support of the development at the time of writing this report

- Local business employing 35 local people
- Asset to the local economy
- Give the business security
- Dwelling will allow the business to grow and develop
- Ensure the family and business remain in the area

Planning History

App Ref	Description	Decision	Date
P/2017/0507	Full - Demolition of existing building and erection of portal framed building for agricultural storage, creation of hardstanding area and all associated works	Consent	7th Sep 2017
18/0438/NM A	Application for a non-material amendment to planning permission P/2017/0507 in relation to minor elevation changes	Approve	19th Sep 2018

Principal Planning Constraints

Principal Planning Policies

PPW	Planning Policy Wales (Edition 11, February 2021)	National Policy
FWTNP	Future Wales: The National Plan 2040	National Policy
TAN5	Nature Conservation and Planning	National Policy
TAN6	Planning for Sustainable Rural Communities	National Policy
TAN11	Noise	National Policy
TAN12	Design	National Policy
TAN18	Transport	National Policy
TAN23	Economic Development	National Policy
TAN24	The Historic Environment	National Policy
DM2	The Natural Environment	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026
DM15	Waste within Developments	Local Development Plan 2011-2026
H1	Housing Development Proposals	Local Development Plan 2011-2026
H3	Housing Delivery	Local Development

		Plan 2011-2026
H4	Housing Density	Local Development Plan 2011-2026
SP1	Housing Growth	Local Development Plan 2011-2026
SP5	Settlement Hierarchy	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
SP6	Distribution of Growth across the Settlement Hierarchy	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resource and Assets	Local Development Plan 2011-2026
RES	SPG Residential Design Guide (2020)	Local Development Plan 2011-2026
SPGAH	Affordable Housing SPG (2018)	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
SPGLAN	Landscape SPG	Local Development Plan 2011-2026
SPG	Historic Environment	Local Development Plan 2011-2026

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

Officer Appraisal

Site Location and Description

The application site is located within the Community Council area of Llanigon and is not located within a settlement development boundary as defined by the Powys Local Development Plan (2018). To the north of the application site is an existing agricultural building and to the south is an existing orchard and the County Highway C0075. To the east of the application site is agricultural land and to the west is further agricultural land and the access to the site.

This application seeks consent for the erection of a new 4no. bedroom dwelling and associated works. The proposed dwelling will measure approximately 20.5 metres in length by 7.2 metres in width, with a height to the eaves of approximately 5.25 metres and a height to the ridge of approximately 8.3 metres.

The selected materials for the proposed dwelling are as follows; stone and timber cladding for the walls, aluminium windows under a slate tiled roof.

The proposal is for a four-bed, two storey, barn style dwelling which reflects a traditional agricultural vernacular. The applicant currently runs a well-established grounds maintenance and gardening business from the site.

Principle of Development

Local Development Plan (LDP) Policy H1 sets out the principle of development for all residential developments. Given the location of the application site consideration will now be given to as to whether the proposed development is acceptable within this location. Having reviewed the application site, the closest settlements to the application site are Hay-on-Wye which is defined as a Town within the Powys Local Development Plan (2018) and Llanigon which is identified as a Small Village within the Powys Local Development Plan (2018).

Policy H1 states:

To ensure that housing development is appropriately located and suitable in scale and type to meet Strategic Policies SP1, SP3, SP5 and SP6, housing development proposals will only be permitted:

In Towns and Large Villages:

- i. On sites allocated for housing or on other suitable sites within the development boundary; or
- ii. On sites forming logical extensions outside development boundaries for affordable housing in accordance with Policy H6.

In Small Villages:

- i. On sites located between existing buildings in an otherwise built up frontage which are capable of accommodating no more than 2 open market dwellings; or
- ii. On sites located between existing buildings in an otherwise built up frontage or which form logical extension to the settlement, and which are capable of accommodating no more than 5 dwellings for affordable housing in accordance with Policy H6.

In terms of acceptable development within a Small Village, the Powys Local Development Plan policy SP6 Distribution of Growth across the Settlement Hierarchy states:

- Open market housing development will be restricted to small infill plots (capable of accommodating two dwellings maximum)
- Or to mixed schemes on larger infill sites (capable of accommodating five dwellings maximum) provided the scheme is for no more than two open market houses plus affordable housing.
- Additionally limited affordable housing will be permitted on either infill sites or exception sites forming logical extensions to the settlement.

Having considered the location of the application site in connection with the Town of Hay-on-Wye, it is acknowledged that the application site is located outside of the settlement boundary of Hay-on-Wye. The application site is located approximately 355 metres outside of the settlement boundary. It is therefore considered the application site does not form part of the settlement of Hay-on-Wye.

The LDP does not identify development boundaries for Small Villages and there are no allocations for development within this tier. Having assessed the location of the application site in connection with the Small Village of Llanigon, it is not considered the application site forms part of the small village of Llanigon, given the distance between the application site and the main hub of Llanigon. The application site is approximately 980 metres from the main hub of built development within the Small Village of Llanigon. It is acknowledged that there is existing built development between the application and the village of Llanigon, however it is considered the application site does not form part of small village of Llanigon.

Due to the location of the application site, approximately 980 metres away from the closely grouped dwellings which is considered the main hub of Llanigon it is not considered to

form part of the small village of Llanigon given the distance from the main cluster of dwellings. The application site is therefore considered to be divorced from the main hub and cluster of dwellings.

The proposal is for an open market dwelling, however it is not considered the application site is an infill site as the application site is not located between existing built development or within a built up frontage. It is also not considered the application site forms part of the Small Village of Llanigon

Consideration is now given to residential development in the Open Countryside. LDP Policy SP6 states that only housing development that complies with the national exceptions policies as set out in Planning Policy Wales and TAN 6 will be permitted in the open countryside. LDP Policy H1 states the following with regard to housing development in the open countryside;

“4. In the Open Countryside:

- i. Where the development relates to a need for housing which meets current national policy on housing in the open countryside; or*
- ii. Where the development relates to the conversion of a rural building(s) which accords with the current national policy on the sustainable re-use of rural buildings; or*
- iii. Where the development relates to the renovation of a former abandoned dwelling in accordance with Policy H8”.*

The proposal does not relate to any national policy on housing in the open countryside, does not involve the conversion of a rural building and does not relate to the renovation of an abandoned dwelling. The proposed development does not meet any of the criteria for development in the open countryside as identified in parts 4 (i-iii) above. It is therefore considered that the proposal for residential development at this location would result in unjustified development in the open countryside.

In light of the above, it is considered that the proposed development would be contrary to PPW, TAN 6 and LDP Policies SP6 and H1, and the principle of development is therefore unacceptable.

Design and Landscape Impact

LDP Policy DM13 requires development proposals to demonstrate a good quality design and have regard to the qualities and amenity of the surrounding area and proposals will only be permitted where they enhance or complement the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detailing.

The proposal is for a four-bed, two storey, barn style dwelling which reflects a traditional agricultural vernacular. The proposed dwelling will measure approximately 20.5 metres

in length by 7.2 metres in width, with a height to the eaves of approximately 5.25 metres and a height to the ridge of approximately 8.3 metres. The proposed dwelling will have an internal floor area of approximately 240sqm.

The selected materials for the proposed dwelling are as follows; stone and timber boarding for the walls, aluminium windows under a slate tiled roof.

The built form of the dwelling is encapsulated by materials, textures and colours that reflect the surrounding built context. The design of the dwelling reflects a traditional barn structure. The choice of materials for the proposed dwelling and garage are considered to respond well within the context of its surroundings and are therefore considered to be acceptable at this location. It is acknowledged that the proposed dwelling is of a large size and scale, however the proposed size and scale of the dwelling is deemed acceptable and the design of the dwelling is considered to be acceptable and in keeping with the character and appearance of the area.

Consideration is given to LDP Policy DM4 – Landscape. A visual and sensory evaluation of the application site using LANDMAP classifies this area of land as being of moderate value, being attractive and settled. LANDMAP describes the area as a lowland undulating settled farmland between 170mAOD and 100mAOD with gentle hills and valleys adjoining the Wye valley to the north and upland hills and valleys to the south. The farmland is mixed arable/pastoral with medium sized fields and generally cut hedges with mature standard trees. The hedges are replaced by fences in places. Occasional deciduous and coniferous copses are scattered across the area. The watercourses are lined by riparian woodland. Settlement is scattered farmsteads between the settlements which are concentrated on the A438 such as Treble Hill. The main roads including the A470 Bronllys bypass disturb the tranquillity of the area although away from the roads the area is quiet. The low hedges allow views across the landscape to the uplands beyond.

The application site is located within the Middle Wye Valley Historic Landscape Register. A historic landscape evaluation of the application site using LANDMAP classifies this area of land as being of outstanding value. LANDMAP describes the area as an extensive area of mixed field systems occupying good quality raised land to the south of the Wye valley. The area contains a vast array of relict medieval earthworks including moated sites and relict field systems, a number of important but small medieval settlements (most notably Llanfilo and Llyswen), many post medieval farms, and significant groups of prehistoric monuments ranging from neolithic chambered tombs to bronze age standing stones and barrows and a scattering of iron age hillforts. The landscape as it appears today is largely a product of the extensive medieval settlement of the wider Usk around Brecon.

The size and scale of the proposed dwelling which has been designed as an agricultural vernacular is not considered to have a significant adverse impact upon the character of the surrounding area and the Powys landscape. As part of the proposal the existing trees on the site are to be retained with a small number translocated, the proposal does include the planting of new trees which will help screen the dwelling. The dwelling has been set back from the County Highway and is located within close proximity to the existing

agricultural building within the applicant's ownership to help reduce the visual impact of the dwelling. The dwelling is to adopt materials which would be in keeping with the surrounding area and it is not considered this proposal would cause an unacceptable impact upon the landscape and the design is considered acceptable

In light of the above, it is considered the proposed development complies with relevant planning policy.

Agricultural Land Classification

Planning Policy Wales (11th edition, 2021) outlines national policy towards conserving Wales' Best and Most Versatile (BMV) agricultural land. Further guidance is provided in Technical Advice Note (TAN) 6, including the consultation arrangements with the Welsh Government included at Annex B. Planning Policy Wales (PPW) seeks to protect agricultural and grade 1-3a.

The site in question has been defined as category 2 agricultural land, this is defined as good quality agricultural land. Planning Policy Wales (11th Edition, 2021) states when considering the search sequence and in development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.

If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

The proposed development would result in the loss of grade 2 agricultural land (good quality) without an overriding need for the development, with insufficient evidence of alternative lower grade application sites being explored. The proposed development is therefore contrary to Planning Policy Wales 11th Edition 2021

In light of the above, it is considered the loss of this agricultural land would not be acceptable and the proposed development does not comply with Planning Policy Wales 11th Edition, 2021.

Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by occupiers of neighbouring properties, consideration has been given to the Powys Residential Design Guide (SPG 2020) & LDP: DM13 (Part 11).

The proposed development is not considered to offer any impact upon loss of daylight to any neighbouring dwellings; there are no properties that would be adversely affected

when considering the 25 degree rule, which prohibits development that would exceed a line of 25 degrees taken from the nearest habitable room of adjoining existing properties. The proposal also complies with the 45 degree rule, where an angle of 45 degrees is measured in a horizontal plane and taken from the middle of the window of the nearest habitable room in any adjacent rooms. The proposed development is considered to be acceptable when considered against the above criteria.

The proposed development is also not considered to offer any adverse impacts to any neighbouring properties in terms of loss of privacy. The Powys Residential Design Guide states that there should be a minimum of 20 metres between directly facing habitable rooms on rear elevations. There are no windows on the elevation of the nearest neighbouring property that directly face the rear elevation of the proposed dwelling, therefore this is considered acceptable. As stated above, the proposed development is considered to comply with the 45 degree rule and therefore the proposed development is considered acceptable when considered against the above criteria.

PCC Environmental Protection has been consulted on the development in terms of noise impact and raised no objection to the development subject to the inclusion of a condition regarding construction times.

PCC Environmental Protection also recommended the inclusion of a condition regarding a tie be placed on the proposed new dwelling due to the proximity of the neighbouring agricultural building to prevent any future potential noise issues

In light of the above and subject to the recommended conditions, it is considered that the proposed development complies with relevant planning policy.

Highway Safety

A safe access, parking and visibility splays are a fundamental requirement of any development (LDP: DM13, Part 10).

The Local Highway Authority has been consulted on the proposed development and noted this site is served from the Class III, C0075 county highway via a private access which was significantly upgraded as part of an earlier planning consent P/2017/0507. The Highway Officer noted the site does therefore benefit from an appropriate means of access and the as such, the Highway Authority has no objection to the proposal.

In light of the above, it is considered that the proposed development complies with relevant planning policy.

Biodiversity

Policy DM2 states that proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests. Proposals which would impact on natural environment assets will only be permitted where they do not unacceptably

adversely affect those assets. This is further emphasised within Technical Advice Note (TAN) 5.

The PCC Ecologist has been consulted on the proposed development noted the development is located within an existing orchard which retains several mature fruit trees bordered by at least two native species hedgerows. Orchards are an Environment (Wales) Act 2016 priority habitat and a Powys Local Biodiversity Action Plan habitat. The Ecologist noted the development will result in the loss of part of the orchard habitat; three trees are identified on and within the red-line boundary in addition to the associated grassland area.

The Ecologist noted the site is located within an established orchard comprising scattered fruit trees of various ages bordered by a species-poor native hedgerow with one oak standard. One fruit tree was identified as having bat roost potential and will be retained within the development. Two other trees on site had no potential bat roosting features. Trees in the adjacent orchard area outside of the development area possessed potential bat roost features but will not be impacted by the proposal. The surrounding hedgerows provide commuting and foraging habitat for bats. The grassland was confirmed to be relatively species-poor and subject to grazing. No evidence of badger or hedgehog was found but the habitats present are suitable for both. The trees and hedgerow on site have potential to support nesting birds. The site was considered unsuitable for supporting dormouse, otter and great crested newt due to a lack of suitable habitat features.

Tree protection measures will be employed to protect the tree with potential bat roost features. The two other young trees within the site will be transplanted into the adjacent orchard area. It has been confirmed that the drainage field can be installed without impact to existing tree root zones. A Tree and Hedgerow Protection Plan has been submitted with the application. It is advised that no external lighting reaches the retained tree with potential bat roost features. Given the nature of the adjacent habitats, a wildlife sensitive external lighting scheme is strongly advised. Precautionary working methods are also recommended to safeguard both badger and hedgehog during construction.

The submitted revised Landscaping and Drainage Plan confirms that a wildflower area will be created along the northern part of the site, which is welcome. The ecology report identifies a number of recommendations, including the applicants proposal to reduce grazing pressure within the remaining orchard area, installation of at least three bird boxes and additional orchard tree planting. The measures are welcome and it is recommended that adherence to the recommendations is secured through an appropriately worded planning condition.

The PCC Ecologist raised no objection to the development subject to the inclusion of a number of conditions regarding the preliminary ecological report, landscaping and drainage plan, external lighting and Tree and Protection Plan.

In light of the above and subject to the recommended conditions, it is therefore considered

that the proposed development fundamentally complies with relevant planning policy.

Phosphorous Sensitive Area (River Wye SAC)

Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site (previously designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and, therefore, such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

This application has been screened in accordance with Natural Resources Wales' advice for planning applications affecting phosphorus sensitive river Special Areas of Conservation (SACs) (updated 26th May 2021). The PCC Ecologist has assessed the proposal in accordance with NRW's current planning guidance, it is considered that the proposed development is not likely to result in a Significant Effect on the designated features of the River Wye SAC in terms of phosphate

It is noted that the package treatment plant would have a daily discharge rate of less than 2 cubic metres and would meet all other requirements it is therefore considered that the development can be screened out as not likely having a significant effect on the river SAC.

NRW have reviewed the proposed drainage scheme plan (drawing OML 03) dated 09/08/2021 and noted the percolation test calculation document and the 'Further Planning Statement A' and recognising the specific nature of the application submitted, private sewage treatment system which meets the screening criteria set out in our Planning Advice (May 2021), NRW are satisfied that it is unlikely to increase the amount of phosphorus entering the catchment. Therefore, NRW are satisfied that the proposal is not likely to have a significant effect on the River Wye SAC.

On this basis and given the scale and nature of the proposal it is considered acceptable in relation to the wellbeing of the River Wye catchment area.

Surface Water Drainage

It is noted that a small section of the County Highway C0075 to where the application site is accessed is located within Flood Zone 2 of the Flood Map for Planning for Surface Water and Small Water Courses. Having considered the minor section which is covered by the Surface Water Flood Zone 2 which is considered low risk it is not considered the proposed development will have a detrimental impact on surface water flooding

elsewhere. The application site does not fall within any flood zones. It is also noted that the proposed development will require SuDS and therefore matters in relation to surface water drainage will be considered under the SuDS application. PCC Land Drainage has also been consulted and raised no objection to the development.

In light of the above it is considered that the proposed development complies with relevant planning policy.

Gas Pipeline

It is acknowledged that a gas pipeline runs through the application site. Cadent Gas Ltd have confirmed they own and operate the gas infrastructure within the area of the development. Prior to carrying out works, Cadent Gas request the details of the planned works are submitted for review, ensuring requirements are adhered to. Cadent Gas raised no objection to the development subject to an informative note. Other gas operators and HSE have also been consulted on the development and raised no objection to the development.

In light of the above and subject to the recommended informative note, it is considered that the proposed development complies with relevant planning policy

RECOMMENDATION - Refuse

The application site does not form part of any settlement and would as a result lead to the creation of unjustified development in the open countryside and the recommendation is one of refusal.

Reasons

- 1.The proposed development is considered to be unjustified development in the open countryside contrary to policies SP5, SP6, H1 and H6 of the Powys Local Development Plan, Planning Policy Wales (11th Edition, 2021) and Technical Advice Note 6.
2. The proposed development would result in the loss of grade 2 agricultural land (good quality) without an overriding need for the development and insufficient evidence has been provided to demonstrate alternative lower grade application sites have been investigated. The proposed development is therefore contrary to Planning Policy Wales (11th Edition, 2021).

Case Officer: Luke Jones, Principal Planning Officer
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