

# Planning, Taxi Licensing & Rights of Way Committee

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Meeting Venue  
**Council Chamber - Neuadd Maldwyn,  
Welshpool, Powys**

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Meeting Date  
**Friday, 2 March 2018**

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Meeting Time  
**11.00 am or on the later arrival of the  
Committee**

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County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

For further information please contact  
**Carol Johnson**  
01597826206  
carol.johnson@powys.gov.uk

22 February, 2018

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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

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## AGENDA

<b>1.</b>	<b>APOLOGIES</b>
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To receive apologies for absence.

<b>Planning</b>
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<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>
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- a) To receive any declarations of interest from Members relating to items to be considered on the agenda.
- b) To receive Members' requests that a record be made of their membership of town or community councils where discussion has taken place of matters for the consideration of this Committee.
- c) To receive declarations from Members of the Committee that they will be acting as 'Local Representative' in respect of an individual application being considered by the Committee.
- d) To note the details of Members of the County Council (who are not Members of the Committee) who will be acting as 'Local Representative' in respect of an individual application being considered by the Committee.

<b>3.</b>	<b>PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE</b>
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To consider the reports of the Head of Regeneration and Regulatory Services and to make any necessary decisions thereon.

(Pages 5 - 8)

**3.1. Updates**

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

(To Follow)

**3.2. P/2017/1348 Welshpool Social Club, Bronybuckley, Welshpool Powys SY21 7NJ**

(Pages 9 - 38)

**3.3. P/2017/0216 Land adjacent to Severnside, Rhos Common, Llandrinio, Powys SY22 6RF**

(Pages 39 - 62)

**3.4. P/2017/1311 Land South of Broncafnt Lane, Llanfair Caereinion, Powys SY21 0RF**

(Pages 63 - 88)

**3.5. P/2017/1259 Land adj Greenfields Farm, Four Crosses, Llanymynech, Powys, SY22 6RF**

(Pages 89 - 108)

**3.6. P/2017/0098 Land at Ty Brith Bwlch-Y-Ddar, Llangedwyn, Llanfechain, Oswestry, SY10 9LL**

(Pages 109 - 134)

**3.7. P/2017/1236 Tynllan Farm, Castle Caereinion, Welshpool, Powys SY21 9AL**

(Pages 135 - 164)

**3.8. P/2017/1265 Cefn Bryn, Cefn Coch, Welshpool, Powys, SY21 0AE**

(Pages 165 - 190)

3.9. **P/2017/1253 Plas Coch, Cefn Coch, Welshpool, Powys, SY21 0AE**  
(Pages 191 - 200)

3.10. **P/2017/0497 Land to South of A44, Penybont, Llandrindod Wells, Powys**  
(Pages 201 - 220)

3.11. **P/2017/0789 Land adjoining Swan Bank, Pool Quay, Welshpool Powys SY21 9JS**  
(Pages 221 - 250)

<b>4.</b>	<b>DECISIONS OF THE HEAD OF REGENERATION AND REGULATORY SERVICES ON DELEGATED APPLICATIONS</b>
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To receive for information a list of decisions made by the Head of Regeneration and Regulatory Services under delegated powers.  
(Pages 251 - 256)

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**Planning, Taxi Licensing and Rights of Way Committee**  
**2<sup>nd</sup> March 2018**

For the purpose of the Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

**Applications for consideration by Committee:**

Application No:	Nature of Development:
Community:	Location of Development:
O.S. Grid Reference:	Applicant:
Date Received:	Recommendation of Head of Planning:

<p><b>P/2017/1348</b></p> <p>Welshpool</p> <p>322403.82 307756.16</p> <p>01.12.17</p>	<p>Full: Demolition of existing building and erection of 17 no. flats</p> <p>Welshpool Social Club Bronybuckley Welshpool Powys SY21 7NJ</p> <p>Mr Harry Bowen Mid Wales Property High Street Merchants House Newtown Powys SY16 2NR</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/0216</b></p> <p>Llandrinio</p> <p>327600.49 317816.18</p> <p>27.02.17</p>	<p>Outline: Erection of 19 dwellings, formation of vehicular access and all associated works</p> <p>Land adjacent to Sevenside Rhos Common Llandrinio Powys SY22 6RF</p> <p>Mr John Lloyd, Hendre Lane, Brookfields, Rhos Common, Llandrinio Powys SY22 6RN</p> <p><b>Recommendation:</b></p> <p>Consent subject to a S106 agreement</p>
<p><b>P/2017/1311</b></p> <p>Llanfair Caereinion</p> <p>310343.22 306093.67</p>	<p>Outline: Erection of 3 no.dwellings and associated infrastructure including installation of sewage treatment plant (some matters reserved)</p>

<p>08.11.17</p>	<p>Land south of Broncafnt Lane, Llanfair Caereinion, Powys SY21 0BW</p> <p>NL &amp; KM Griffiths Broncafnt Lane Tanyfron Llanfair Caereinion Powys SY21 0BW</p> <p><b>Recommendation:</b></p> <p>Conditional Consent subject to a Section 106</p>
<p><b>P/2017/1259</b></p> <p>Llandysilio</p> <p>326755.31 318118.14</p> <p>3.10.17</p>	<p>Outline: Proposed residential development of 5 no dwellings, formation of an access road and all associated works</p> <p>Land adj Greenfields Farm, Four Crosses, Llanymynech, Powys, SY22 6RF</p> <p>Mr P M Pryce, Greenfields Farm, Four Crosses, Llanymynech, Powys, SY22 6RF</p> <p><b>Recommendation:</b></p> <p>Refusal</p>
<p><b>P/2017/0098</b></p> <p>Llangedwyn</p> <p>317094 322248</p> <p>02.02.17</p>	<p>Full: Erection of a replacement dwelling, creation of new access and installation of package treatment plant</p> <p>Land at Ty Brith Bwlch-Y-Ddar, Llangedwyn, Llanfechain, Oswestry, SY10 9LL</p> <p>Llangedwyn Estate Sansaw Business Park, South Pavilion, Hadnall, Shrewsbury, SY4 4AS</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/1236</b></p> <p>Castle Caereinion</p> <p>316308.38 305645.95</p> <p>31.10.2017</p>	<p>Outline: Residential development of 9 dwellings with garages, new vehicular access, formation of estate road and all associated works/infrastructure (all matters reserved)</p> <p>Tynllan Farm, Castle Caereinion, Welshpool Powys SY21 9AL</p>

	<p>A.N &amp; D Davies &amp; Sons Mr Ian Davies &amp; Mr Gareth Davies Tynllan Farm Castle Caereinion Welshpool Powys SY21 9AL</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/1265</b></p> <p>Dwyriw</p> <p>304821.63 302872.58</p> <p>30.10.17</p>	<p>Outline: Residential development of one dwelling with associated works</p> <p>Cefn Bryn, Cefn Coch, Welshpool, Powys, SY21 0AE</p> <p>Ms Judith Townsley, Cefn Bryn, Cefn Coch, Welshpool, Powys, SY21 0AE</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/1253</b></p> <p>Dwyriw</p> <p>305205.91 302978.37</p> <p>30.10.17</p>	<p>Outline: Erection of 1 no. dwellings, installation of sewerage treatment plant and all associated works (all matters reserved)</p> <p>Plas Coch, Cefn Coch, Welshpool, Powys, SY21 0AE.</p> <p>Mr C Isaac, Plas Coch, Cefn Coch, Welshpool Powys SY21 0AE</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
<p><b>P/2017/0497</b></p> <p>Penybont</p> <p>311271.68 264076.6</p> <p>16.05.2017</p>	<p>Outline: Residential development (up to 5 no. dwellings) with some matters reserved and associated works</p> <p>Land to south of A44, Penybont, Llandrindod Wells, Powys</p> <p>Mr &amp; Mrs DG, MM, DG, IJ, MJ &amp; N Owen, Cwmrhocas, Penybont, Llandrindod Wells, Powys, LD1 5SY</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>

<p><b>P/2017/0789</b></p> <p>Welshpool</p> <p>325440.59 311109.03</p> <p>29.08.17</p>	<p>Outline : Erection of up to 3 no. dwellings and garages, formation of vehicular access, access road and all associated works (with some matters reserved)</p> <p>Land adjoining Swan Bank, Pool Quay, Welshpool Powys SY21 9JS</p> <p>Mr J.H &amp; E.L. Jones J.H. &amp; E.L. Jones Pool Quay, Dyers Farm, Welshpool Powys</p> <p><b>Recommendation:</b></p> <p>Conditional Consent</p>
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# 3.2

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

<b>Application No:</b>	P/2017/1348	<b>Grid Ref:</b>	322403.82 307756.16
<b>Community Council:</b>	Welshpool	<b>Valid Date:</b>	<b>Officer:</b> 01/12/2017 Tamsin Law
<b>Applicant:</b>	Mr Harry Bowen Mid Wales Property High Street Merchants House Newtown Powys SY16 2NR		
<b>Location:</b>	Welshpool Social Club Bronybuckley Welshpool Powys SY21 7NJ		
<b>Proposal:</b>	Full: Demolition of existing building and erection of 17 no. flats		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The application was called in by the local Member.

### Site Location and Description

The site currently houses a building formerly used as the Welshpool Social Club. Due to the topography of the site the building is stepped up the bank. The existing building measures approximately 20 metres in width and 38 metres in depth. The southern elevation of the building measures approximately 9.8 metres in height with a flat roof that continues the length of the building. At the point the building lies adjacent to dwelling on Bronybuckley the height of the building is 4 metres.

The front building will comprise 14 flats and will measure a maximum of 9.2 metres to the eaves and 12.3 metres to the ridge, with a width of 18 metres and a depth of 22.1 metres. Due to the topography of the site the front elevation of the building is on a lower level than the rear elevation. The rear building will measure a maximum height of 8.3 metres to the ridge falling to 5.6 metres at the eaves, with a width of 13.6 metres and depth of 8.8 metres. The building will be finished with red brick and concrete panels, with dark grey upvc windows and a dark metal roof.

The proposed development seeks consent for two buildings to contain 14 and 3 affordable flats. One building will be located to the front of the site and a smaller building to the rear, between the two buildings access will be created and parking will be provided. An area to the front of the site will also be utilised for parking.

The site is brownfield land located within the development boundary of Welshpool as defined by the Powys Unitary Development Plan. The site is bound to the north east and west by existing residential dwellings and to the south by an access road and the Welshpool library.

## Consultee Response

### Welshpool Communtiy Council

#### 1st Response

P/2017/1348 Welshpool Social Club Bronybuckley Welshpool Powys  
Demolition of existing building and erection of 17 no. flats with 17 car spaces.

There were a significant number of members of the public present.

The scheme comments from the Council consultation at the pre-application stage were:

- i) The scheme as drawn is an overdevelopment of the site and the design does not complement the properties around it. (Particularly regarding material use).
  - ii) The car parking provision is not adequate and access not appropriate.
  - iii) Access for emergency vehicles does not appear to be taken into account.
  - iv) Adequate turning facilities for cars and other vehicles (such as a hospital minibus) needs to be provided.
  - v) Any scheme should respect the adjoining properties and take into account privacy and loss of light.
  - vi) A review of the number of units available for disabled users' needs to be undertaken.
- ix) Access for wheelchair users needs to be addressed.
- vii) The footpath from Bron y Buckley to the lower part of the site should be retained in some form.

A note of the public comments is attached to these minutes.

The Committee OBJECTS to this application on the following grounds:

- i) The proposals are an overdevelopment of the site and not in keeping with the character of the area in which it is located.
- ii) There is inadequate parking space for both the residents of the flats proposed and for visitors.
- iii) There is inadequate road access to the lower level and the road at the upper level is not wide enough to accommodate more traffic movements.
- iv) There are no disabled spaces shown on the plans.
- v) The issue of overlooking of adjoining properties has not been addressed.
- vi) There is insufficient provision for emergency services.
- vii) There is inadequate provision for wheelie bins and re-cycling boxes.
- viii) The footpath from the lower to upper level is very close to the windows of the properties proposed.
- ix) There appears to be inadequate access for all (i.e. wheelchair users)

The Committee also suggests that access from Brook Street directly be considered.

The Committee was also concerned about construction traffic and how this might access the site for construction.

The issue of ensuring adequate sewerage provision was raised due to the difficulties encountered in other areas of the town.

It is understood that Cllr G Breeze has asked that the application be considered by Committee and it is therefore requested that such a meeting is held in Welshpool.

#### 2<sup>nd</sup> Response

Good afternoon. Thank you for your letter regarding the above application due to be considered by the Councillors at a meeting on 2nd March. I confirm that my Council would like to speak.

I am also writing to object to the location - this application is of great interest to residents here in Welshpool. You might like to know that many can ill afford to come this distance and you may also like to note that 30% of residents in Welshpool do not have a car or van!

Please can you reconsider - if you need accommodation in our Town Hall for this one we can arrange this at no cost.

Finally the meeting is on 2nd March and yet no meeting is listed on the web site link given. Perhaps you can confirm the date.

If you insist upon hosting this meeting away from North Powys can we have confirmation that the application will be on first so that we can arrange transport as a Council for residents who wish to attend probably by coach.

#### PCC - Highways

##### 1<sup>st</sup> Response

The County Council as Highway Authority for the County Unclassified Highway, U4409

Wish the following recommendations/Observations be applied  
Recommendations/Observations

This application should be deferred.

##### Reasons for Deferral

Section 3.2.2 of the Transport Statement is slightly misleading, in that there is no current vehicular access into the upper part of the site, and figure 3.2 (swept path analysis) should include dimensions.

Whilst the Highway Authority do not disagree on the requirement for a Travel Plan to be submitted along with the application, we still require justification to be submitted at this stage to show how the applicant has calculated the reduction in parking bays. The PAC data submitted includes a Highways update, stating that 18 parking bays are to be provided, yet this application has reduced that figure to 17. Furthermore, the census data submitted in

support of reducing the parking provision is for 'flats', whereas the majority of residential properties in the immediately surrounding streets are semi-detached and terraced houses.

Although the lane giving access to the bottom part of the site is in the ownership of Powys County Council, the applicant does not appear to elaborate on what if any Right of Way exists.

To ensure that adequate provision is made for highway access onto the County Unclassified road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

## 2<sup>nd</sup> Response

The County Council as Highway Authority for the County Unclassified Highway, U4409

Wish the following recommendations/Observations be applied  
Recommendations/Observations

HC2 The gradient of the upper access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC6 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 U4409 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. This condition relates to the upper part of the site.

HC9 Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 17 cars excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

HC11 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.

HC12 The width of the access carriageway, shall be not less than 6 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.

HC30 Upon formation of the visibility splays as detailed in HC6 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.



HC31 The area of the private drive, parking spaces and turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

HC32 No surface water drainage from the site shall be allowed to discharge onto the county highway.

#### PCC - Building Control

Building Regulations application required.

#### Wales and West Utilities

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty and the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, its agents or servants for any error or omission.

Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

You must not build over any of our plant or enclose our apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Cllr Graham Breeze

I wish to call in planning application number (P/2017/1348) – Welshpool Social Club - on the following grounds:

Highway safety.  
Access.  
Size of development.  
Impact on neighbouring properties.

Could you please acknowledge receipt of my request.

### PCC - Environmental Health

I have no objection to the application provided that

1. STW confirm that there is sufficient capacity in the foul drainage system to accommodate the additional waste
2. There is adequate provision for storage of waste.
3. A condition is added to protect residents during the construction phase noise control

Due to the residential nature of the setting, Environmental Health 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:

- 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.”

### PCC - Rights of Way

Public footpath G35 abuts the eastern edge of the site. Whilst the development should not directly affect the footpath, the applicant/developer needs to ensure that the footpath is not obstructed or interfered with during development no matter how temporary.

### PCC - Affordable Housing

Whilst it is noted that the applicant intends that all dwellings proposed will be affordable, our minimum requirements are as follows:

We seek provision of affordable housing on residential development sites in accordance with the Affordable Housing Topic Paper September 2016, and the following guidelines to be adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council's Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9.

#### PCC - Ecologist

Thank you for consulting me with regards to planning application P/2017/1348 which concerns a full planning application for demolition of existing building and erection of 17 no. flats at Welshpool Social Club, Bronybuckley, Welshpool.

I have reviewed the proposed plans submitted, aerial images of the surrounding habitats, as well as reviewing local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 367 records of protected and priority species within 500m of the proposed development - no records were for the site itself.

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

- Bron-Y-Buckley Wood - SSSI
- Montgomery Canal – SSSI
- Montgomery – SAC

Having reviewed the location and nature of the proposed development in relation to the Montgomery Canal SAC it is considered that there is no direct connection between the proposed development site and the Montgomery Canal SAC. There are roadways and residential can commercial properties between the proposed development site and the Montgomery Canal SAC. Given the lack of connection between the proposed development site and the nature of the development it is considered that there is no potential for a Likely Significant Effect to the SAC or its associated features and that a HRA would not be required. There are no non-statutory designated sites present within 500m of the proposed development.

An Ecological Survey Report has been submitted to assess the potential of the development to impact to any protected species presence or habitats of ecological value.

I have reviewed the submitted Preliminary Environmental Appraisal produced by Greenscape Environmental Ltd dated July 2017, I consider that the survey effort employed was in accordance with National Guidelines.

The Preliminary Environmental Appraisal included desktop survey of the area, a day time survey to assess for potential access features present for bats to gain access and evidence of bats as well as evidence of nesting birds. The day time survey was carried out on the 14<sup>th</sup> June 2017. A precautionary phase 2 bat activity surveys were also carried out as part of the assessment.

Habitat present was a building structure set on an area of hard standing including tarmac parking and paved area.

The survey found that the building was in good condition and offers little potential features for bats to gain access to the building and no roosting features or evidence of bats was recorded. No physical evidence of bats was found on the exterior or within the building. During the precaution survey which took place on the evening the initial survey was carried out recorded a low number of common pipistrelles foraging around the building throughout the survey, but no emergence of bat were recorded from the building.

No nesting birds were observed on the exterior of the building. Swift were seen in the area, therefore it is recommended swift boxes to be installed within the proposed development.

No ponds were identified within 250m of the proposed development.

Other mammals, birds and herpetofauna were considered – the site was assessed as not suitable to support species therefore no negative impact is foreseen.

Given the results of the Preliminary Environmental Appraisal report, I consider that the proposed development will not result in any direct negative impacts or loss of biodiversity at the site.

It is recommend in the report that provisions of bat and swift boxes are provided within the proposed development.

### External Lighting

Careful consideration will need to be given to any external lighting of the proposed development, the habitat surrounding the proposed development does have features suitable for mobile wildlife to forage and commute – which was also noted in the survey report. Measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

### Landscaping

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that a Landscaping Plan is secured through an appropriately worded condition.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

The recommended measures in section 6 of the Preliminary Environmental Appraisal Report produced by dated July 2017 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

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

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 UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following informative:

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.

### PCC - Schools Services

In relation to this planning application as there is surplus capacity in local schools, the Schools Service will not be submitting a Section 106 bid for monies.

### NRW

Diolch am ymgynghori gyda Cyfoeth Naturiol Cymru ynglŷn a'r cais uchod.

Rydym wedi adolygu'r cais cynllunio gyflwynwyd i ni, ac o'r wybodaeth a ddarparwyd nid ydym o'r farn bod y datblygiad arfaethedig yn effeithio ar fater a restrwyd ar ein Rhestr Wirio, *Cyfoeth Naturiol Cymru ac Ymgynghoriadau Cynllunio (Mawrth 2015)*: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=cy>. Felly, nid oes gennym unrhyw sylwadau i'w gwneud ar y datblygiad arfaethedig.

Sylwer nad yw ein penderfyniad i beidio â rhoi sylwadau yn golygu na allai bod yna bosibilrwydd i'r datblygiad arfaethedig effeithio ar fuddiannau eraill, gan gynnwys buddiannau amgylcheddol o bwysigrwydd lleol.

Dylai'r ymgeisydd gael ei hysbysu mai hwy, yn ogystal â chaniatâd cynllunio, sydd yn gyfrifol am sicrhâi bod ganddynt yr holl drwyddedau/caniatadau sy'n berthnasol i'w datblygiad.

Hyderwn fod y sylwadau uchod o gymorth, fodd bynnag, os oes gennych unrhyw ymholiadau, mae croeso i chi gysylltu â mi.

Cofion Cynnes

Dear Tamsin

Thank you for consulting Natural Resources Wales on the above application.

We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Checklist, *Natural Resources Wales and Planning Consultations (March 2015)*: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en>. We therefore do not have any comment to make on the proposed development.

Please note that our decision not to comment does not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

We trust that the above comments are of assistance however, should you have any queries, please do not hesitate to contact me.

## CPAT

Thank you for the consultation on this application.

Information retained within the Regional Historic Environment Record indicates that the development is partly located over the site of a former house and outbuilding recorded on the 1840 tithe and first edition OS maps of Welshpool. The building probably pre-dates 1840, but we have no indication of its date of origin. The building was demolished when the current Social Club was built and now lies under the car park at the south end of the site. Sub-surface remains of the foundations of this building are likely to appear when the car park area is broken up. We would therefore require an appropriate level of archaeological monitoring during the initial ground preparation and construction phase to identify and record any buried features that may be revealed.

Accordingly we would recommend that an archaeologist is contracted to be present throughout the duration of initial topsoiling, ground preparation and foundation excavation works in order that an adequate record of any archaeological features revealed by these works can be made. This advice is in accordance with the guidance set out in Welsh Government TAN 24: The Historic Environment (May 2017) Planning Policy Wales (Chapter 6, Edn.9 Nov 2016).

The archaeologist should be part of a recognised professional archaeological organisation working to the Standard and Guidance of the Chartered Institute for Archaeologists relating to an Archaeological Watching Brief. The archaeologist should be working in accordance with an approved written scheme of investigation (WSI).

A suitable condition to facilitate the contracted watching brief is provided below along with a guidance note for the applicant on how to commission archaeological works.

Suggested planning condition to facilitate an archaeological watching brief

The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeological contractor. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (41 Broad Street, Welshpool, Powys, SY21 7RR Email: [markwalters@cpat.org.uk](mailto:markwalters@cpat.org.uk) Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should also be sent to the Historic

Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record.

Reason: To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.

I have attached a guidance note on the completion of a watching brief together with advice about engaging archaeological contractors who may wish to tender for the work. General watching brief requirements for archaeological contractors are also attached. Please forward these to the applicant so that they are fully informed of the requirements.

### Powys Contaminated Land

#### 1<sup>st</sup> Response

In relation to Planning Application P/2017/1348, the following advice is provided for the consideration of Development Control.

#### Advice

1. Historic ordnance survey (OS) maps identify that the application site was previously occupied by a railway. Land associated with railways has the potential to be affected by land contamination; the Department of the Environment, Industry Profile 'Railway Land' (1995) provides guidance concerning the potential sources of contamination.

2. Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2016) advises: *"responsibility for determining the extent and effects of instability or other risk remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners"*.

However, no information has been submitted in support of Planning Application P/2017/1348 in relation to the potential land contamination risks associated with the proposed development.

3. Based on the available information, the following is recommended:

I. The planning applicant could submit a preliminary investigation and preliminary risk assessment ('Phase 1' report) in support of Planning Application P/2017/1348.

A preliminary investigation and preliminary risk assessment should be completed by a qualified and experienced environmental consultant, and in accordance with current guidance and best practice.

If a preliminary risk assessment identifies that there are potentially unacceptable risks, a detailed scope of works for an intrusive investigation, prepared by a qualified and experienced environmental consultant, should also be submitted for review and approval.

II. Alternatively, the following Condition and Note to the applicant could be attached to any permission granted for Planning Application P/2017/1348:

#### Condition A

Condition 1. Preliminary Investigation



No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority. This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best practice, and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- A desk study
- A site reconnaissance
- Formulation of an initial conceptual model
- A preliminary risk assessment

If the preliminary risk assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a suitably qualified competent person. The contents of the scheme and scope of works are subject to the approval in writing of the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 2. Site Characterisation

No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins.

The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

#### Condition 3. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 2 has been received from the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the

Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012)

#### Condition 4. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

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

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy \_\_\_\_ of the adopted Local Plan (date)].

#### 2<sup>nd</sup> Response

The following document has been submitted in support of planning application P/2017/1348:

□ Terrafirma 'Geo-Environmental Desk Study Report: Proposed Residential Development, Former Social Club, Brook Street, Welshpool' (ref: 14547) January 2018.

Based on the information submitted in the above referenced document, the following advice is provided for the consideration of Development Control. This advice supersedes that provided previously in the memorandum (ref: WK/201722658) dated 14 December 2017, which was issued to Development Control in respect of planning application P/2017/1348.

#### Advice

1. Under section 2.3.2 'Radon', of the 'Geo-Environmental Desk Study Report' (ref: 14547), it is stated: "[...] *no radon protection will be required for the new development.*"

Development Control should consult with Building Control to confirm the requirements for radon protection measures.

2. Section 4 'Recommended Site Investigation', of the 'Geo-Environmental Desk Study Report' (ref: 14547), provides outline proposals for an intrusive site investigation.

The intrusive site investigation should be designed, justified and completed in accordance with current guidance and best practice such as BS10175:2011+A1:2013 'Investigation of Potentially Contaminated Sites – Code of Practice'.

Furthermore, a detailed scope of works for the intrusive site investigation, including details of the risk assessment methodologies, which has been prepared by an experienced and qualified environmental consultant, should be submitted for review and approval prior to the investigation being undertaken.

3. Section 4.4 'Laboratory Chemical Analysis', of the 'Geo-Environmental Desk Study Report' (ref: 14547), provides the proposed chemical analysis suite that soil samples will be tested for.

It is recommended that the Department of the Environment, Industry Profile 'Railway Land' (1995) should be consulted to identify all the potential contaminants of concern associated with the former use of the application site. For instance, consideration should be given to including in the testing suite contaminants such as ethylene glycol, creosote and herbicides.

4. Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2016) advises: "responsibility for determining the extent and effects of instability or other risks remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners".

5. Based on the information provided, it is recommended that the following Condition and Note, to the applicant, are attached to any permission granted for planning application P/2017/1348:

#### Condition A

##### Condition 1. Site Characterisation

No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the

local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins.

The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

#### Condition 2. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 3. Implementation of Approved Remediation Scheme

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

If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 4. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

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

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy \_\_\_\_ of the adopted Local Plan (date)].

#### Note to Applicant

##### Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

#### **Representations**

The application was advertised through the erection of a site notice and through press advertisement.

10 objections have been received to the proposed development and are summarised below;

- Development will negatively impact the view from dwellings
- Concerns regarding the impact of the proposed development on amenity in relation to privacy and overshadowing
- Land stability concerns
- Concerns that the proposed development would have an overbearing impact
- Concerns regarding highway safety and parking provision
- Concerns regarding demolition works and its impact on neighbouring properties
- Concerns regarding access in to town and the impact increased traffic would have
- Impact of the proposed development on the drainage system
- The development would dominate the area
- The proposed design is unimaginative and out of keeping with the area
- The proposed building projects further forward than the social club
- The site has been used for over 50 years as some form by the community
- No amenity space for the residents of the flats
- Would question the location of the accessible flats at the rear of the site
- The site is not allocated in the UDP nor the LDP for housing

One letter of support has been received and is summarised below;

- The development is a highly sustainable and innovative approach

- The project has received approval from the Welsh Government's Innovative Housing Programme
- Will be an exemplar for timber construction in the UK and for the Powys Wood Encouragement Policy

### **Planning History**

No relevant planning history

### **Principal Planning Constraints**

None

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1 - Joint Housing Land Availability Studies (2015)

TAN 2 - Planning and Affordable Housing (2006)

TAN 5 - Nature Conservation and Planning (2009)

TAN 6 - Planning for Sustainable Rural Communities (2010)

TAN 12 - Design (2014)

TAN 15 – Development and Flood Risk (2004)

TAN 18 - Transport (2007)

TAN 23 – Economic Development (2014)

#### Local Policies

UDP DC1 - Access by Disabled Persons

UDP DC10 - Mains Sewage treatment

UDP DC13 - Surface Water Drainage

UDP DC15 – Development on Unstable or Contaminated Land

UDP ENV 2 - Safeguarding the Landscape

UDP ENV 3 - Safeguarding Biodiversity & Natural Habitats

UDP ENV 7 - Protected Species

UDP DC8 - Public Water Supply

UDP DC9 - Protection of Water Resources

UDP GP1 - Development Control

UDP GP4 - Highway & Parking Requirements

UDP HP4 - Settlement Development Boundaries and Capacities

UDP HP5 - Residential Developments

UDP HP7 - Affordable Housing within settlements

UDP SP14 - Development In Flood Risk Areas

UDP SP3 - Natural, Historic and Built Heritage

UDP TR11 – Canal Restoration and Related Developments

UDP TR14 – Other Canal Related Development

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

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

## **Officer Appraisal**

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

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

### Principle of Development

The application is located wholly within the settlement development boundary of Welshpool as defined by the Powys Unitary Development Plan. As such the application is considered to meet the requirements of policy in relation to the principle of development.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The site currently houses a building formerly used as the Welshpool Social Club. Due to the topography of the site the building is stepped up the bank. The existing building measures approximately 20 metres in width and 38 metres in depth. The southern elevation of the building measures approximately 9.8 metres in height with a flat roof that continues the length of the building. At the point the building lies adjacent to dwelling on Bronybuckley the height of the building is 4 metres.

The front building will comprise 14 flats and will measure a maximum of 9.2 metres to the eaves and 12.3 metres to the ridge, with a width of 18 metres and a depth of 22.1 metres. Due to the topography of the site the front elevation of the building is on a lower level than the rear elevation. The rear building will measure a maximum height of 8.3 metres to the ridge falling to 5.6 metres at the eaves, with a width of 13.6 metres and depth of 8.8 metres. The building will be finished with red brick and concrete panels, with dark grey upvc windows and a dark metal roof.

The proposed development seeks consent for two buildings to contain 14 and 3 affordable flats. One building will be located to the front of the site and a smaller building to the rear, between the two buildings access will be created and parking will be provided. An area to the front of the site will also be utilised for parking.

It is noted that in third party correspondence that concerns have been raised in relation to the impact of the proposed development on the landscape and on views. Whilst the impact of a development on a view is not a material consideration the impact of the proposed development on the character and appearance of the area is a consideration.

The buildings have been designed to be in keeping with the surrounding dwellings, using red brick to tie the dwellings with the adjoining estate. Whilst the dwellings surrounding the site are predominantly two storey dwellings, due to the topography of the site and the existing building which will be removed it is considered that the buildings will successfully assimilate into the surrounding area. The use of dark upvc and a metal roof, whilst not a material used regularly in surrounding buildings does not detract from the character and appearance of the area.

It is therefore considered that the proposed development does not adversely affect the character and appearance of the area properties and is therefore compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Highway Safety and Movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The proposed development will provide 17 parking spaces for the 17 flats. Concerns have been raised by third parties that the proposed development would have a detrimental impact on highway safety due to the fact that Bronybuckley, which will be used to access the site, experiences parking problems and that there is not sufficient parking provided to serve the development.

Following consultation with the Highways Authority initial queries were raised regarding the information submitted. Following the receipt of clarification from the applicant the Highways Authority removed their objection to the proposed development subject to conditions being attached to the grant of any consent.

Whilst the concerns from third parties regarding the parking provision are acknowledged, one parking space per flat is provided, and the proximity of the development to the town centre means that there will not be as much reliance on using a private vehicle. It is also noted that there would not appear to be parking provided for the existing use as a Social Club which could generate significant traffic movements.

In light of the comments received and given the scale of the proposed development, Officers are satisfied that the proposed development will not have an unacceptable adverse impact on highway safety and movement. The proposed development is therefore considered to be in accordance with planning policy, particularly UDP policy GP4.

### Residential Amenity

Policy GP1 of the Powys UDP seeks to safeguard the amenities enjoyed by occupants of existing and proposed dwellings by reasons of noise, overlooking and privacy.



Concerns have been raised from third parties in relation to the impact of the proposed development on residential amenity.

It is acknowledged that the proposed development would be a taller structure than the existing building on site. At its closest the proposed development would be located the following distances from nearby residential dwellings;

- Bronhaul Isaf – approximately 7.1 metres
- Bronhaul – approximately 11.7 metres
- 60 Bron y Buckley – approximately 9.6 metres
- 61 Bron y Buckley – approximately 11.7 metres

In the eastern elevations (closest to Bronhaul Isaf and Bronhaul) of the proposed development the agents has identified on the plans that any fenestration would be obscure glazing. This will overcome the concerns raised regarding the potential for overlooking.

With regards to the impact of the development on Bronhaul Isaf the proposed building would draw the building line further forward in the site than is currently existing. Bronhaul Isaf's primary elevation and garden is south facing and as such benefits from light throughout the day. Whilst the development would have an effect on the dwelling due to the orientation of the dwelling and the proposed development, the use of obscure glazing and the distance maintained between the two sites it is considered that the impact on the dwelling would not be sufficient to warrant refusal of the application on this ground.

With regards to the impact on other residential dwellings the development has been designed to reduce any detrimental impact, with the rear building being a lower height than the adjoining residential dwellings. Due to the buildings orientation and distance maintained between adjoining properties it is considered that the proposed development would not have a detrimental impact on the amenity of neighbouring properties.

Following consultation with Environmental Health no objection has been raised regarding neighbour amenity subject to a condition being imposed on any grant of consent limiting the days and hours of construction.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy GP1 of the Powys UDP in respect of residential amenity.

### Community Facility

Policy CS2 states that the loss of premises through alternative development proposals, or parts of premises, used for community purposes, including meeting halls and places of worship will be resisted unless it can be demonstrated that the premises are no longer appropriate or required for community use; alternative solutions to support the use have been explored and appropriate alternative provision exists within the community.

Information submitted in support of the application details that the existing use ceased due to declining membership and the rising costs of running the building. The premises was marketed for 14 months with the only serious interest being from Montgomeryshire Youth Theatre who failed to secure funding however the declining state of the building meant this was an unviable.

The site is also in close proximity to the centre of Welshpool which benefits from a wide range of services including public houses, restaurants etc.

As such it is considered that the site is no longer required for community use and that adequate alternative provision is available in close proximity to the site. As such the proposed development is considered to be in accordance with policy CS2.

### Biodiversity

Consultation was undertaken with the Powys Ecologist who offered no objection to the proposed development subject to conditions requiring landscaping. Discussion was undertaken with the agent who advised that no landscaping was proposed as the only area of open space would be provided in the forms of an amenity space for the accessible flats at the rear of the site. As such it is not considered necessary to attach this condition.

Powys Ecology also note that the site is in close proximity to the Montgomery Canal SAC, however in their response they state that the proposed development has no links with the SAC and as such a HRA it not required.

In light of the above observations, Development Management considers the proposed development to be in accordance with the relevant policies of the Powys UDP in respect to biodiversity.

### Contaminated Land

Policy DC15 requires that proposals on land known or suspected to be contaminated will only be permitted where the applicant demonstrates that the proposal will not result in problems of contaminations either on or of the site or unacceptably adversely affect public health and safety, nature conservation, historic or archaeological interests.

In support of the application a Report on a Geo-Environmental Desk Study Report completed by TerraFirma was submitted. The Contaminated Land Officer was consulted on the application and offered no objection to the proposed scheme provided that a number of conditions are attached to any grant of consent.

In light of the above observations, Development Management considers the proposed development to be in accordance with DC15 of the Powys UDP in respect to contaminated land.

## **RECOMMENDATION**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. The recommendation is therefore one of approval subject to the conditions below.

### **Conditions**

1. The development to which this permission relates must be begun not later than five years beginning with the date on which this permission is granted.
2. The development shall be carried out strictly in accordance with the documents received on 1/12/2017 (Design and Access Statement, Transport Statement, Asbestos Demolition Report and Preliminary Environmental Appraisal) and plans (S052.3.01, S052.1.20 Rev K, S052.1.40 Rev C, S052.1.19 Rev H, S052.1.21 Rev L, S052.1.22 Rev K, S052.1.23 Rev M, S052.1.26 Rev J, S052.1.28 Rev M, S052.1.29 Rev L, S052.1.30 Rev K, S052.1.35 Rev C, S052.1.33 Rev E, S052.1.37, S052.1.38, S052.1.39
3. Notwithstanding the approved plans the windows in the side elevations of the flats (as detailed on plan S052.1.27 Rev K) shall be obscure glazed.
4. The gradient of the upper access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
5. Following demolition of the building and before any other development commences 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 U4409 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. This condition relates to the upper part of the site.
6. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 17 cars excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
7. Following demolition of the building and before any other development commences 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.
8. The width of the access carriageway, shall be not less than 6 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.
9. Upon formation of the visibility splays as detailed in 5 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.
10. The area of the private drive, parking spaces and turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

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

12. Following demolition of the building and before any other development commences drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

- 0800-1800 hrs Monday to Friday
- 0800-1300 hrs Saturday
- At no time on Sundays and Bank Holidays

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

14. The recommended measures in section 6 of the Preliminary Environmental Appraisal Report produced by dated July 2017 shall be adhered to and implemented in full and maintained thereafter.

15. No external lighting shall be installed unless a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration has been submitted has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.

16. The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeological contractor. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (41 Broad Street, Welshpool, Powys, SY21 7RR Email: markwalters@cpat.org.uk Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should also be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record.

17. Following demolition of the building and before any other development commences a site investigation of the nature and extent of contamination shall be carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins.

The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

18. Following demolition of the building and before any other development commences a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

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

If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

20. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

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

21. Following demolition and before any other development commences a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

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

## **Reasons**

1. In compliance with section 91 of the 1990 Act.
2. To ensure compliance with submitted plans.
3. In the interests of neighbour amenity in accordance with policy GP1 of the Powys Unitary Development Plan.
4. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
5. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
6. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
7. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
8. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
9. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
10. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
11. In the interests of highway safety in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
12. In accordance with policy DC11 of the Powys Unitary Development Plan (2010).
13. In order to ensure that the construction of the development does not have a detrimental impact on neighbour amenity in accordance with policy GP1.
14. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales

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

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

16. To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.

17. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

19. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

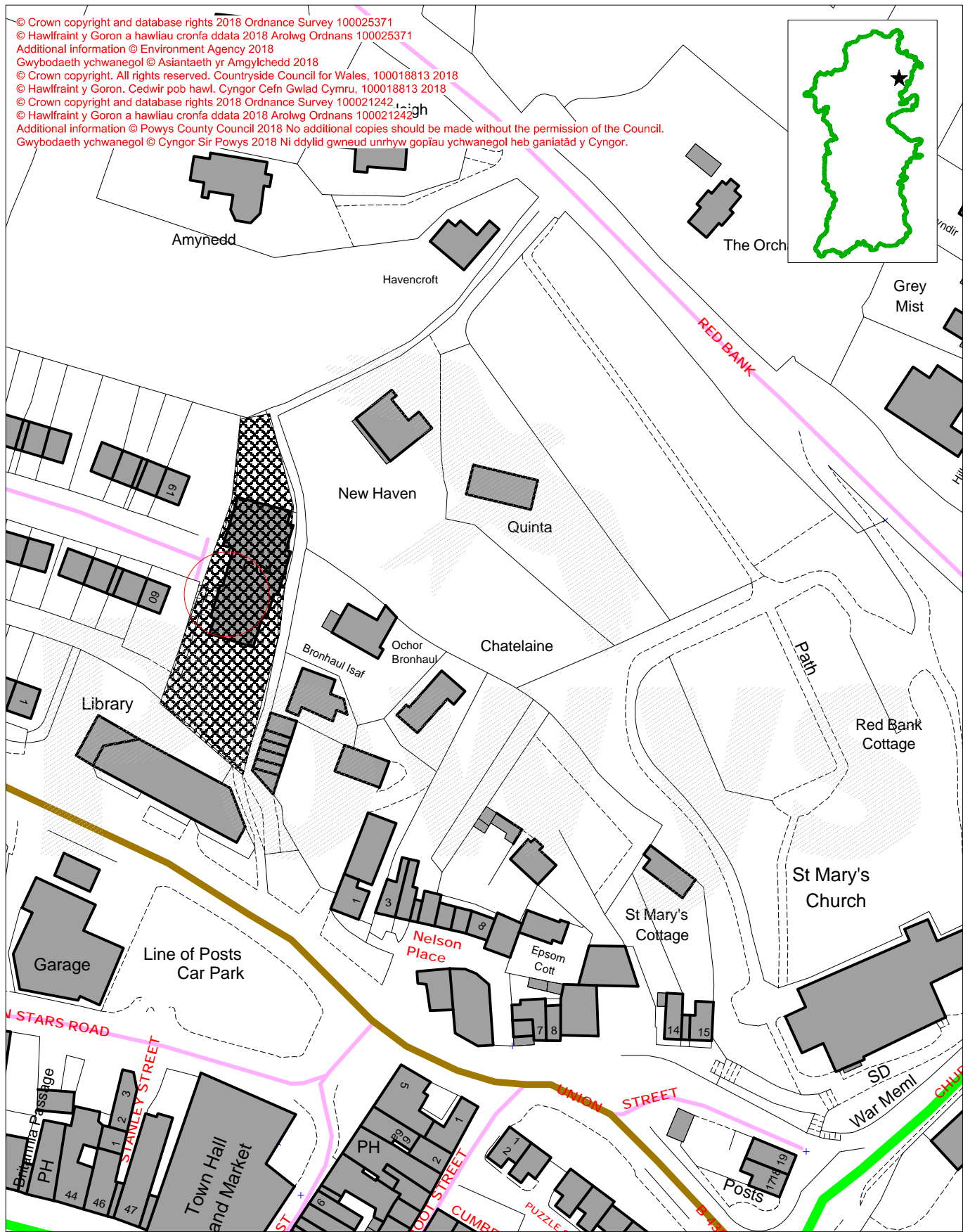
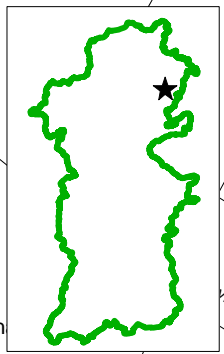
20. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21. In order to ensure that the proposed development remains affordable in perpetuity in line with TAN2.

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# 3.3

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

<b>Application No:</b>	P/2017/0216	<b>Grid Ref:</b>	327600.49 317816.18
<b>Community Council:</b>	Llandrinio	<b>Valid Date:</b>	<b>Officer:</b> 27/02/2017 Tamsin Law
<b>Applicant:</b>	Mr John Lloyd Hendre Lane Brookfields Rhos Common Llandrinio Powys SY22 6RN		
<b>Location:</b>	Land adjacent to Severnside Rhos Common Llandrinio Powys SY22 6RF		
<b>Proposal:</b>	Outline: Erection of 19 dwellings, formation of vehicular access and all associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The application is a departure from the adopted plan and is recommended for approval.

### Location and Description

The site is approximately 0.45 hectares in size and is located adjoining an existing residential estate which forms part of four clusters which make up the settlement of Llandrinio. The site is relatively flat and is bound to the north by the existing residential estate, to the east by the adjoining highway and to the south and west by existing agricultural land.

The application is an outline application with all matters reserved for 19 dwellings with 30% affordable housing provision.

### Consultee Response

#### Cllr. Graham Brown

I wish to call this application in as it is outside planning policy being outside the settlement boundary. Further the Highways proposal is unnecessary and causes a huge detrimental affect to the existing properties on Bagleys Lane.

#### Llandrinio Community Council

The Community Council considered the above application at a meeting held on Thursday 16<sup>th</sup> March 2017.

The Community Council wishes to OBJECT to the above application and requests the right to speak at the Planning Committee

1. Policy GP1 - Development Control

This application is outside the settlement boundary as defined by the Unitary Development Plan. In the absence of the adoption of the Local Development Plan guidance must be taken from the existing Unitary development Plan.

## 2. Policy HP 4 – Settlement Boundaries and capacities

Please see attached letter from Llanfyllin Patient Participation Group who are very concerned that the current medical infrastructure cannot cope with the level of development which has already been given in the area to 49 dwellings (P2016 1016), 15 dwellings (P2016 0790) and 9 dwellings (P2016 0319). Applications are also pending for a further 19 in Four Crosses. The anticipated level of growth for Llandrinio has already been made with these applications and there is no justification for more development.

## 3. Policy GP 4 – Highway and Parking requirements

It is totally unacceptable that the proposals involve the stopping up of Bagleys Lane (U2232) – this lane had residents which were chronicled back in the 1841 Census.

There is no justification why the existing 10 houses down this lane would have to travel through a housing estate when the applicant owns the land which could be used to widen the access into the lane.

There has only been 2 car parking spaces allocated per property which does not allow for any other visitors.

## 4. Policy DC 9 – Protection of Water Resources

No proposal has been submitted for the disposal of the surface water from this site as this area would drain into the Sarn Wen Ditch. The Sarn Wen Ditch is an important ditch which drains a large area – it has already been determined by other planning applications that any surface water can only be discharged at greenfield run-off rates and therefore a system of attenuation needs to be designed and incorporated into the application.

The Community Council is very concerned that the planning policies and principles are being ignored due to the lack of a 5 year housing supply – it is very worrying to think of the level of projected development which will change the character of our village for ever.

## PCC - Highways

Prior to any other works commencing on the development site, detailed engineering drawings for a footway, relocation, widening and highway signage along the Unclassified Highway U2232 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.

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.

A Stopping Up Order is required to amend the road alignment of the U2232 in direct relation to this site. The agent is aware and is in agreement that the cost of this will be borne by the developer. We therefore recommend that a suitably worded condition is applied to any consent given and advice that the applicant is to pay for the reasonable costs associated with the advertisement and implementation of a Stopping Up Order.

HC1 Any entrance gates 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.

HC4 Prior to commencement of the development the altered junction shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 59 metres distant in a northerly direction and 140 metres in a southerly 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.

HC6 Prior to the commencement of the development clear visibility shall be maintained above a height of 0.26 metres above carriageway level over the full frontage of the developed site to the Unclassified Highway U2232 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.

HC7 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 10 metres from the edge of the adjoining carriageway (U2232). Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 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.

HC11 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.

HC12 The width of the access carriageway road, constructed as Condition HC7 above, shall be not less than 5.5 metres 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.

HC19 No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including

the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.

HC20 The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.

HC21 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 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

HC29 All surface water run-off is to be collected and discharged via a piped system to within the site. This system shall be retained and maintained for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 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.

HC31 The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety.

#### Wales and West Utilities

Please find enclosed a letter relating to your request. Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry.

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it.

They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

#### Severn Trent Water

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

PCC - Contaminated Land

In relation to Planning Application P/2017/0216 there would be no requirements in respect of land contamination.

PCC - Ecologist

Ecological Topic		Observations
EIA Screening Requirement	No	PCC have provided a Screening Opinion (03/03/17) confirming that EIA is not required for this development.
Ecological Information included with application	Yes	<p>A Phase 1 Environmental Appraisal report by Greenscape Environmental Ltd. (dated November 2016) has been submitted with this application and referred to when making these observations. These observations are also based on an interpretation of available aerial and street imagery, the submitted planning design and access statement and historical biodiversity records provided by the Powys Biodiversity Information Service.</p> <p>The report confirms that the application site is located within semi-improved grassland with poor floral species diversity that is used for pasture and of low ecological value. At least eight ponds are present within 500m. The site is bounded by native species hedgerows to the north and east.</p>
Protected Species & Habitats <sup>1</sup>	European Species <input checked="" type="checkbox"/>	<p>There are historic records of bat species (Common &amp; Soprano pipistrelle, Noctule), otter and great crested newt within the vicinity of the application site.</p> <p>The report concludes that otters are unlikely to be affected by the proposal due to the lack of suitable habitat within the site. However, bat species are likely to use the hedgerows bordering the site for foraging and commuting. Mature trees around the site could provide bat roosting habitat. I</p>

<sup>1</sup> Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		<p>understand that these hedgerows and trees are to be retained, except for removal of a small section of hedgerow to provide access. A tree and hedgerow protection plan, in accordance with BS5837:2012 will therefore need to be produced for the local authority's approval prior to development commencing.</p> <p>Section 6.2 of the report recommends enhancement for bats in the form of at least one bat roosting box to be installed in a new building.</p> <p>The report states that all ponds within 500m were checked for Great crested newts, where possible, using the Habitat Suitability Index method. Six of these are on the same side of the B4393 to the proposed development and received one 'below average' and five 'poor' scores. Two ponds are on the opposite side of the B4393; one was dry and the other inaccessible, but anecdotal evidence suggested it was dry. However, since it was inaccessible it was assumed to contain GCN. The report concludes that it is unlikely that GCN would be found on the application site from this pond due to the barrier presented by the B4393 and the arable land between the two sites.</p> <p>On this basis, the report states that simple method statements will be provided regarding how the habitat quality will be reduced for newts prior to works commencing and how the sections of hedgerow will be removed with regards to newts. Section 6.4 of the ecology report provides reasonable avoidance measures for GCN for the pre-construction, site set-up and construction phases. Section 6.4.1 of the report provides details of a GCN hibernaculum to be installed as an enhancement measure.</p>
☒	UK Species ☒	<p>There are historic records of badger and nesting birds within the vicinity of the site. No signs of badger activity were observed during the survey but the boundary hedgerows could provide bird nesting habitat, including the sections proposed for removal.</p> <p>I therefore recommend that vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>Section 6.3.2 of the report recommends that a range of different woodcrete bird nesting boxes is provided at various locations within the site to provide an enhancement for nesting birds.</p>



	Section 7 Species & Habitat <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Hedgerows are a Section 7 Priority Habitat and two hedgerows border the north and east of the site; small sections of these would need to be removed for this development. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>The block plan submitted with this application indicates a beech hedge to the rear of the site. However, Section 6.1 of the ecological report refers to a list of native species to be planted within the site. I recommend that these are incorporated within a landscaping scheme as part of a biodiversity enhancement plan for the site.</p> <p>The ecological report also makes recommendations for the installation of a bat roosting box and bird nesting boxes within the site.</p>
	LBAP Species & Habitat <input checked="" type="checkbox"/>	See observations above.
<b>Protected Sites</b>	International Sites <sup>2</sup> <input type="checkbox"/>	None within the search area.
	National Sites <sup>3</sup> <input type="checkbox"/>	None within the search area.
	Local Sites (within 500m) <input type="checkbox"/>	None within the search area.
<b>Invasive Non-Native Species</b>	<b>No</b>	No invasive non-native species are recorded in the report by Greenscape Environmental Ltd.
<b>Summary of recommendations / further assessment or work</b>		Bat species are likely to use the hedgerows bordering the site for foraging and commuting. Mature trees around the site could provide bat roosting habitat. I understand that

<sup>2</sup> Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

<sup>3</sup> Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

these hedgerows and trees are to be retained, except for removal of a small section of hedgerow to provide access. A tree and hedgerow protection plan, in accordance with BS5837:2012 will therefore need to be produced for the local authority's approval prior to development commencing.

Section 6.2 of the report recommends enhancement for bats in the form of at least one bat roosting box to be installed in a new building.

The ecology report concludes that it is unlikely that GCN would be found on the application site due to the barrier presented by the B4393 and the arable land between the two sites. On this basis, the report states that simple method statements will be provided regarding how the habitat quality will be reduced for newts prior to works commencing and how the sections of hedgerow will be removed with regards to newts. Section 6.4 of the ecology report provides reasonable avoidance measures for GCN for the pre-construction, site set-up and construction phases. Section 6.4.1 of the report provides details of a GCN hibernaculum to be installed as an enhancement measure.

I recommend that vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing. Section 6.3.2 of the report recommends that a range of different woodcrete bird nesting boxes is provided at various locations within the site to provide an enhancement for nesting birds.

Hedgerows are a Section 7 Priority Habitat and two hedgerows border the north and east of the site; small sections of these would need to be removed for this development. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.

The block plan submitted with this application indicates a beech hedge to the rear of the site. However, Section 6.1 of the ecological report refers to a list of native species to be planted within the site. I recommend that these are incorporated within a landscaping scheme as part of a biodiversity enhancement plan for the site.

<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>The recommendations regarding bats, nesting birds, great crested newts and native plant species identified in Section 6 of the Ecological Report by Greenscape Environmental Ltd dated November 2016 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan including the enhancements regarding bats, nesting birds, great crested newts and native plant species identified in Section 6 of the Ecological Report by Greenscape Environmental Ltd dated November 2016 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><b>Informatives</b></p> <p><b>Birds - Wildlife and Countryside Act 1981 (as amended)</b></p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> <li>• intentionally kill, injure or take any wild bird</li> <li>• intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built</li> </ul>
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- 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.

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

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

It is therefore an offence to:

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

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

<b>Relevant UDP Policies</b>	SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species
<b>Comments on Additional Information</b>	N/A

### Natural Resources Wales

Thank you for consulting Natural Resources Wales (letter dated 28/02/2017) regarding the above.

NRW does not object to the proposal.

NRW previously commented on application P/2016/0165 (subsequently withdrawn) for a similar proposal at the same location. Our response letter dated 21/3/2016 is still relevant to the current application with the exception of comments on protected species. At the time of consultation an ecological assessment of the site was not available, this has been subsequently carried out and submitted in support of the current application.

We welcome the recommendations made in the Phase 1 Environmental Appraisal report dated November 2016 by Greenscape Environmental Ltd. The report found no evidence of presence of protected species on site however it makes recommendations for biodiversity enhancements and reasonable avoidance measures for Great Crested Newts (GCN) to further reduce risk of injury/killing during the partial removal of the existing hedgerows which may be used for dispersal purposes.

We have no additional comments to add.

### PCC – Environmental Health

The proposal for the foul drainage is to connect to the Severn Trent main sewer. Environmental Protection has no objection to this proposal.

### Construction-phase conditions

As a large development in close proximity to existing residential properties, I would recommend the following conditions for the protection of amenity during the construction phase of the project:

1. Prior to the commencement of development a report shall be submitted to and approved by the local planning authority detailing the provisions for the control of noise, vibration and dust for the construction phase of development.
2. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

- 0800-1800 hrs Monday to Friday
- 0800-1300 hrs Saturday
- At no time on Sundays and Bank Holidays

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

## **Representations**

The application was advertised through the erection of a site notice and through press advertisement. 17 objections were received and are summarised below;

- Concerns regarding a requirement to stop up Bageleys Lane and create a new access
- Proposed development is located on green land
- Significant housing development has been granted in both Four Crosses and Llandrinio
- Concerns regarding the final material to be used in the development
- Concerns raised regarding the drainage from the site and potential surface water and sewerage problems
- Increase in vehicular movements could cause noise and pollution issues
- Concerns raised regarding the potential impact on neighbour amenity regarding noise, pollution, loss or privacy, overshadowing, overlooking, disturbance etc.
- Negative visual impact
- Detrimental impact on view
- Concern regarding the impact of the development on services
- Out of character with the existing dwellings and developments
- Concerns regarding highway safety

## **Planning History**

No relevant planning history

## **Principal Planning Constraints**

None

## **Principal Planning Policies**

National Planning Policy and Other Guidance

Planning Policy Wales (Edition 9, November 2016)

TAN 1: Joint Housing Land Availability Studies (2015)

TAN 2: Planning and Affordable Housing (2006)

TAN 5: Nature Conservation and Planning (2009)

TAN 6: Planning for Sustainable Rural Communities (2010)

TAN 12: Design (2016)

TAN 15: Development and Flood Risk (2004)

TAN 16: Sport, Recreation and Open Space (2009)

TAN 18: Transport (2007)

TAN 20: Planning and the Welsh Language (2013)

TAN 24: The Historic Environment (2017)

Welsh Office Circular 13/97 - Planning Obligations

Welsh Office Circular 10/99 - Planning requirements in respect of the use of non-mains sewerage incorporating septic tanks in new development

Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management

Letter from the Cabinet Secretary for Environment and Rural Affairs regarding the delivery of affordable homes through the planning system (2017)

Local Planning Policy

Powys Unitary Development Plan (2010)

UDP SP1 – Social, Community and Cultural Sustainability

UDP SP2 - Strategic Settlement Hierarchy

UDP SP3 – Natural, Historic and Built Heritage

UDP SP5 - Housing Developments

UDP SP6 – Development and Transport

UDP SP9 – Local Community Services and Facilities

UDP GP1 – Development Control

UDP GP2 – Planning Obligations

UDP GP3 – Design and Energy Conservation

UDP GP4 – Highway and Parking Requirements

UDP GP5 – Welsh Language and Culture

UDP ENV1 – Agricultural Land

UDP ENV2 – Safeguarding the Landscape

UDP ENV3 – Safeguarding Biodiversity and Natural Habitats

UDP ENV4 – Internationally Important Sites

UDP ENV5 – Nationally Important Sites

UDP ENV7 – Protected Species

UDP ENV14 – Listed Buildings

UDP ENV17 – Ancient Monuments and Archaeological Sites

UDP ENV18 – Development Proposals Affecting Archaeological Sites

UDP CS3 – Additional Demand for Community Facilities

UDP HP3 – Housing Land Availability

UDP HP4 – Settlement Development Boundaries and Capacities

UDP HP5 – Residential Developments

UDP HP6 – Dwellings in the Open Countryside

UDP HP7 – Affordable Housing within Settlements

UDP HP8 – Affordable Housing Adjoining Settlements with Development Boundaries

UDP HP9 – Affordable Housing in Rural Settlements

UDP HP10 – Affordability Criteria

UDP RL2 – Provision of Outdoor Playing and Recreation Space

UDP RL6 - Rights of Way and Access to the Countryside

UDP TR2 – Tourist Attractions and Development Areas  
UDP T2 - Traffic Management  
UDP DC3 – External Lighting  
UDP DC8 – Public Water Supply  
UDP DC9 – Protection of Water Resources  
UDP DC10 – Mains Sewerage Treatment  
UDP DC13 – Surface Water Drainage  
Powys Residential Design Guide (2004)

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) Approved September 2010 Updated July 2011

Powys Joint Housing Land Availability Study (2016)

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

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

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

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

#### Principle of development

The application site lies wholly outside the development boundary of Llandrinio. The site does however adjoin the development boundary.

Outside of settlement boundaries, UDP Policy HP4 applies and states that 'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.



### Housing land supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that ‘Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.’

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

“The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

In light of the above, whilst acknowledging that the proposal does constitute a departure from the development plan, Members are advised that the lack of a five year housing supply in Powys needs to be given considerable weight in the determination of this application. However, before reaching a decision, the scheme will need to be considered against other policies contained within the UDP in order for a balanced view to be made on the acceptability of the development overall.

### Sustainable location

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Llandrinio has benefitted from a number of consent with 9 dwellings being granted consent within the development boundary and 15 dwelling being granted consent as a departure.

Llandrinio is considered as a large village in the UDP and will remain as a large village within the LDP. The LDP states that at least 25% of the Plan’s housing growth is envisaged to be

within Large Villages. It is noted that the settlement of Llandrinio is served by a church, village hall, general store/newsagent, filling station, public house, children's play area and recreation ground. It is also noted that it is served by bus routes with regards to public transport

Whilst these settlements do not have as wide a range of services and facilities as the area centres or key settlements, they are considered to have a good range of community facilities and the capacity to accommodate additional development. It is also important to note regarding this site that the site, whilst adjoining the development boundary of Llandrinio is approximately 0.5 miles from the centre of Llandrinio which benefits from services. It is however 0.3 miles from Four Crosses, a key settlement, which benefits from a wide range of services and access to public transport links to the wider area.

In light of the above, the site is considered to be a sustainable due to the amenities and services provided locally and additional residential development in this location would accord with the provisions of Planning Policy Wales in so far as it is a sustainable location

### Affordable housing

With regards to affordable housing provision, the Unitary Development Plan Policy HP7 requires, among other matters, the provision of affordable housing within applications for five or more dwellings. The proportion secured should be based on the extent and type of need identified by a robust data source.

The Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) states that our starting point for affordable housing provision on schemes of more than 5 dwellings should be 30-35%. However, the Viability Assessment forming part of the evidence base for the Local Development Plan identifies a guideline of 20% affordable provision in this area of Powys. It is contended that the CIL Viability Assessment provides a more up to date and robust basis for determining the affordable housing contribution than the now historic "guideline" figure contained within the UDP and on that basis, the 20% provision figure suggested is considered to be reasonable in this instance.

The applicant is prepared to accommodate a 30% provision of affordable housing which will be controlled through a section 106 agreement. In light of this, the proposal is considered compliant with the principle of policy HP7.

### Design, Layout and Residential Amenity

Guidance contained within UDP Policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area. Whilst some matters (appearance, landscaping, layout and scale) are reserved and will be dealt with at the reserved matters stage, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The indicative layout resembles a modern residential layout which is broadly comparable to the existing development which adjoins the site. More importantly it shows that up to 19 dwellings could be accommodated on the site. Detailed design will follow at a later date (if

this application is permitted) and this will give the opportunity to ensure the dwellings are designed in an appropriate manner to accord with the character of the settlement.

The properties in the locality consist of a mixture of one and two storey detached properties, predominantly of brick and render which are predominantly modern dwellings. The proposed scale of two storeys is not considered to be out of character with the locality.

Whilst the site would be visible from public vantage points including the public highway and neighbouring residential properties and that the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location which is reasonably related to the built form of the settlement and that landscaping measures would reduce the visual impact, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

Whilst the application is in outline with all matters reserved for future consideration the indicative layout demonstrates that the site is capable of accommodating 19 dwellings without having a detrimental impact on the amenity of neighbouring properties.

Clearly, the layout at this stage is indicative and full consideration of this matter will be given at the reserved matters stage when full details of the scheme will be available. However, it is considered that the proposal is capable of according with UDP policy GP1 and the guidance set out in the Powys Residential Design Guide.

### Landscape

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory Integration into the landscape'.

The site occupies an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change. In terms of LANDMAP Visual Sensory Areas (VSA), the site sits within the River Severn Floodplain (MNTGMVS650) which has a moderate evaluation but sits adjacent to Four Crosses VSA (MNTGMVS635) which has a low classification. The area is characterised by a *'dispersed collection of linear settlements surrounding the junctions of the A483(T) and the B4393 comprising Llandrinio, Rhos Common and Four Crosses. No defined village centre, rather an amalgamation of smaller settlements into one'*. LANDMAP sets out the key elements that should be changed are to *'encourage development as a more nucleated settlement rather than sprawling linear settlement'*. The proposed development is considered to meet such objectives and occupies a site between existing developed areas.

In terms of landscaping, the proposal would provide an opportunity to provide additional native landscaping which would assist in mitigating visual impact. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and that the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location adjacent to an existing residential estate, the

development is considered to be acceptable. Furthermore, taking into account the character of existing development in the locality, and that landscaping measures would reduce the visual impact, the proposed scale of the development is considered to reflect the character of the development that has occurred along the highway within Llandrinio, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

### Highway Safety

UDP policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking. Access is not a reserved matter in this case and the block plan details the creation of a new adoptable vehicular access to serve the development. Access will be onto the B4393 which runs through the centre of the village.

The application has been considered by the Local Highway Authority who are satisfied with the proposed scheme subject to a number of planning conditions. However as the application is in outline with all matters reserved for future consideration Officers only need to be content that a safe access can be achieved. As Highways are offering no objection to the proposed development it is not considered necessary to attach highways condition to this application as access will be fully considered at reserved matters stage.

As such the proposed development is considered to fundamentally comply with policy GP4.

### Foul Water

The application details that the site will be served by mains systems in respect of the disposal of foul waters. The proposed use of mains sewerage disposal is compliant with UDP policy DC10.

Severn Trent Water have confirmed that they do not object to the proposed development subject to conditions relating to the agreement of surface and foul water drainage plans and have not raised concerns about the capacity of the system.

It is therefore considered that proposal in this regard is acceptable subject to conditions which have been attached at the end of this report.

### Ecology and Biodiversity

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore the nature conservation policies in the UDP seek to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).

The application is supported by an extended phase 1 habitat survey which concludes that there was no evidence of protected species at the site and that Great Crested Newts were unlikely to be located at the site due to the need for them to cross the adjoining highway. The construction of a new access would require the removal of an unspecified length of hedgerow which currently forms the highway boundary. The survey report concludes that no

hedgerows on site are considered to be important under the Hedgerow Regulations and that the planting of new hedgerows is proposed, as well as retention of some of the existing.

Consultation with the County ecologist resulted in conditions being suggested which are considered to be reasonable although the condition that relates to a species list for landscaping is considered to be premature at this stage and will be considered along with the reserved matters. The remaining conditions are attached at the end of the report.

### Recreation provision

As the site proposes 19 dwellings consideration must be given to whether there is adequate play space in close proximity to the site. It is apparent that there is little in the form of open space in close proximity to the site as such it is considered necessary to require that an area of open space is provided as part of the proposed development. Whilst an area of open space is not identified on the indicative layout Officers consider that an area of open space could be successfully provided and as layout is a reserved matter the layout can be adjusted at this stage to accommodate the open space.

It is considered that it would be reasonable and practicable to require an area of open space to be provided on the application site to serve the development. The provision and long term maintenance of this would be secured via a section 106 agreement (planning obligation).

### Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land (grades 1, 2 and 3a). The land is classed as Urban and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

## **RECOMMENDATION**

Although it is noted that the proposed development is a departure from the adopted development plan, considerable weight must be given to the need to increasing housing land supply. The proposed development is for the provision of 19 dwellings in a sustainable location. It is considered that the material consideration of the lack of housing land supply within the county warrants the approval of this development contrary to the provisions of the development plan. Consideration has been given to all material planning matters and it is considered that all issues can be adequately dealt with through the imposition of conditions or through planning obligations.

It is recommended that the application be approved subject to the conditions set out below and subject to the applicant entering into a Section 106 agreement to secure open space.

### **Conditions**

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

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

- the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units/bed spaces;
- the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

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

6. Prior to the commencement of development a report shall be submitted to and approved by the local planning authority detailing the provisions for the control of noise, vibration and dust for the construction phase of development.

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

- 0800-1800 hrs Monday to Friday
- 0800-1300 hrs Saturday
- At no time on Sundays and Bank Holidays

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

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

9. The recommendations regarding bats, nesting birds, great crested newts and native plant species identified in Section 6 of the Ecological Report by Greenscape Environmental Ltd dated November 2016 shall be adhered to and implemented in full.

10. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

## **Reasons**

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

2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

4. In order to ensure the affordable housing remains affordable in perpetuity in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys Affordable Housing for Local Needs Supplementary Planning Guidance (2011), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

5. In order to ensure the affordable housing remains affordable in perpetuity in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys Affordable Housing for Local Needs Supplementary Planning Guidance (2011), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

6. To mitigate the impact of the construction phase of the development upon the amenities enjoyed by the occupants of neighbouring residential properties in accordance with Policy GP1(3) of the Powys Unitary Development Plan (2010).

7. To mitigate the impact of the construction phase of the development upon the amenities enjoyed by the occupants of neighbouring residential properties in accordance with Policy GP1(3) of the Powys Unitary Development Plan (2010).

8. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010) and Technical Advice Note 15 – Development and Flood Risk (2004).

9. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

10. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

## **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.

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

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

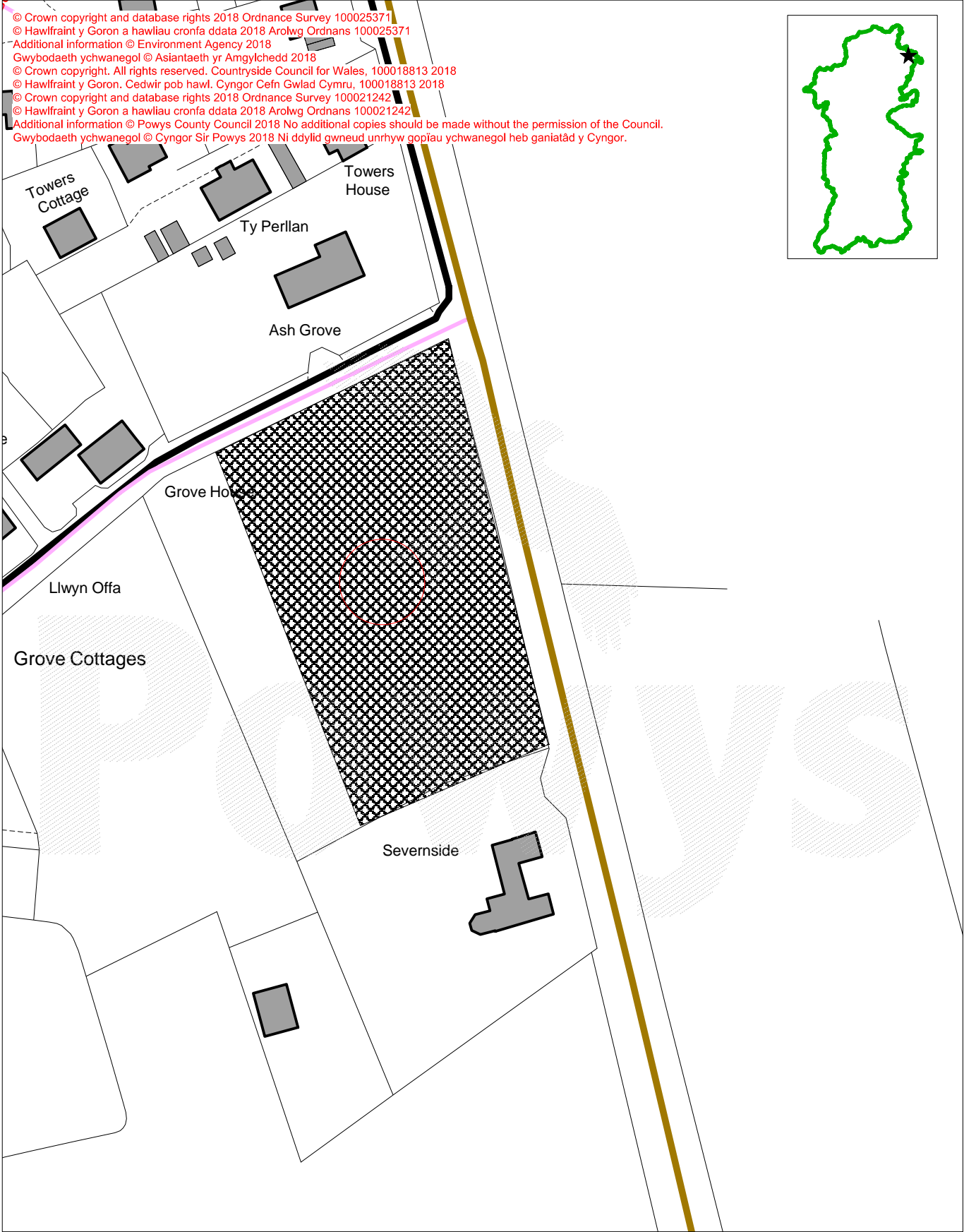
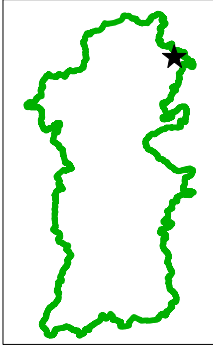
It is therefore an offence to:

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

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



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# 3.4

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

<b>Application No:</b>	P/2017/1311	<b>Grid Ref:</b>	310343.22 306093.67
<b>Community Council:</b>	Llanfair Caereinion	<b>Valid Date:</b>	<b>Officer:</b> 08/11/2017 Eddie Hrustanovic
<b>Applicant:</b>	NL & KM Griffiths Broncafnt Lane Tanyfron Llanfair Caereinion Powys SY21 0BW		
<b>Location:</b>	Land South of Broncafnt Lane Llanfair Caereinion Powys SY21 0RF		
<b>Proposal:</b>	Outline: Erection of 3 no. dwellings and associated infrastructure including installation of sewage treatment plant (some matters reserved)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

County Cllr. Gareth Jones has called-in this application as the site is outside designated development boundary

### Site Location and Description

The application has been made in outline with all matters reserved and seeks consent for the construction of 3 open market dwellings formation of vehicular access & installation of sewerage treatment plant on land south of Broncafnt Lane, Llanfair Caereinion.

The site is located on southern side of Llanfair Caereinion adjacent to Broncafnt Lane approximately 20 metres from the designated settlement boundary of Llanfair Caereinion. The lane serves three other properties (2 non associated dwellings and one property which is owned by the applicant and currently run as a Children's Nursery). The site is surrounded to the north west by Broncafnt Lane, and agricultural fields to other elevations. The whole of the site is steeply sloping in south easterly direction overlooking the town.

### Consultee Response

#### Llanfair Caereinion Community Council

At meeting of Llanfair Caereinion Town Council on Wednesday 29th November 2017 the members voted to support the above planning application.

#### PCC - Highways (N)

Wish the following recommendations/Observations be applied  
Recommendations/Observations

The Highway Authority are in agreement to the applicants proposed 'trade off' of movements associated with the permanent closure of the Childrens Nursery located at Tanyfron, Broncafnt Lane, Llanfair Caereinion which is in the applicants ownership. The applicant

and Highway Authority have agreed that based on the number of movements from the nursery that a maximum of three, three bedroomed dwellings is acceptable. However, this is conditional on the applicant entering a suitably worded S.106 Agreement to extinguish the current commercial use of Tanyfron within three months of any consent being given to this application.

HC1 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.

HC2 The gradient of the accesses 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.

HC3 The centre line of the first 5.5 metres of the access roads 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.

HC4 Prior to the commencement of the development the accesses shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the accesses 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 accesses along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the accesses 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.

HC8 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.

HC11 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.

HC12 The width of the accesses carriageway, constructed as per above conditions, shall be not less than 4.1 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.

HC21 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.

HC22 Prior to the commencement of the development 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.

HC26 When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the package treatment plant or its soakaway installation.

HC27 The package treatment plant effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in above conditions the centreline of any new or relocated hedge/fence/wall 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.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

To ensure that adequate provision is made for highway access onto the County Unclassified road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

#### Wales and West Utilities

Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry.

#### Severn Trent

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.

#### Cllr Gareth Jones

Has called this application to the Planning Cttee as the site is outside settlement boundary.

## PCC - Environmental Health

As the foul drainage from proposed development is discharging into a watercourse I have no objection provided that the NRW consent to the discharge. Given its location an alternative foul drainage scheme would be difficult to implement, therefore, if possible, confirmation of the NRW consent would be recommended before commencement of work.

## PCC - Ecologist

Thank you for consulting me with regards to planning application P/2017/1311 which concerns the outline application for erection of 3 no. dwellings and associated infrastructure including installation of sewage treatment plant (some matters reserved) on Land South of Broncafntent, Lane, Llanfair Caereinion Powys.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 70 records of protected and priority species within 500m of the proposed development - no records were for the site itself.

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

The site of the proposed development appears to be an area of improved grassland which is considered a habitat of low ecological value. However, the hedgerows and trees on the boundary of the development are considered to be of moderate ecological value.

### *Tree and Hedgerow Replacement and Protection Plan*

From the plans submitted it appears that sections of the hedgerow on the northern boundary will be removed to provide the required new access. It is not clear if the tree on the western boundary will be affected by the proposed development. The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

Proposals which are acceptable in principle should:

3. Seek to conserve native woodlands, trees and hedgerows'

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This

plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

Given the proximity of development and development works to the hedgerow on the northern boundary and the trees on the western boundary it is considered prudent to require information from the applicant as to how these features biodiversity importance for wildlife will be protected during the construction period of works.

#### *Pollution Prevention Plan*

I note from reviewing aerial images that there is watercourse north of the proposed development approximately 30m away. Given the proximity of proposed development to the watercourse present and particularly the topography of the proposed development site, the nature of the proposed works it is considered that a **Pollution Prevention Plan** will need to be identified to ensure no negative impact is caused during construction activities and during operation of the site. I therefore recommend that a Pollution Prevention Plan is secured through a planning condition.

It is recommended that reference is made to Pollution Prevention Guidelines Series in particular PPG 6 - Working at construction and demolition sites and GPP 5 – Works and maintenance in or near water; these documents can be found at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

#### *Wildlife Sensitive Lighting Plan*

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

#### *Landscape Planting Scheme*

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that a landscape planting scheme is secured through an appropriately worded condition.

#### *Biodiversity Enhancements*

As the application is an outline application further details will be submitted at a later date as reserved matter consideration should be given to incorporate biodiversity enhancements.

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. These measure could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;

- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

*Prior to commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

*Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.*

Reason: To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

*Prior to the commencement of development 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 unless otherwise agreed in writing with the Local Planning Authority.*

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

*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 UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9,



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

In addition I recommend inclusion of the following informative:

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.

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

It is an offence for any person to:

- Intentionally kill, injure or take any 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 2010 (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](mailto:enquiries@bats.org.uk)

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.

### **Representations**

Following display of a site notice and advertisement in the local press five written representations of objection have been received.

The letters of objection can be summarised as follows:

- Concerns over loss of privacy and daylight to neighbouring properties
- Highway safety issues regarding the unsuitability of the access and junction with the County Highway
- Ecological issues surrounding the removal of hedgerows and impact of the development from light pollution and loss of land.
- Concerns over the sewerage provision
- Concerns over surface water drainage and instability of the ground
- The proposal falls outside of the settlement development boundary for the area.

### **Planning History**

P/2017/0600 - Outline: Erection of up to 4 dwellings, installation of sewage treatment plant and associated works (some matters reserved). Refused.

### **Principal Planning Constraints**

None

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1 - Joint Housing Land Availability Studies (2015)

TAN 2 - Planning and Affordable Housing (2006)

TAN 5 - Nature Conservation and Planning (2009)

TAN 6 - Planning for Sustainable Rural Communities (2010)

TAN 12 - Design (2016)

TAN 18 - Transport (2007)

TAN 20 - Planning and the Welsh Language (2017)

TAN 23 – Economic Development (2014)

TAN 24 – The Historic Environment (2017)

## Local Planning Policies

### Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy  
UDP SP5 - Housing Developments  
UDP GP1 - Development Control  
UDP GP3 - Design and Energy Conservation  
UDP GP4 - Highway and Parking Requirements  
UDP GP5 – Welsh Language and Culture  
UDP HP3 - Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP5 - Residential Developments  
UDP HP6 - Dwellings in the Open Countryside  
UDP DC10 - Mains Sewage Treatment  
UDP DC11 - Non-mains Sewage Treatment  
UDP DC13 - Surface Water Drainage  
UDP DC8 - Public Water Supply  
UDP DC9 - Protection of Water Resources  
UDP ENV1 - Agricultural Land  
UDP ENV2 - Safeguarding the Landscape  
UDP ENV3 - Safeguarding Biodiversity & Natural Habitats  
UDP ENV7 - Protected Species  
UDP ENV17 – Ancient Monuments and Archaeological Sites  
UDP TR2 – Tourist Attractions

### Powys Residential Design Guide

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

## **Officer Appraisal**

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

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

### Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

### Housing Land Supply

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

PPW requires that development be sustainable and that adverse impacts do not outweigh the benefits. Furthermore, PPW states that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and new isolated homes in the countryside should be avoided. In line with PPW, residential development outside of settlement boundaries are considered in terms of the site's proximity to services and facilities likely to be required for residential use, and whether the site is suitably connected to these services and facilities.

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site is approximately 20 metres away from designated settlement development boundary of Llanfair Caereinion (defined as an Area Centre within the UDP). Llanfair Caereinion benefits from a number of services such as convenience stores, Doctor's surgery, butchers, public houses, leisure centre and primary and secondary school. Llanfair Caereinion also benefits from regular public transport which provides access to other larger settlements such as Welshpool which is located approximately 8.5 miles to the east. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

However it is also important to note that in recent months Llanfair Caereinion has seen a substantial growth by approval of several planning applications on the basis of Housing Land Supply shortage. Most notably the following applications made under Housing Land Supply have received consents;

P/2017/0370 - Outline: Residential development of up to 9 dwellings (Phase 1 at Mas Gwyn).

P/2017/0200 - Outline: Proposed residential development comprising of upto 42 no. dwellings.

While application P/2017/1268 for Phase 2 at Maes Gwyn for further 9 dwellings is currently under consideration.

In light of the range of services located within a short travelling distance of the development site, officers consider that there could be an argument to support the principle of residential development on that basis; however there are other material issues which should be taken into account before the decision is reached.

### Affordable Housing

As the scheme is only for 3 dwellings, in this instance no affordable dwellings have been proposed as a part of this development.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The indicative site layout details a private access for a plot 3 with turning head within the site and shared access and turning heads for plots 1 & 2, therefore two separate access points would be created by the proposal along the lane. The Officers acknowledge that matters relating to the final appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating 3 dwellings.

The site slopes upwards in the south easterly direction. The block plan demonstrates that the proposed plots will be in linear form along the Broncafent Lane. Although, as the development would be on a slope, on balance Officers consider that the development could be acceptable if sensitive landscaping is incorporated into to the reserved matters scheme to minimise the potential impact on the surrounding landscape.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, detailing a mix of dwelling types and sizes, it is considered that the application site is capable of accommodating 3 dwellings without unacceptably adversely affecting the character and appearance of the area compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

Landscaping is a reserved matter and therefore detailed proposals could be considered at a later date. It is acknowledged that the site would be visible from public vantage points

including the public highway and the proposal would result in a visual change in comparison to the current agricultural use.

The proposed site currently forms agricultural land used for the purposes of grazing and is located directly adjacent to Broncafnt Lane and approximately 20 metres away from designated settlement boundary. On balance it is considered that the proposed site could be associated with the existing settlement and existing dwellings. It is considered that the proposed development would not result in a significant adverse impact upon the landscape or the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policies ENV2 and TR2 of the Powys Unitary Development Plan 2010.

### Residential Amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the proposed dwellings will be located approximately 50 metres from the nearest neighbouring residential dwelling to the northwest with the access road and field between. Due to the suggested distance and positioning of the properties it is not considered that the proposed development would affect the amenities of the neighbouring dwellings.

Concerns have been raised by several objectors over the loss of privacy and daylight from the proposal to their dwellings to the north of the application site due to the sloping topography of the area. At its closest point the site boundary is approximately 40 metres from the nearest residential dwelling to the north. Reference is made to the Powys Residential Design Guide which states:

*“In order to avoid unnecessary overshadowing, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2m. This need only apply where the new development is less than 40m from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected.”*

As the application site is located more than 40 metres from the nearest dwelling to this elevation, in line with the Powys Residential Design Guide it is not considered that the development will affect the amenities of the neighbouring dwellings. It is also noted that the layout provided is for indicative purposes only and the layout of the site could be altered to increase the distances between the properties if deemed necessary at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

Taking into account the character of existing development in the locality and the highway, it is considered that the indicative layout demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by

occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide.

### Highways and Access

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. Access to the site would be gained off the unclassified highway (U6027) through the creation of two new access points. The U6027 is a single lane access road currently serving 3 dwellings and Children's Day Nursery at Tanyfron (which is operated from applicants dwelling) at the end of the lane. This access lane connects onto the B4389 approximately 55 metres to the west of the site.

As this application is resubmission of recently refused application which included provision of 4 dwellings, the Officers understand that detailed negotiations have taken place between the applicant and Highways Officers in order to overcome previous reason for refusal. It is understood that Highways Authority originally objected to the proposals on the grounds that the increased use of the access lane and junction with the B4389 will be prejudicial to highway safety. It was considered that the visibility at the junction is extremely substandard to the south being less than 4 metres with less than 1 metre radius and no possibility of junction improvements. Officers also consider that the U6027 is extremely narrow with insufficient passing bays and no turning provision. There was little provision for pedestrian safety with no additional provision being offered by the applicant. It was considered that the proposed development of 4 dwellings would more than double the number of dwellings being serviced by this access road.

As already noted, this resubmitted scheme has now reduced the number of dwellings from 4 down to 3, and in respect of the highways issues the Highway Authority now confirms that they are in agreement with the applicants proposed 'trade off' of movements associated with the permanent closure of the Children's Nursery located at Tanyfron, Broncafnt Lane, (which is in the applicants ownership). The applicant and Highway Authority have agreed that based on the number of movements from the nursery that a maximum of three, three bedroomed dwellings is acceptable. However, this is conditional on the applicant entering a suitably worded S.106 Agreement to extinguish the current commercial use of Tanyfron within three months of any consent being given to this application.

In light of the comments received and given the scale of the proposed development, Officers are satisfied that the proposed development will not have an unacceptable adverse impact on highway safety and movements subject to suggested conditions and signing a section 106 Agreement to extinguish the current commercial use of Tanyfron within three months of any consent being given to this application. The proposed development is therefore considered to be in accordance with planning policy, particularly UDP policy GP4 and TAN 18: Transport.

### Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

In respect of surface water disposal, the submission indicates that this would be disposed of through the use of soakaways. The Council's Land Drainage Officer has been consulted on this application and on previous application. Although no reply has been received for this

particular scheme it has been noted that during the last application process that whilst no drainage details have been submitted there would be no objection subject to the inclusion of a condition to secure a drainage assessment.

Concerns have been raised by objectors regarding the surface water drainage at the site and the instability of the ground at the site area. These issues have been considered by the Land Drainage Officer who made a visit to the site during the previous application to investigate the claims of ground instability. No evidence of any land slipping or instability was found then.

It is considered that, in light of the Land Drainage Officer's original comments, and subject to the proposed conditions during the original application, the proposed development could comply with policy DC13 of the Powys Unitary Development Plan 2010 in respect of surface water drainage.

### Foul drainage

The proposed properties will be served by a private treatment plant and Environmental Health Officer confirms that there no objection to the application provided that the consent to discharge is granted and confirmed by the Planning Authority prior to the commencement of work. Members should note that Discharge Consents are granted by Natural Resources Wales under different Legislation separate from Planning.

On the basis that no environmental impacts have been raised throughout the consultation process and that Environmental Health did not object, it is considered that the proposed means of foul disposal is acceptable and compliant with the relevant planning policies, namely DC9 and DC11 of Powys UDP.

### Agricultural Land Classification

Planning Policy Wales (PPW) paragraph 4.10 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. UDP policy ENV1 states that when considering proposals for development, the best and most versatile agricultural land will be safeguarded wherever possible.

Predictive Agricultural Land Classification (ALC) Map indicates that the land at this location is designated as 4 (Poor quality agricultural land) and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

### Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not



introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

With regards to the Development Management function, PPW states as follows:

“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

Technical Advice Note 20: Planning and the Welsh Language provided further guidance. Within TAN 20 it is noted that it is estimated that between 1,200 and 2,200 fluent Welsh speakers are moving out of Wales each year. The Welsh Government aims to reserve this trend.

With regards to the Development Management function, TAN 20 states as follows:

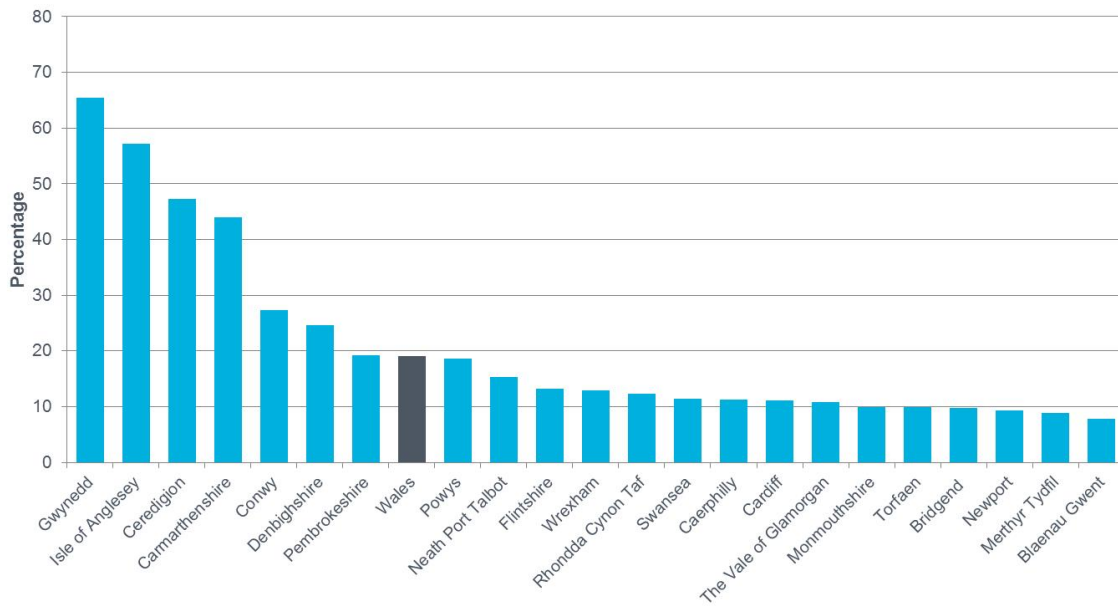
“4.1.2 In determining individual planning applications and appeals where the needs and interests of the Welsh language may be a material consideration, decisions must, as with all other planning applications, be based on planning grounds only and be reasonable. Adopted development plan policies are planning grounds, including those which have taken the needs and interests of the Welsh Language into account”.

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Llanfair Caereinion has been identified as one of the settlements under policy GP5.

#### Census Information

Looking at a Local Authority level the graph below provides a picture of the Welsh Language in Powys compared to that in the rest of Wales;

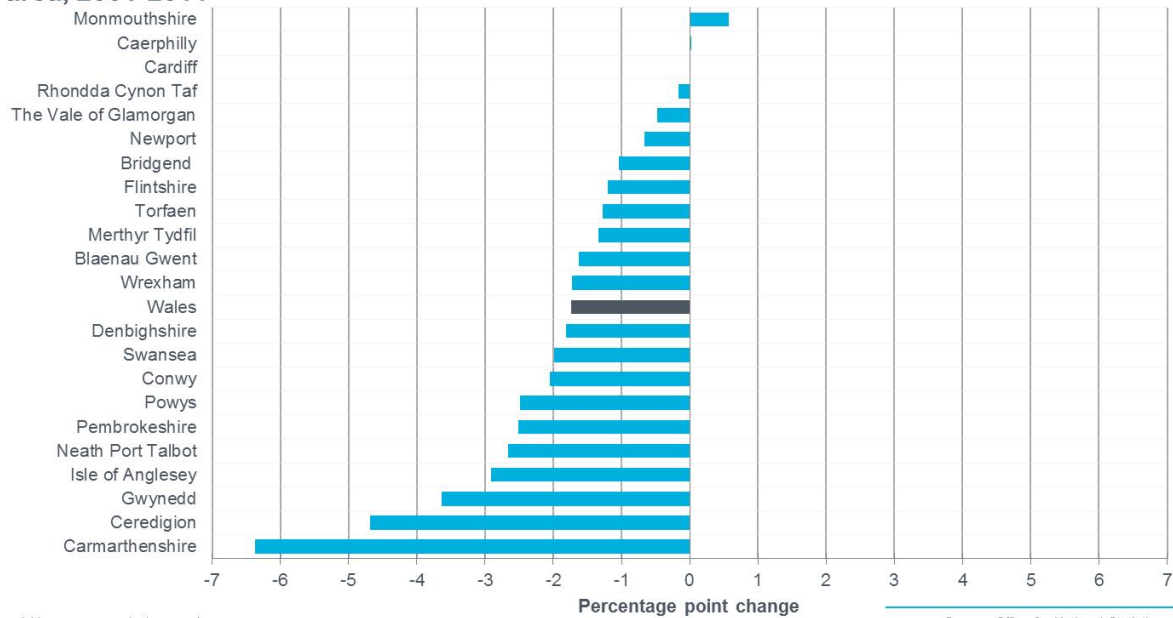
**Percentage of the population able to speak Welsh according to the 2011 Census, by local authority area**



welshlanguagecommissioner.wales

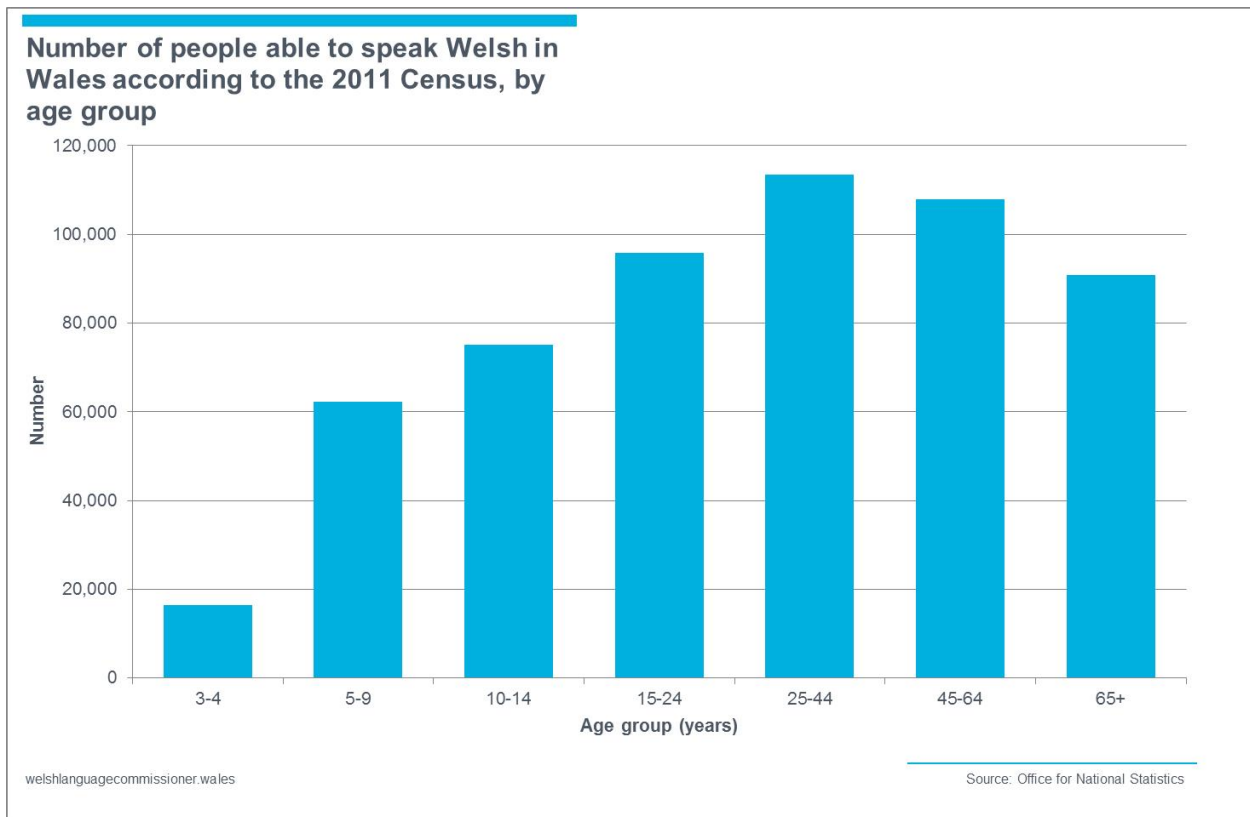
Source: Office for National Statistics

**Change in the percentage of the population able to speak Welsh (percentage point), by local authority area, 2001-2011**



welshlanguagecommissioner.wales

Source: Office for National Statistics



#### 2001 Census

All people aged 3 and over	Understands spoken Welsh only	Speaks but does not read or write Welsh	Speaks and reads but does not write Welsh	Speaks, reads and writes Welsh	Other combination of skills	No knowledge of Welsh
1,563	122	79	24	499	55	784

#### 2011 Census

All usual residents aged 3 and over	No skills in Welsh	Can understand spoken Welsh only	Can speak Welsh	Can speak but cannot read or write Welsh	Can speak and read but cannot write Welsh	Can speak, read and write Welsh	Other combination of skills in Welsh
1,757	910	148	632	74	40	512	73

The census information has been looked at by the Welsh Language Commissioner who has provided the following breakdown regarding the ability to speak Welsh in the area.

	2011	2001	2011	2001
Age	%	%	Number	Number
3+	36	39	632	613
3-15	62.3	56.5	198	183
16-64	29.5	31.9	326	313
65+	32.2	43.8	108	117

It is apparent from the figures above that the numbers of people speaking Welsh in the Llanfair Caereinion ward has decreased by 3% overall with 2.4% being dropped in the 16-64

age category. However consideration should be given to the fact that the percentage of Welsh speakers in the 3 – 15 age group has increased by 5.8%.

In assessing the impact of the proposed development on the Welsh Language and culture of the area the following statement has been submitted;

*“We accept that Llanfair is an identified settlement under Policy GP 5 and as such we have taken the importance of the Welsh Language and Culture into account through the provision of a housing mix, through the sustainable location and obviously through the provision of affordable homes”.*

Although no affordable dwellings are proposed as a part of this scheme, it is considered that the introduction of 3 dwellings could help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten these facilities or force sections of the population away from these facilities. It is considered that there is an intrinsic link between the provision of housing and the cultural and linguistic vitality of an area. Additional dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence, this aids in retaining those residents and helps to mitigate against the impact of a development on the Welsh language.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade’s people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

In light of the above it is considered that the proposed development could sustain and enhance the services currently within Llanfair Caereinion and the provision of housing and affordable dwellings will help sustain and enhance the cultural and linguistic vitality of the area.

## **Recommendation**

Having carefully considered the proposed development, on balance Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions as specified below and a separate section 106 Agreement to extinguish the current commercial use of Tanyfron within three months of any consent being given to this application.;

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

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx in so far as the extent of the application site is drawn and the access points onto Broncafntent Lane (drawing number: SA 25380 02).
5. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.
7. 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. The development shall be carried out in accordance with the approved details.
8. 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.
9. The gradient of the accesses 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.
10. The centre line of the first 5.5 metres of the access roads 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.
11. Before any other development commences the accesses shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the accesses 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 accesses along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

12. Before any other development commences the accesses 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.

13. 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.

14. Before any other development commences 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.

15. The width of the accesses carriageway, constructed as per above conditions, shall be not less than 4.1 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.

16. 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.

17. Prior to the commencement of the development 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.

18. When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the package treatment plant or its soakaway installation.

19. The package treatment plant effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

20. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

21. Upon formation of the visibility splays as detailed in above conditions the centreline of any new or relocated hedge/fence/wall 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.

22. No storm water drainage from the site shall be allowed to discharge onto the county highway.
23. Prior to commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
24. Prior to commencement of development a Pollution Prevention Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
25. Prior to the commencement of development 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.
26. The development hereby permitted shall not commence until an assessment is carried out into the potential for disposing of surface water by means of sustainable drainage systems (SuDS) in accordance with the principles set out in Technical Advice Note 15: Development and Flood Risk, and the results of the assessment provided to the local planning authority. Where a SuDS scheme is to be provided, the submitted details shall:
- a. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures to be taken to prevent pollution of the receiving groundwater and/or surface waters;
  - b. Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and
  - c. Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for the adoption by any public authority or statutory undertaker or other arrangements to secure the operation of the scheme throughout its lifetime.

### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
6. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).

7. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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20. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
21. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
22. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
23. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.
24. To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
25. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
26. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).



## **Informative**

### **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.

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

It is an offence for any person to:

- Intentionally kill, injure or take any 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 2010 (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](mailto:enquiries@bats.org.uk)

### **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.

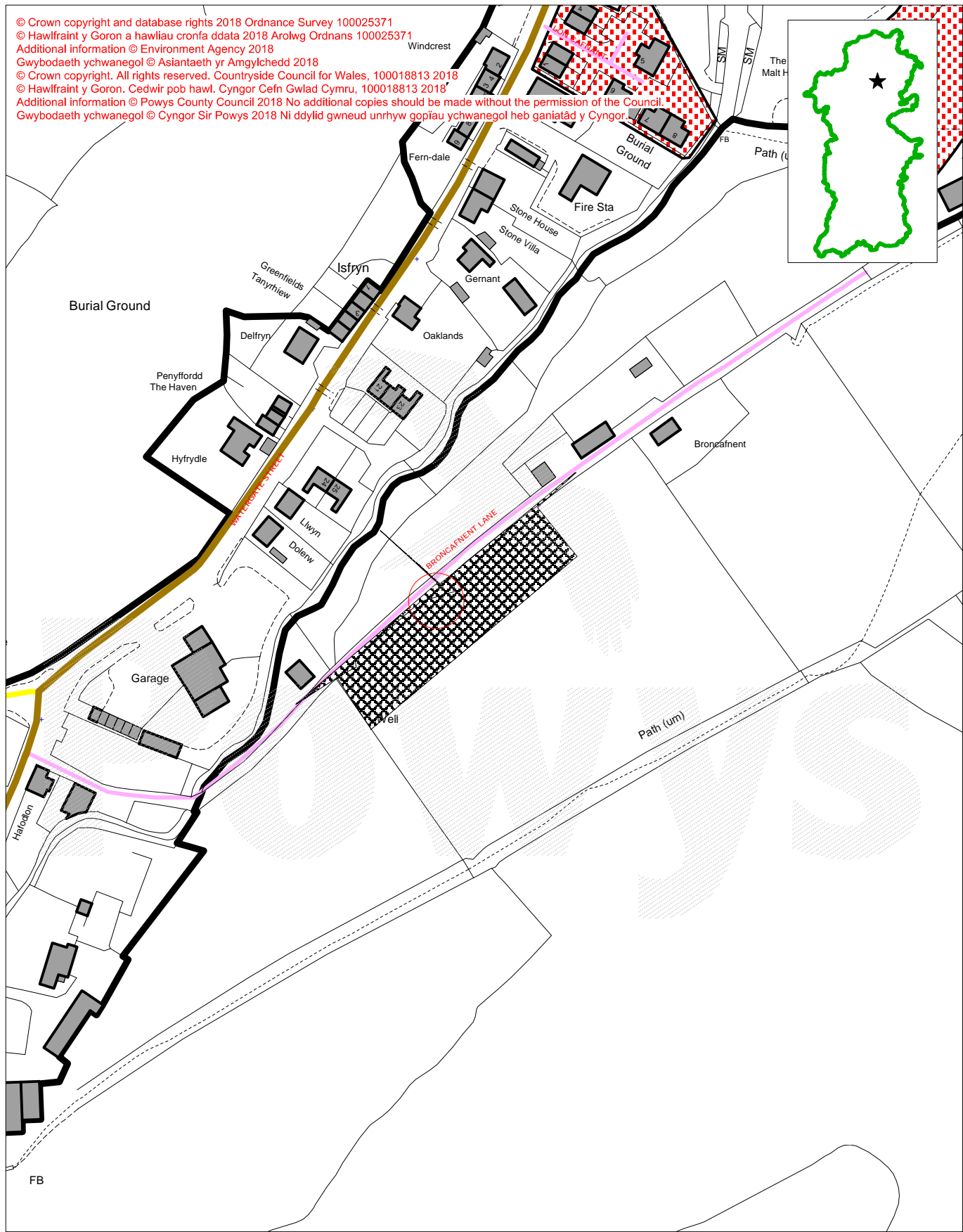
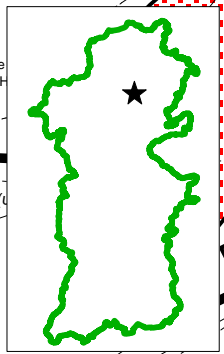
In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are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

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Case Officer: Eddie Hrustanovic- Swyddog Cynllunio / Planning Officer  
Tel: 01938 551231 E-mail:edin@powys.gov.uk

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# 3.5

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

<b>Application No:</b>	P/2017/1259	<b>Grid Ref:</b>	326755.31 318118.14
<b>Community Council:</b>	Llandysilio	<b>Valid Date:</b>	<b>Officer:</b> 30/10/2017 Eddie Hrustanovic
<b>Applicant:</b>	Mr P M Pryce, Greenfields Farm, Four Crosses, Llanymynech, Powys, SY22 6RF.		
<b>Location:</b>	Land adj Greenfields Farm, Four Crosses, Llanymynech, Powys, SY22 6RF.		
<b>Proposal:</b>	Outline: Proposed residential development of 5 no dwellings, formation of an access road and all associated works		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

In accordance with the Planning Protocol, Councillor Arwel Jones has requested that this planning application be determined by Members of the Planning, Taxi Licensing and Rights of Way Committee.

### Site Location and Description

The site subject to this application is located approximately 180 metres to the south of Four Crosses, outside of the defined settlement boundary. The application site is bounded by agricultural land to the north and east. Located to the south is a linear cluster of dwellings and to the west the A483 Trunk Road.

The application is submitted in outline with all matters reserved for future consideration and proposes the erection of 5 dwellings, formation of an access road and all associated works.

### Consultee Response

#### Llandysilio Community Council

Re: P2017 1259 – Residential development of 5 dwellings at land adj Greenfields Farm, Four Crosses.

Llandysilio Community Council have considered the above application at its meeting held on Thursday 23<sup>rd</sup> November 2017 and wish to Object to the application for reasons outlined below

1. Policy GP 1 – Development Control

The application site lies outside the existing settlement boundary for Four Crosses and whilst the new Unitary development Plan is in the course of being adopted it must still be considered as a departure from the Plan.

21 sites in Four Crosses were submitted as candidate sites as part of the preparation of the emerging UDP covering an area of 34 Hectares. The argument for the supply of housing in Powys cannot be allowed to overrule planning policies and principles.

#### 2. Contrary to Policy GP4 – Highway & parking Requirements

There is concern that the entrance is onto a 60mph section of the A483.

#### 3. Footpath No 28

No provision has been included in the application for the diversion of this footpath which crosses through the site.

#### 4. Inadequate infrastructure

This is a key element in the development of Large Villages such as Four Crosses. Contribution needs to be obtained from each developer towards improving the classrooms at Llandysilio School, improving the recreational facilities and also helping the local Doctor's Surgery to obtain enough funding for a much needed extension to reduce the waiting time for appointments.

#### Highways Authority

Whilst the Highway Authority do not object to the principle of development, based on the indicative layout the Highway Authority would serve notice under S.219/220 of the Highways Act 1980 upon the issuing of Building Regulations.

Any detailed application should include an adoptable layout plus full access details which should include visibility splays, access surfacing, radii, width, gradient and a suitable turning head.

#### Welsh Government - Transport

I refer to your consultation of 7.. November 2017 regarding the above application, and advise that the Welsh Government as highway authority for the A483 trunk road directs that planning permission is not granted at this time as the applicant has provided insufficient information to determine the application.

The applicant must provide the following information to support this application or resubmit the application with the following details;

1. The applicant must forward a suitably scaled drawing detailing the proposed access off the A483 trunk road, which must incorporate the following aspects:-

- a) Visibility Splays in either direction from a suitable set-back.
- b) Gradient of the access road and the A483 trunk road carriageway
- c) Access width and radii dimensions

- d) Access surfacing type along with depth and width dimensions
- e) Parking areas
- f) If a gate is to be installed on the access

The above aspects must conform to the Design Manual for Roads and Bridges (DMRB).

The following points should be brought to the attention of the applicant:

The current access is constructed in accordance with "Layout 1 - Field Access" of TD41/95 of the Design Manual for Roads and Bridges (DMRB). As this application includes an increase in vehicle movements associated with the additional 5 dwellings it must be designed and constructed in accordance with "Layout 3 - Simple Layout" of TD41/95 of the DMRB.

If you have any further queries, please forward to the following Welsh Government Mailbox  
NorthandMidWalesDevelopmentControlMailbox@Gov.Wales

*Correspondence received 13<sup>th</sup> February 2018*

I refer to your consultation of 7 November 2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road directs that any permission granted by your authority shall include the following conditions:

- 1) The access and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (drawing no. RPP24.1.3.05 Rev A).
- 2) The minimum visibility distances available for vehicles emerging from the proposed access / junction shall be 215 metres in the each direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the trunk road carriageway. These visibility distances shall be available at a point 4.5 metres from the nearer running edge of the trunk road, measured along the centreline of the access road. The visibility splay so formed shall be free of any growth or obstruction, which would interfere with the minimum visibility requirements.
- 3) Adequate provision shall be made within the development site to enable vehicles to turn around, so that they may enter and leave the site in a forward gear.
- 4) No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road.
- 5) The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.
- 6) The applicant shall enter into an Agreement with the Welsh Ministers under Section 278 of the Highways Act 1980 to enable the Applicant to undertake agreed improvement works on the trunk road. This Agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. Without such an agreement in place, any consent that may be granted cannot be implemented.

The above conditions are included to maintain the safety and free flow of trunk road traffic. The following points should be brought to the attention of the applicant:

- 1) The applicant should be advised that all temporary or permanent signage, road markings or traffic orders shall be at the expense of the developer and agreed with the Highway Authority

before works commence.

2) Any adjustment, re-siting and / or protection of any statutory undertakers apparatus in the highway shall be undertaken with the prior written consent of the relevant Authority and shall be carried out at the Applicant's own expense.

3) The applicant should note that planning permission does not constitute permission under the Highways Act for various activities that may be associated with the development i.e. use of the highway/footway/verge to: for example; deposit material, deposit skips, erect scaffolding, excavate within the highway or erect traffic management apparatus. Such activities will require the separate consent of the Highway Authority;

4) Any temporary traffic management arrangements required in connection with this application shall be in accordance with Chapter 8 of the Traffic Signs Manual and in accordance with the Safety at Street Works and Road Works Code of Practice, and shall be approved by the highway authority.

5) Road traffic signs in Wales must be bilingual, Welsh above English, and adhere to Welsh Government specifications, see following link for standard details; [http://www.traffic-wales.com/traffic\\_signs.aspx](http://www.traffic-wales.com/traffic_signs.aspx)

If you have any further queries, please forward to the following Welsh Government Mailbox [NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK](mailto:NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK)

#### Building Control

Building Regulations application required.

#### Wales and West Utilities

Please find enclosed a letter relating to your request. Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry.

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

If you have any queries please feel free to get in touch.

#### Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

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.



To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

Construction-phase noise

The proposed development is in close proximity to existing residential properties. Environmental Protection would recommend the following condition for the protection of amenity during the construction phase of the project:

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

- 0800 – 1800 hrs Monday to Friday
- 0800 – 1300 hrs Saturday
- At no time on Sundays and Bank Holidays

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

### Countryside Services

Thank you for consulting Countryside Services on the above application.

A Public Right of Way (Footpath 28) crosses the site of the proposed development. The right of way is acknowledged in the plans with its approximate alignment shown. The footpath must remain open and available for safe unimpeded public use at all times, both during development and following completion. It must not be obstructed. The proposed new gate in a new boundary will require consent from the County Council.

### Affordable Housing

Thank you for your correspondence regarding this application.

We seek provision of affordable housing on residential development sites in accordance with the Affordable Housing Topic Paper September 2016, and the following guidelines to be adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council's Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.

- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9.

## CADW

Thank you for your letter inviting our comments on the above planning application.

## Advice

Having carefully considered the information provided with this planning application, we consider that it is inadequately documented. Our assessment of the application is given below.

## Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site.

We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

## National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24 : The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park

or garden or its setting should be a material consideration in the determination of a planning application.

### Assessment

The application area is located 315m west of scheduled monument MG033 Offa's Dyke: Section extending 3000m SE to Bele Brook, Llandrinio. The significant views from Offa's Dyke are to the west and the proposed development will block a currently pen section of lan in the view from this section to the Dyke. Consequently, the proposed development will cause damage to the setting of the scheduled monument and this will be a material consideration in the determination of this planning application (see Planning Policy Wales Section 6.5.5):

However no information on this issue has been submitted with the application and therefore we are currently not in a position to provide advice. We advise that your authority requests an assessment of the impact of the proposed development on the setting of the scheduled monument to prepared in accordance with the methodology outlined in the Welsh Government's best-practice guidance Setting of Heritage Assets in Wales (2017). Once this information has been provided we should be re-consulted accordingly.

### Clwyd Powys Archaeological Trust

Our records show that we had no interest in this one and replied to Eddie on 7/11/17 to say there are no predicted archaeological impacts and we have no objection.

The plot is outside the main prehistoric settlement area in Four Crosses and lies on what was old common land (the area north of the road still is common land).

We noted that Cadw subsequently asked for a setting impact assessment because Offa's Dyke lies 350 metres to the east.

### Powys Ecologist

Ecological Topic		Observations
EIA Screening Opinion needed?	No	The site area is understood to be 0.5 hectares and includes 5 dwellings. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 50 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application?	No	No ecological information has been submitted with the application. These observations are based on an interpretation of available aerial and street imagery, the submitted plans and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service.  The proposals involve the construction of 5 new dwellings on the southern outskirts of a residential area. The proposed site is located along the western edge of a large semi-improved agricultural field which shares a boundary with the highway to the west. All field boundaries are comprised of hedgerow. The eastern boundary which is separated from the proposed development also appears to contain a row of mature trees.

		It appears from the plans that the only vegetation removal would occur along a section of the western hedgerow which is intersected by the footprint of the northernmost proposed property, though extent of clearance has not been confirmed in any of the accompanying documents.
Protected Species & Habitats <sup>1</sup>	European Species	<p>Within 1km of the site there are historic records of otters and various bat species.</p> <p>There don't appear to be any potential bat roosting sites which would be lost to the proposals, and the field of the proposal appears to be of limited value for foraging bats. However, the hedgerow along the western boundary of the site, part of which may be removed, offers suitable foraging and commuting habitat for a range of bat species. It is recommended that vegetation clearance is minimized and any hedgerow to be lost should be translocated elsewhere on site to prevent the permanent loss of this linear feature and to assist habitat continuity. Suitable mitigation should be shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>Should new lighting be required I recommend that a sensitive lighting plan is implemented in order to minimise the impact of new lighting on bats and any other nocturnal wildlife that may use the surrounding vegetation.</p> <p>The proposed site does not present suitable foraging or resting habitat for otters.</p>
	UK Species	<p>In addition to the species identified above, there are historic records of badger and a variety of nesting birds within 1km of the site.</p> <p>The proposals may involve the removal of a section of the hedgerow along the western field boundary. I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>

		<p>The hedgerow that borders the site to the west could also provide suitable shelter for common reptile species. It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation clearance. Suitable mitigation should also be provided to offset any losses of reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>No direct impacts upon the local badger population are expected as a result of the proposals due to the fact that the existing field is so open and well managed at present</p>
	Section 7 Species & Habitats	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>It would seem likely that the proposals require the removal of a section of hedgerow along the western field boundary. Hedgerows are a Section 7 Priority Habitat. It is recommended that the existing hedgerow is translocated elsewhere on site to prevent the permanent loss of this linear feature and to assist habitat continuity. Suitable mitigation should be shown on a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works. Also a tree/hedge protection plan in accordance with BS5837:2012 should be implemented during the construction phase to safeguard retained vegetation.</p> <p>In addition to the species identified above, within 1km of the site there are historic records of hedgehog, which is a Section 7 priority species. It is therefore recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider this species and other small animals.</p> <p>A new hedgerow is proposed around the perimeter of the proposed development which is welcomed. As a biodiversity enhancement to the site I recommend that native, locally-occurring</p>

		plant species are included in any landscaping associated with this application and a species list for the landscaping should be provided for approval prior to commencement of development. Also further enhancement of the site by installation of bat and bird boxes as part of the proposals would be welcomed.
	LBAP Species & Habitats <input checked="" type="checkbox"/>	Please see comments above.
Protected Sites	International Sites (within 1km) <input checked="" type="checkbox"/>	Montgomery Canal SAC is located approximately 370m to the west of the proposed site. Due to the distance and lack of pathways between the two sites no impacts upon the integrity of the SAC are expected.
	National Sites (within 1km) <input checked="" type="checkbox"/>	Montgomery Canal SSSI is located approximately 370m to the west of the proposed site. Due to the distance and lack of pathways between the two sites no impacts upon the integrity of the SSSI are expected.
	Local Sites (within 500m) <input type="checkbox"/>	None within the search area
Invasive Non-Native Species	Unknown	No ecological information has been submitted with the application.
Recommendations		<p>I recommend that vegetation removal for the proposed development is kept to a minimum and where required vegetation clearance works should be timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished.</p> <p>It is recommended that reasonable avoidance measures, including ecological supervision, are</p>

	<p>employed to prevent potential harm to reptiles and small mammals during any clearance work along the western boundary of the site. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>A tree/hedge protection plan in accordance with BS5837:2012 should be implemented during the construction phase to safeguard retained vegetation.</p> <p>I recommend that if practicable any hedgerow is translocated to provide a more immediate habitat replacement, including that set back to facilitate access to the proposed site.</p> <p>As a biodiversity enhancement to the site I recommend that native, locally-occurring plant species are included in any landscaping associated with this application and a species list for the landscaping should be provided for approval prior to commencement of development. Also further enhancement of the site by installation of bat and bird boxes as part of the proposals would be welcomed.</p>
Further information required prior to determination of application	I am of the opinion that sufficient information has been included to determine the application from an ecological perspective, and in consideration of the information, I recommend conditions as detailed below.
Recommended Conditions	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a Species List for the Landscape Planting, to include position of the translocated hedgerow, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act</p>

	<p>2016.</p> <p><i>Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><b>Reason:</b> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan to include details of the bird nest and bat boxes shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><b>Reason:</b> To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.</p> <p><i>Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><b>Reason:</b> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p>
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	<p><b>Reason:</b> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><b>Informatives</b></p> <p><b>Birds - Wildlife and Countryside Act 1981 (as amended)</b></p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> <li>• intentionally kill, injure or take any wild bird</li> <li>• intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built</li> <li>• intentionally take or destroy the egg of any wild bird</li> <li>• 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.</li> </ul> <p>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.</p> <p>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.</p> <p><b>Reptiles - Wildlife &amp; Countryside Act 1981 (as amended)</b></p> <p>All UK native reptile species are protected by law. The Wildlife &amp; Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p>
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	<p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p>Relevant UDP Policies</p>	<p>SP3 Natural, Historic and Built Heritage  ENV 2: Safeguard the Landscape  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 6: Sites of Regional and Local Importance  ENV 7: Protected Species</p>

County Councillor Arwel Jones

*Correspondence received 20<sup>th</sup> November 2017 -*

I refer to the above application and would request that the application is called to Committee given the fact that it is outside the Development Plan.

Myself and the Community Council will request to speak at the meeting.

Could you please confirm that the application will be determined by committee.

*Correspondence received 11<sup>h</sup> December 2017 -*

Many thanks for your recent email.

The Community Council advised the site was outside the development boundary.

However I am of the opinion that the development is only for 5 properties and that the access onto the highway is satisfactory and the development is an infill between the Village of Four Crosses and a further 8 properties along the A483.

The application will be determined by the Committee and my views will be expressed at that meeting.

**Representations**

The proposed development has been advertised by site display and within the local press. At the time of writing this report, no public representations have been received by Development Management.

**Planning History**

P/2012/0432 – Full: Additional use of existing agricultural access to provide residential access and associated construction of private drive on land at Greenfields Farm, Llanymynech. Approved.

PPAE/2017/0049 – Pre-application enquiry.

**Principal Planning Constraints**

A Public Right of Way passes through the application site.

Scheduled Ancient Monument located approximately 315 metres to the east of the application site.

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note 1 – Joint Housing Land Availability Studies (2015)

Technical Advice Note 2 – Planning and Affordable Housing (2006)

Technical Advice Note 5- Nature Conservation and Planning (2009)

Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)

Technical Advice Note 12 – Design (2016)

Technical Advice Note 16 – Sport, Recreation and Open Space (2009)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 20- Planning and the Welsh Language (2017)

Technical Advice Note 23 – Economic Development (2014)

Technical Advice Note 24 – The Historic Environment (2017)

Welsh Government Practice Guidance: Planning for Sustainable Buildings (2014)

Welsh Government Circular 016/2014: The Use of Conditions

Welsh Office Circular 10/99: Drainage

### Local Planning Policy

Powys Unitary Development Plan (March 2010)

SP3 – Natural, Historic and Built Heritage

SP5 – Housing Developments

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

HP3 – Housing Land Availability

HP4 – Settlement Development Boundaries and Capacities

HP6 – Dwellings in the Open Countryside

HP9 – Affordable Housing in Rural Settlements

HP10 – Affordability Criteria

DC9- Protection of Water Resources

DC10- Mains Sewage Treatment

DC11 – Non-Mains Sewage Treatment

DC13 – Surface Water Drainage

RL6 - Rights of Way and Access to the Countryside



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

## **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

## **Officer Appraisal**

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

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

### Principle of Development

For the purpose of the Powys UDP, the proposed site of development is located within the open countryside. Outside of settlement boundaries, UDP Policy HP4 applies and states that *'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'*. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9 as above and therefore should be considered as a departure.

### Loss of agricultural land

UDP policy ENV1 states that when considering proposals for development, the best and most versatile agricultural land will be safeguarded wherever possible.

The Predictive Agricultural Land Classification (ALC) Map indicates that the application site is classified as 'Moderate quality agricultural land' (3b). Planning Policy Wales (PPW) seeks to protect agricultural and grade 1-3a. Given the classification of the application site, it is not considered that development on the proposed site would not result in the loss of high grade agricultural land, compliant with UDP policy ENV1.

### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that ‘*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*’

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*“The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing within Powys.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

The application site is located approximately 180 metres to the south of Four Crosses. Within the settlement boundary, it is understood that there are a range of services and facilities including a church, primary school, community centre, shop, garage, doctors surgery and sports facilities. The site is also located within immediate proximity of the A483 trunk road which provides access to nearby towns such as Welshpool and Newtown.

Notwithstanding the sites’ access to services, it is necessary to consider the existing settlement capacity and the capability of the existing services accommodating additional residential development. In this regard, reference is made to the LDP strategy paper and updates from the LDP Examination pages which indicates that Four Crosses’ dwelling contribution over the plan period (2011-2026) was 46 units. The updated position as of September 2017 suggests a provision of 91 dwellings within the settlement, greatly exceeding the projected growth. In light of the above and notwithstanding access to existing services, Officers consider that the proposed residential development would put increased pressure on existing services and facilities potentially compromising the sustainability of the proposed development.

### Character and Appearance

UDP policy HP5 indicates that proposals for residential development will only be permitted where the proposed development is of a scale, form, design and general character to reflect the overall character and appearance of the settlement and surrounding area. Further guidance with policy ENV2 highlights that proposals should take account of the high quality of the Powys landscape and be appropriate and sensitive to the character and appearance of the sites surroundings.

Four Crosses is a large settlement with development predominantly structured around the existing highway network. Properties extends along the highway network leading out of the village in a linear formation however are physically linked to the main settlement. Whilst there are a cluster of dwellings located to the south of the application site, the site is enclosed by agricultural land (north, east and south) and is detached from the main settlement located to the north east. Whilst noting the proximity to neighbouring properties, Officers consider that the introduction of the proposed dwellings would be odds with the existing character and appearance of the settlement and surrounding area contrary to UDP policies ENV2 and HP5.

### Highway Safety

Policy GP4 of the Powys UDP dictates that planning permission will be dependent on adequate provision for highway access including visibility, turning and parking. Whilst indicative at this stage, access to the proposed site of development will be provided off the A483 trunk road with turning and parking provision provided within the application site boundary.

Following initial consultation, Transport Wales issued a direction stipulating that permission should not be granted until such time that adequate access details have been provided. In response to additional information being submitted, a revised response from Welsh Government has been received which confirms that suitable access can be achieved subject to appropriate conditions being attached to any planning consent. Subject to the imposition of these conditions, Development Management is satisfied that the proposed development would be compliant with UDP policy GP4.

### Public Right of Way

Policy RL6 seeks to safeguard the existing public rights of way network and the amenity of its users. A public footpath crosses the application site, passing from east to west. The indicative site plan indicates that the existing footpath will be maintained and accommodated within the development. Whilst noting the comments offered by the Ramblers Association, Officers are satisfied that an appropriate solution can be secured to safeguard the existing right of way and this will be reflected in any future reserved matters application.

### Cultural Heritage

The desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application. Where nationally important archaeological remains and their setting are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that this

means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains.

The application site is located within approximately 315 metres west of Scheduled Ancient Monument (SAM) – MG033 Offa’s Dyke: Section extending 300 metres SE to Bele Brook, Llandrinio. Within their consultation response, Cadw indicates that significant views from the identified section of Offa’s Dyke are to the west (direction of the application site) and currently look out onto an open section of land. The response further indicates that the proposed development will cause damage to the setting of the monument however in order to inform a thorough assessment, Cadw has requested that an assessment of potential impact on the setting be submitted for consideration.

Members are advised that a Heritage Assessment has since been submitted which assesses the potential impact of the development on the setting of Offa’s Dyke. Unfortunately, at the time of writing this report, a revised response from Cadw remains outstanding however Officers hope to provide further comments within the Committee report update.

Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. The following table details the percentage change in relation to Welsh speakers within the Llandysilio ward for the period 2001-2011.

Community: Llandysilio

*able to speak Welsh*

Age	2011		2001	
	%	%	Number	Number
3+:	11.7	12.9	127	120
3-15:	35.2	37	62	51
16-64:	7.8	10.2	53	63
65+:	5.2	3.4	12	6

*Number of residents aged 3 and over:*

Census	Number
2011	1088
2001	928

It is noted that the 2011 census for Llandysilio reported a decline in the percentage of Welsh speakers. On the basis of the above, Officers do not consider that the development of up to five dwellings on land to the south of Four Crosses will have an unacceptable detrimental impact on the cultural or linguistic vitality of the area.

**RECOMMENDATION**

Whilst Planning Policy Wales encourages Local Planning Authorities to give considerable weight to the 5 year housing supply, policy guidance emphasises that this should only be

applied when the development proposed would otherwise be compliant with the adopted development plan.

Officers consider that the site of the proposed development is divorced from the existing settlement of Four Crosses and therefore compromises the character and appearance of the surrounding area contrary to policies ENV2 and HP5 of the Powys UDP. As such, the recommendation is one of refusal.

#### Reason for Refusal

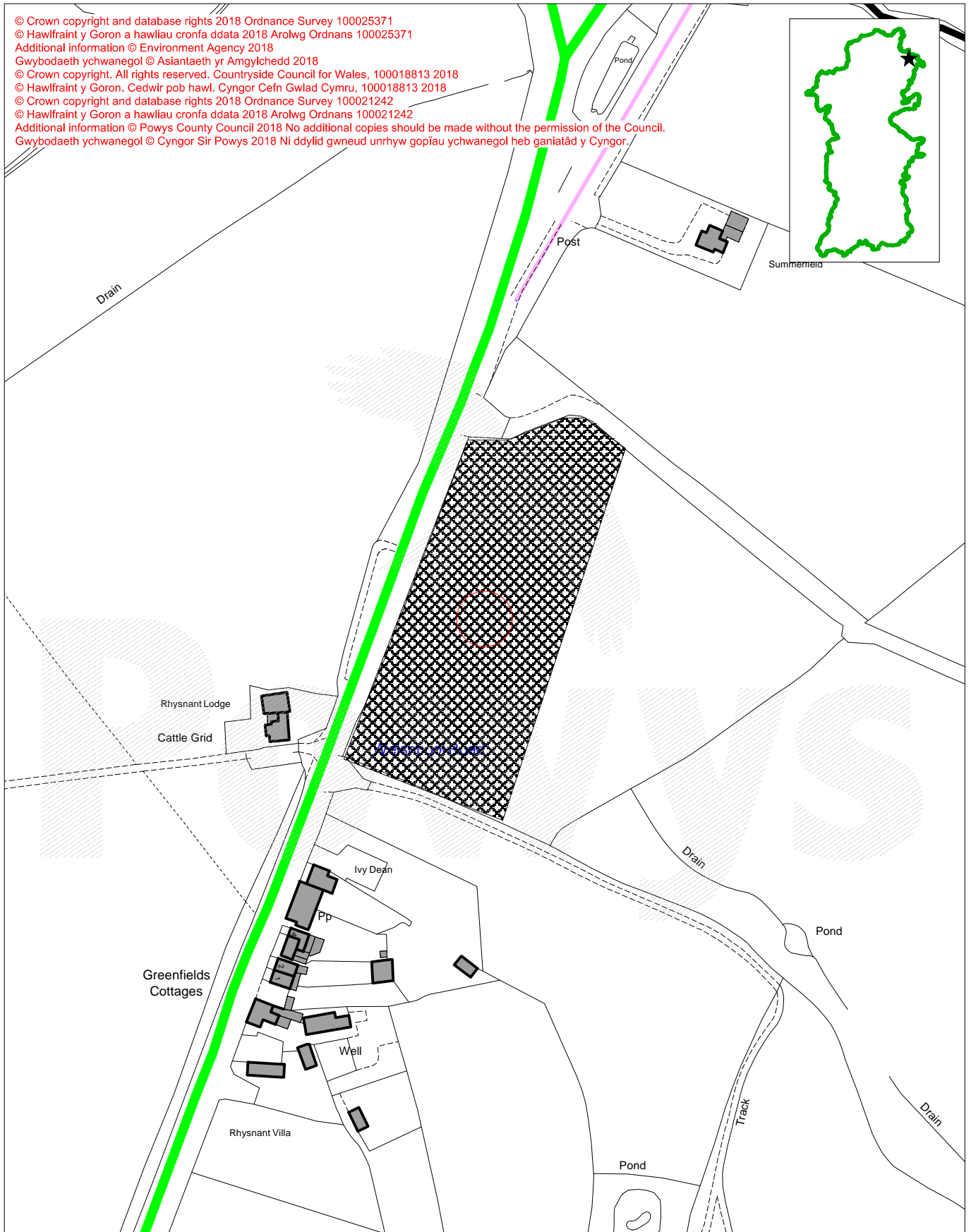
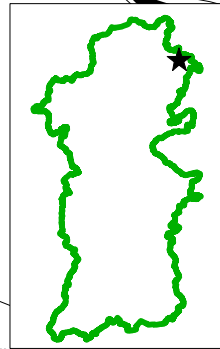
1. The proposed development will have an unacceptable adverse impact on the character and appearance of the area contrary to policies GP1, ENV2 and HP5 of the Powys Unitary Development Plan (2010).

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Case Officer: Eddie Hrustanovic- Swyddog Cynllunio / Planning Officer  
Tel: 01938 551231 E-mail: edin@powys.gov.uk

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# 3.6

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

<b>Application No:</b>	P/2017/0098	<b>Grid Ref:</b>	317094 322248
<b>Community Council:</b>	Llangedwyn	<b>Valid Date:</b>	<b>Officer:</b> 02/02/2017 Tamsin Law
<b>Applicant:</b>	Llangedwyn Estate Sansaw Business Park, South Pavilion, Hadnall, Shrewsbury, SY4 4AS		
<b>Location:</b>	Land at Ty Brith Bwlch-Y-Ddar, Llangedwyn, Llanfechain, Oswestry, SY10 9LL		
<b>Proposal:</b>	Erection of a replacement dwelling, creation of new access and installation of package treatment plant		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The application is a departure from the development plan.

### Site Location and Description

The submission comprises two separate application site areas because the existing dwelling, Belan Einion is located approximately 1km from the proposed site of the new dwelling. Belan Einion is a detached stone dwelling, located approximately 1km to the north east of the rural settlement of Bwlch y Ddar and to the west of the U5106 unclassified highway.

It is proposed to construct a two storey detached dwelling within the rural settlement of Bwlch y Ddar within the garden area of the dwelling known as Ty Brith. The dwelling measures approximately 13.5 metres (including single storey utility) by 6.8 metres (including porch) and 7.3 metres in height to the ridge. The dwelling would be double fronted with walls would be rendered with stone cladding on the utility and chimney with a natural slate roof. Vehicular access would be gained off the unclassified U2040 highway to the south of the application site.

### Consultee Response

Llangedwyn Community Council

#### 1<sup>st</sup> Response

Many thanks for sending us details of Planning Application P/2017/0098 for a dwelling at Ty Brith, Bwlchyddar, Llangedwyn.

However, our Community Council believes that this does not constitute a 'replacement' dwelling as it is not on the footprint of the original building – it is, in fact, over a kilometer away. We believe, therefore, that any building at Ty Brith, should be subject to the full planning policies and criteria appropriate for a stand alone property.

We are very concerned that a 'replacement' application, far removed from the original footprint, sets a dangerous precedent for unwarranted developments to 'replace' isolated, abandoned cottages in our area, of which there are many.

#### 2<sup>nd</sup> Response

Many thanks for sending the amended plans for the planning application at Ty Brith, Bwlchyddar. Please note that the original comments from our Community Council still stand, ie that we cannot see this as a 'replacement' dwelling as it is over a kilometer away from the other building. We consider, therefore, that the application should be subject to the full planning policies and criteria appropriate for a new build property.

#### PCC Highway Authority

#### 1st Response

The following conditions should be included on any permission granted:-

HC1 Prior to the occupation of the site 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.

HC3 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.

HC4 Within 5 days from 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 a point 0.26 metres above ground level at the edge of the adjoining carriageway and 33 metres distant in both directions 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 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.

HC7 Within 5 days from 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.

HC8 Prior to the occupation of the site, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom (in-line with CSS Wales) 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.

HC11 Within 5 days from 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 0.45 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.

HC12 The width of the access carriageway, constructed as Condition HC7 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.

HC16 There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.

HC21 Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance 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.

HC26 When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the septic tank or its soakaway installation.

HC27 The septic tank effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

HC30 Upon formation of the visibility splays as detailed in HC4 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.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### Reasons

To ensure the safety and free flow of traffic using the adjoining county unclassified road.

#### 2<sup>nd</sup> Response

I am aware of requests from owners/residents or users of this highway near Bwlchyddar to carry out maintenance and to improve the route in the past.

The route is an unsurfaced unclassified highway, and although it carries similar rights in terms of access to any other highway, the surface is not maintained to the same standard. There is still a duty on the highway authority to maintain, but this will be to a standard reasonable for such a route.

There is no duty on the authority to improve any highway, and from what I recall in respect of the service requests previously received it was improvement to the track surface, open drainage ditches and alignment that was sought.

#### PCC Building Control

Building Regulations application required.

#### Wales and West Utilities

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, 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.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent Water

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.

#### PCC Environmental Health

##### 1<sup>st</sup> Response

The proposed foul drainage system does not comply with the Building Regulations. The drainage field needs to be sited at least 15m from buildings, and the drainage field cannot be located under paved areas or driveways. Therefore I must object to the application.

##### 2<sup>nd</sup> Response

I am satisfied that the amended proposal is compliant with Building Regulations, therefore I have no objection to the application.

##### 3<sup>rd</sup> Response

I understand that since my previous comment it transpires that the land intended to be used for the foul drainage field is not in the ownership of the applicant, permission for its use hasn't been granted by the landowner, therefore there are now amended drainage plans.

The new drawing states that it is the intention to double the depth of the drainage field in order to halve its surface area (footprint). This approach is not permitted by the Building Regulations, which is the approved method for non-mains foul drainage systems.

The Vp value of 87, derived from percolation tests at the site, demonstrates that while the ground conditions may be suitable for a drainage field this is towards the upper end of the permitted scale, which indicates that the ground is not free-draining. It is therefore important

that given the proximity of houses to the sewage system, and the limited space available to construct a drainage field, that it is carried out in full accordance with the Building Regulations to ensure that it can work effectively and not give rise to sewage problems at the ground surface.

I therefore must recommend refusal to this application in its current form on the grounds of protection of public health.

4<sup>th</sup> Response

Thank you for forwarding this amended foul drainage plan.

The design now complies with Building Regulations, therefore I have no objection to the application.

PCC Ecologist

Ecological Topic		Observations
<b>EIA Screening Requirement</b>	<b>Not applicable</b>	The proposal has already been screened by Powys County Council who have confirmed that EIA is not required (14/02/17).
<b>Ecological Information included with application</b>	<b>No</b>	<p>No ecological information has been submitted with this application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service.</p> <p>The site of the new development appears to be located within an existing private garden adjacent to other residential properties. The application may also involve the removal of existing materials from another property known as Belan Einion.</p>
<b>Protected Species &amp; Habitats<sup>1</sup></b>	European Species	<p>There are historic records of various bat species from within 2km of the application site and a historic record (1992) of signs of a Lesser Horseshoe bat night roost from Belan Einion. The removal of existing materials from Belan Einion, or its demolition, could therefore result in impacts on any bat roost present.</p> <p>☒ No ecological information has been submitted with the application and it is considered that there is a reasonable likelihood of bat roosts being present given the historic record, proximity of trees and hedgerows and the age of the property. Therefore, it is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application.</p> <p>Therefore, in order to assess the potential impacts to</p>

<sup>1</sup> Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		<p>roosting bats, a preliminary assessment of the building for its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat access or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.</p> <p>The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the Powys Bat Survey Guidance and the standard survey methodology published by Bat Conservation Trust.</p> <p>No other European protected species have been recorded within 2km nor are considered likely to be affected by the proposals.</p>
	UK Species <input checked="" type="checkbox"/>	<p>The private garden appears to contain vegetation that could support nesting birds. Belan Einion could also support certain nesting birds, such as House sparrow, House martin and Barn swallow, all of which have been recorded within 2km of the application area.</p> <p>I therefore recommend that any site and vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>
	Section 7 Species & Habitat <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>House sparrow, Dunnock and Starling have been recorded close to the application site previously and are Section 7 Priority Species in Wales. There appears to be suitable nesting habitat for House sparrow and Dunnock within the application site. I therefore recommend that House sparrow nesting boxes are incorporated within the</p>

		<p>development as a biodiversity enhancement measure.</p> <p>I understand that all substantial trees and hedgerows to be retained will be protected during the works (per paragraph 3.2.7 of the Design and Access Statement). A tree and hedgerow protection plan in accordance with BS5837:2012 will therefore need to be produced for the local authority's approval in advance of the works.</p> <p>The proposals to plant additional new hedgerows within the application site are welcomed as a biodiversity enhancement. Locally-occurring, native species will need to be used for this and a Species List will be required for approval by the local planning authority as part of a biodiversity enhancement plan for the site.</p>
	<p>LBAP Species &amp; Habitat <input checked="" type="checkbox"/></p>	<p>Should existing materials be removed from Belan Einion, or it be demolished, I recommend that suitable nesting cups for Barn swallows and House martins (local species of conservation concern in Powys) are provided on the new development.</p>
<b>Protected Sites</b>	<p>International Sites<sup>2</sup> <input type="checkbox"/></p>	<p>None within the search area.</p>
	<p>National Sites<sup>3</sup> <input type="checkbox"/></p>	<p>None within the search area.</p>
	<p>Local Sites (within 500m) <input type="checkbox"/></p>	<p>None within the search area.</p>
<b>Invasive Non-Native Species</b>	<b>Unknown</b>	<p>No ecological information has been submitted with this application.</p>
<b>Cumulative Effect</b>	<b>Unknown / Unconfirmed</b>	
<b>Summary of recommendations / further assessment or work</b>		<p>No ecological information has been submitted with the application and it is considered that there is a reasonable likelihood of bat roosts being present in Belan Einion given the historic record, proximity of trees and hedgerows and the age of the property. Therefore, it is considered that there is insufficient information with regard to potential impacts to bats, a European protected species, to determine this application.</p> <p>Therefore, in order to assess the potential impacts to roosting bats, a preliminary assessment of the building for</p>

<sup>2</sup> Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

<sup>3</sup> Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

	<p>its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required. If bat access or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.</p> <p>The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the Powys Bat Survey Guidance and the standard survey methodology published by Bat Conservation Trust.</p> <p>I recommend that any site and vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>I recommend that House sparrow nesting boxes and House martin and Barn swallow nesting cups are incorporated within the development as a biodiversity enhancement measure.</p> <p>I understand that all substantial trees and hedgerows to be retained will be protected during the works (per paragraph 3.2.7 of the Design and Access Statement). A tree and hedgerow protection plan in accordance with BS5837:2012 will therefore need to be produced for the local authority's approval in advance of the works.</p> <p>The proposals to plant additional new hedgerows within the application site are welcomed as a biodiversity enhancement. Locally-occurring, native species will need to be used for this and a Species List will be required for approval by the local planning authority as part of a biodiversity enhancement plan for the site.</p>
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:</p> <p><i>Prior to planning permission, a preliminary assessment of</i></p>



*the building by an appropriately experienced and licensed bat consultant for its bat roost potential and the potential for any impacts on bats is required.*

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

*Prior to commencement of development, a Biodiversity Enhancement Plan, including a Species List for the landscape planting and details of House sparrow nesting boxes, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.

*Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

#### **Informatives**

#### **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,

	<p>six months imprisonment or both.</p> <p>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.</p> <p><b>Bats - Wildlife &amp; Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</b></p> <p>It is an offence for any person to:</p> <ul style="list-style-type: none"> <li>• Intentionally kill, injure or take any bats.</li> <li>• 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.</li> </ul> <p>Under the Habitats Regulations it is an offence to:</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a 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 0845 1300 228 or email <a href="mailto:enquiries@bats.org.uk">enquiries@bats.org.uk</a></p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage  ENV 2: Safeguard the Landscape  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 6: Sites of Regional and Local Importance  ENV 7: Protected Species</p>
<p><b>Comments on Additional Information</b></p>	<p>N/A</p>

PCC Built Heritage Officer

1st Response

The house appears in good condition and is an example of local vernacular, so technically HP11 seeks its preservation. I am aware of similar properties that have been included on the statutory list, and note that this property is not listed. However the issue of the highway access cannot be ignored, and I am aware that planning permission would not be required simply to leave a property empty.

The proposed replacement house would not affect any built heritage assets and as such I would have no objection to the erection of the new dwelling. Whilst accepting that the original property cannot be occupied as a principle dwelling given the highway issues, it would be regrettable if the building was lost purely to either meet the policy requirements or as a source of building materials. It would be preferable if the building was just left, - with the appropriate conditions imposed on its use.

However, in an ideal world it would be desirable if the original house at Bwlch y Ddar were able to be retained in some form of good order. One possibility that I agree is outside the scope of the current application, would be the potential for the property to be used as a bunk house for walkers which would enable the continued repair of the building but without the requirement for a vehicular access. I understand that in the past there have been modest tourism grants for this type of proposal, however I am unaware of any current grants that may be relevant. However I accept that this is outside the remit of the current application.

I can confirm that I would have no objection to the current application, and if possible I would prefer that the original house not be demolished for either building materials or to satisfy the policy as that would enable its retention and either quiet decay, or should the opportunity arise in the future for a non-vehicular re-use the local vernacular building could be retained.

As the current proposal is for its demolition, I would ask that RCAHMW be consulted on the application if possible in case they wish to record the building prior to its demolition. It would be useful if you could send RCAHMW the photographs taken on site and potentially CPAT in case they would like to record the presence of the building on the HER prior to its demolition.

## 2nd Response

Thank you for consulting me on the above application and further to my comments by e-mail dated 8<sup>th</sup> March 2017.

Whilst having no objections to the new house in the location proposed, it would be preferable for the old house to be retained with appropriate conditions regarding its use.

Conservation Principles identifies the historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset.

The old house is not listed but could be considered as an historic asset.

TAN 24 advises (section 1.10) that Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) were published in 2011 and provide the basis upon which Cadw discharges certain statutory duties on behalf of the

Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process.

There are six principles.

1. Historic assets will be managed to sustain their values.
2. Understanding the significance of historic assets is vital.
3. The historic environment is a shared resource.
4. Everyone will be able to participate in sustaining the historic environment.
5. Decisions about change must be reasonable, transparent and consistent.
6. Documenting and learning from decisions is essential.

Conservation Principles prepared by Cadw in paragraph 5.4 advises that when considering change, public authorities will give due importance of the heritage values of a site when considering the sustainability of proposals submitted to them.

Paragraph 39 states Changes which would harm the heritage values of an historic asset will be unacceptable unless:

- a. the changes are demonstrably necessary either to make that asset sustainable, or to meet an overriding public policy objective or need; and
- b. there is no reasonably practicable alternative means of doing so without harm; and
- c. that harm has been reduced to the minimum consistent with achieving the objective; and
- d. it has been demonstrated that the predicted benefit decisively outweighs the harm to the values of the asset, considering;
  - its comparative significance;
  - the impact on that significance; and
  - the benefits to the asset itself and/or the wider community or society as a whole.

The old house appears in good condition and is an example of local vernacular, so technically HP11 seeks its preservation and in addition this would not appear to be the minimum consistent with achieving the objective as detailed in Conservation Principles and as such I would ask for consideration of its retention rather than demolition should the new house on a different site be considered acceptable.

In light of recent guidance by Cadw issued on 21 April which came into effect on 31 May in respect of Historic Environment Records, I have checked the Historic Environment Record on Archwilio and the old house is not on the historic environment record.

I can confirm that I would have no objection to the current application, and if possible I would prefer that the original house not be demolished for either building materials or to satisfy the policy as that would enable its retention and either quiet decay, or should the opportunity arise in the future for a non-vehicular re-use the local vernacular building could be retained.

As the current proposal is for its demolition, I would ask that RCAHMW be consulted on the application if possible in case they wish to record the building prior to its demolition. It would be useful if you could send RCAHMW the photographs taken on site and potentially CPAT in case they would like to record the presence of the building on the HER prior to its demolition.

Cadw

Thank you for your letter of 6 February 2017 inviting our comments on the planning application for the proposed development as described above.

The statutory role of Historic Environment Service (Cadw) in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. It is a matter for the local planning authority to then weigh our assessment against all the other material considerations in determining whether to approve planning permission, including any issues concerned with listed buildings and conservation areas.

Having carefully considered the information provided with the planning application, our records show that there are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. We therefore have no comments to make on the proposed development.

#### Clwyd Powys Archaeological Trust (CPAT)

Thank you for the consultation on this application.

I write to confirm that there are no archaeological implications for the proposed development at this location.

#### **Representations**

Following display of site notices, five public representations have been received and are summarised as follows:

- Government has introduced new policies which state that brownfield sites should be the priority rather than gardens;
- This 3 bedroomed, 2 bathroom, 2 car property is not an affordable dwelling;
- Local Development Plan Policies state that limited development to meet affordable need must be well integrated into the settlement and the dwelling at this location would not be well integrated into the area and would look out of place;
- The property being so close to Ty Brith is not in character with the area;
- The access road stated to require repair is in need of complete upgrading and it is not certain why Powys County Council have let it get into this state;
- Belan Einion has been empty for 15 years and in a state of disrepair (having been left to fall into disrepair) however it is not proven to be beyond realistic repair;
- There would not be an improvement in terms of highway safety with an increase in the amount of traffic visiting the area and the making of a vehicle access would be an added danger;
- Belan Einion is of a local vernacular character which should be reinstated;
- The proposed dwelling would not be adjacent to or in the footprint of the original dwelling and is some 1km away;
- There are other alternative sites with less impact;

- View from properties known as Bronhaul, Bethesda and Brynteg would be impacted (in terms of views);
- The visual amenity of the multiple poles and suspended wires to supply electricity, broadband and telephone should be considered;
- Dwelling will not fit into the layout of the settlement;
- Additional traffic, noise and light pollution;
- An attractive garden would be lost;
- The owners of Belan Einion should contribute towards the cost of repairing the Council highway or creating a private track;
- Loss of privacy;
- The proposed dwelling would be over 15% volume of the existing dwelling;
- Adverse visual impact of the development and from the centre of the settlement, a blank wall and chimney would be seen;
- Existing trees and hedgerows could not be retained;
- No mention of whether telephone box in highway verge is to be retained;

## **Planning History**

No relevant planning history

## **Principal Planning Constraints**

- Historic Landscapes Register Outstanding
- U5106 unclassified and unsurfaced highway
- U5106 unclassified highway
- Bwlch y Ddar is a rural settlement

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, November 2016)

TAN 1 - Joint Housing Land Availability Studies (2015)

TAN 5 - Nature Conservation and Planning (2009)

TAN 12 – Design (2016)

Welsh Office Circular 10/99: Planning requirements for non mains sewerage

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

### Local Planning Policy

*Powys Unitary Development Plan (March 2010)*

UDP SP3 - Natural, Historic and Built Heritage

UDP SP5 – Housing Developments

UDP DC11 - Non-mains Sewage Treatment

UDP ENV2 – Safeguarding the Landscape

UDP ENV3 - Safeguarding Biodiversity & Natural Habitats

UDP ENV7 - Protected Species  
UDP ENV6 - Sites of Regional and Local Importance  
UDP GP1 - Development Control  
UDP GP3 – Design and Energy Conservation  
UDP GP4 - Highway and Parking Requirements  
UDP HP1 – Housing Land Supply  
UDP HP11 - Replacement of Habitable Dwellings  
UDP HP3 – Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP TR2 - Tourist Attractions & Development Areas

Powys Residential Design Guide (2004)

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

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

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

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

#### Principle of development

Public representations have referred to policies contained within the Local Development Plan. The Local Development Plan is currently in draft form with the examination by the Welsh Government in progress currently, therefore at this current time planning applications are determined under the adopted Powys Unitary Development Plan (2010).

This is a unique application whereby an open market dwelling is being proposed in a rural settlement with the justification being that it constitutes a replacement dwelling.

The key policy for replacement of habitable dwellings is UDP Policy HP11 whereby three criteria are used to assess proposals to replace existing habitable dwellings. The criteria include the resistance of the loss of a building of special architectural and/or historic or local vernacular character and encouraging proposals to lie within or adjacent to the footprint of

the existing dwelling with a volume increase not exceeding 15% of that of the original dwelling.

Public representations and the Community Council have raised concerns over the proposal's compliance with UDP Policy HP11, particularly in terms of the second two criteria.

In terms of the first criterion of UDP Policy HP11, Belan Einion is an uninhabited dwelling, however it is noted the council tax is paid on the property and the building is clearly recognisable as a dwelling in terms of its physical appearance. Therefore, it is considered that the dwelling has not been abandoned and therefore meets the first criterion of the policy.

In terms of criterion 2, the Council's Built Heritage Officer has advised that Belan Einion appears in good condition and is an example of local vernacular, however it is not a listed building. Therefore, on the basis of this advice, the proposal would result in the loss of a building of local vernacular character which is substantially intact and as such consideration must be given to whether the building is beyond realistic repair. The application includes no information on why the dwelling itself is beyond realistic repair and states that the dwelling is substantially intact as was noted during the site visit. Such information would include costings for repair, however the submission puts forward the case that the dwelling is beyond realistic repair because the condition of the public highway to enable access to Belan Einion is such a poor physical condition that any development at Belan Einion is unviable. Limited information has been included within the submission in respect of the repair of the highway, however information was provided at pre planning application stage in terms of the cost of upgrading the unsurfaced and unclassified highway and the poor physical condition of the highway was witnessed at the site visit. It is considered that the problem in accessing the existing dwelling from the public highway could constitute a particular problem that would be resolved by the proposal and therefore could meet criteria 2 and 3 of UDP Policy HP11, however no detailed financial information and details relating to the highways situation is included within the submission and it is not known whether the costings provided at the pre planning application stage include repair of the highway to full highways standards or just to hard core standard. Public representations have also drawn the Planning Authority's attention to the Highways Act where it is stated that the Highway Authority can be forced

In terms of criterion 3, the replacement dwelling would not lie within or adjacent to the footprint of the original dwelling because it is proposed to construct the replacement dwelling within the rural settlement of Bwlch y Ddar, some 1km distant. However, criterion 3 allows for a change in position where there would be an improvement in terms of highway safety, visual and landscape impact or in solving a particular problem. As stated above, it is considered that the problem in accessing the existing dwelling from the public highway could constitute a particular problem that would be resolved by the proposal and therefore could meet criterion 3 of UDP Policy HP11, however insufficient information has been submitted to evidence this issue.

The application site area includes the existing dwelling, Belan Einion and the proposed location of the new dwelling and as such given that it is proposed to leave the existing dwelling in situ, if approval was recommended it would be recommended that the residential use of the existing dwelling would be removed by condition.

Public representations have also referred to the proposed dwelling being in excess of the scale of an affordable dwelling which is normally the only dwellings permitted in rural



settlements such as Bwlch y Ddar. The internal floor space of the dwelling measures at less than 130 square metres and as such, if proposed as an affordable dwelling, this scale would comply with the Council's affordable housing criteria set out in the affordable housing policies of the UDP. Given that the proposal is put forward under UDP Policy HP11, the new dwelling is not required to be restricted as an affordable dwelling, subject to compliance with UDP Policy HP11. As noted within the public representations, the submission does not include an indication of the scale of the existing dwelling for comparison in terms of scale.

Given the distance between the existing dwelling and that which is proposed Officers consider it necessary to consider the dwelling as a wholly new open market dwelling in a rural settlement. As such, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

## Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Bwlch y Ddar is defined in the UDP as a rural settlement. Bwlch y Ddar has very limited services however is within approximately 2 miles of both Llangedwyn and Llanfechain. Llangedwyn is a small village which is served by a place of worship, and school. Llanfechain is also a small village which is to be upgraded to a large village in the emerging LDP benefits from a range of services such as shop, post office, school, places of worship etc. Bwlch y Ddar is also approximately 2.8 miles from Llanfyllin, defined as an Area Centre in the UDP and provides a wide range of services.

Therefore, on balance Officers consider that an additional residential development in this location would accord with the provisions of Planning Policy Wales as it is considered to be a sustainable location.

## Design and impact upon character and appearance of locality

In terms of the proposed siting of the replacement dwelling in the rural settlement of Bwlch y Ddar, the site is clearly integrated within the settlement, being located within the cluster of dwellings considered to form part of the settlement. Public representations have raised concern over the impact of the development in terms of the density, the scale of the dwelling, the design and materials and the orientation of the dwelling. Bwlch y Ddar is a settlement where the dwellings are predominantly detached two storey dwellings with the frontages facing the highways.

The proposed dwelling measures approximately 13.5 metres (including single storey utility) by 6.8 metres (including porch) and 7.3 metres in height to the ridge. The dwelling would be double fronted with walls finished in render with stone cladding on the utility and chimney with a natural slate roof.

Officer acknowledge the concerns raised by third parties however consider that the proposed design of the dwelling and the materials used would integrate well in to the settlement and would not detract from the character and appearance of the area.

As such it is considered that the proposed development fundamentally complies with policy GP1.

## Impact upon amenities enjoyed by occupiers of neighbouring properties

The impact upon the amenities enjoyed by the occupants of neighbouring properties and the proposed dwelling itself will be a key consideration of the application. The site of the proposed dwelling is located within close proximity to a number of dwellings and as such it is advised that consideration is given to compliance with the privacy, overlooking and daylight standards advised within the Powys Residential Design Guide.

The adjoining property, known as Ty Brith, to the north east of the site is located at a slightly higher level than the application site. The dwelling is orientated so that its primary elevation faces south east. The proposed dwelling would be located to the south of Ty Brith and the rear of the proposed dwelling would be located a minimum of 15 metres from Ty Brith, however the proposed dwelling is not located directly in front of Ty Brith and would not be located directly to its front. Other nearby residential dwellings are Bronhaul, Bethesda and Tan y Llidiart which would be located 25, 27 and 30 metres respectively from the proposed dwelling.

Given the distance maintained and the change in topography it is considered that there would not be a detrimental impact to the amenity of either the existing or proposed dwellings.

### Ecology

Given the location and nature of the existing dwelling, it is considered that there is potential for the dwelling to accommodate protected species, in particular bats. If materials from the existing dwelling were to be used, it is advised that an ecology survey is included within the submission.

Ecology requested that works were undertaken to assess the potential for bat roosting opportunities within the existing dwelling. However, there are no plans to demolish the dwelling following discussion with the Built Heritage Officer. As such, as the original dwelling will remain it not considered necessary to require this information to be submitted.

With regards to the location of the proposed dwelling, the only comments made are in relation to the existing shrubbery and hedgerow on the site. No request for additional information was made for the proposed site subject to conditions requiring the submission of a tree and hedgerow protection plan.

As such it is considered that the proposed development fundamentally complies with the relevant UDP policies and Technical Advice Notes.

### Highway access and parking requirements

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. The Highway Authority were consulted on the application and offered no objection to the location of the new dwelling and its proposed access.

In light of the highways officers comments it is considered that the proposed dwelling fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Foul drainage

Policy DC11 requires applicants to demonstrate that foul sewerage can be adequately controlled. The application proposes the installation of a package treatment plant along with foul drainage soakaways.

Following consultation with Environmental Health initial concerns were raised regarding the level of detail submitted and the fact that the solution would not be acceptable for building regulation purposes.

Following the submission of additional information and plans Environmental Health were content that the information submitted demonstrated a system that would be in compliance with building regulations and offered no objection to the proposed development.

As such it is considered that the proposed development would fundamentally comply with policy DC11 of the Powys Unitary Development Plan.

## **Recommendation**

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

## **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 (drawing no's: L01, PL01, PL02, PL03, PL04 and the Design and Access Statement).
3. Notwithstanding the provisions of Article 3 and Parts 1 and 2 of the Second Schedule to the Town & County Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, and E) other than such development or operations indicated on the plans approved, shall be carried out without the prior written consent of the Local Planning Authority.
4. Prior to their first use full details or samples of materials to be used externally on walls and roofs including fenestration details shall be submitted to and approved in writing by the Local Planning Authority.
5. Prior to the occupation of the site 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.
6. The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

7. Before any other development commences 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 a point 0.26 metres above ground level at the edge of the adjoining carriageway and 33 metres distant in both directions 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 of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
8. Before any other development commences the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
9. Prior to the occupation of the site, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom (in-line with CSS Wales) excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
10. Before any other development commences 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 0.45 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
11. The width of the access carriageway, constructed as Condition 8 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.
12. There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.
13. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance 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. When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the septic tank or its soakaway installation.
15. The septic tank effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

16. Upon formation of the visibility splays as detailed in 10 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.
17. No storm water drainage from the site shall be allowed to discharge onto the county highway.
18. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

### **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. To accord with policy GP1 and GP3 of the Powys Unitary Development Plan (March 2010).
4. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan (2010), the Councils Residential Design Guide (2004) and Planning Policy Wales (Edition 9, 2017)
5. To accord with policy GP4 of the Powys Unitary Development Plan (March 2010)
6. To accord with policy GP4 of the Powys Unitary Development Plan (March 2010)
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17. To accord with policy GP4 of the Powys Unitary Development Plan (March 2010)

18. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

### **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.

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

It is an offence for any person to:

- Intentionally kill, injure or take any 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 2010 (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

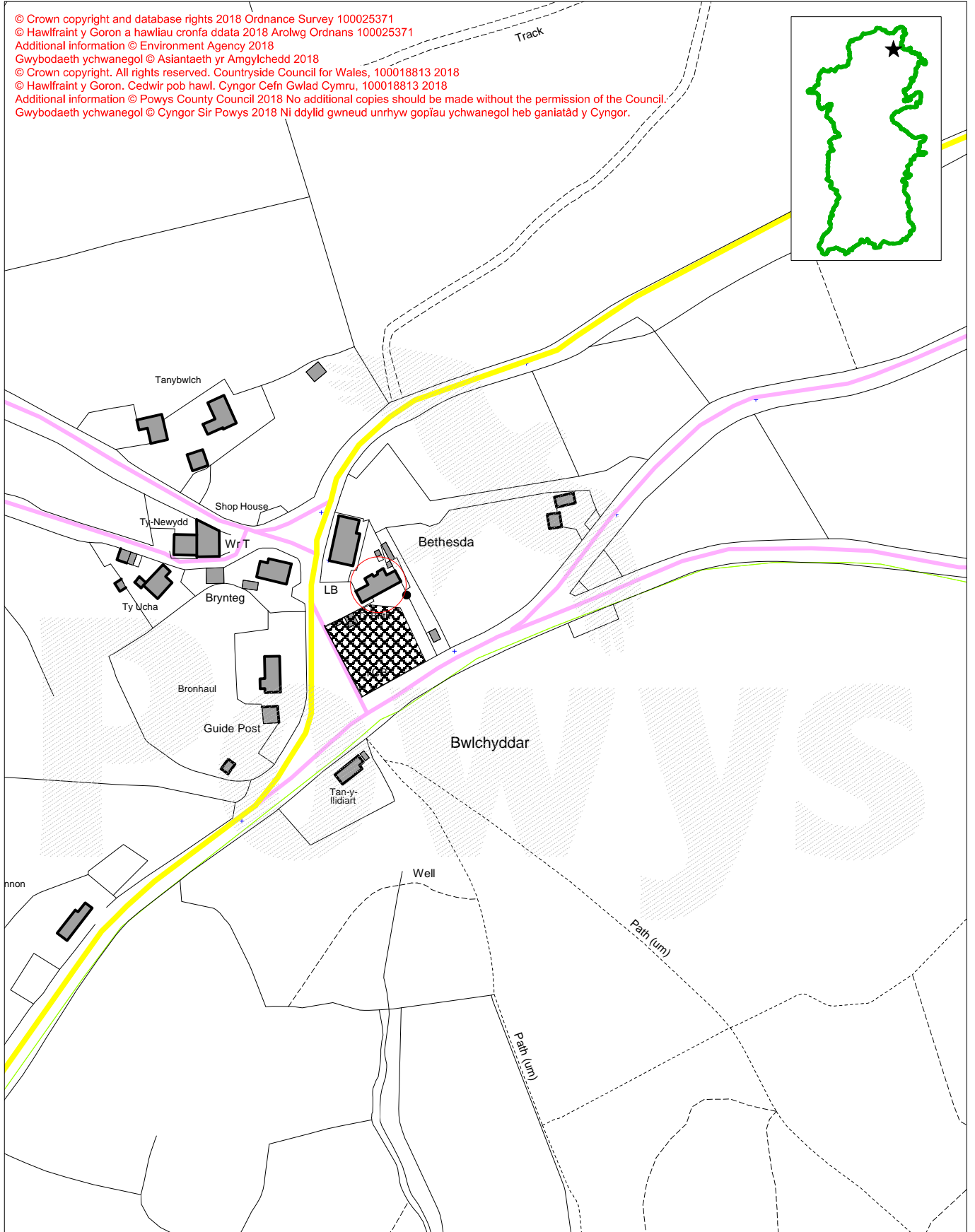
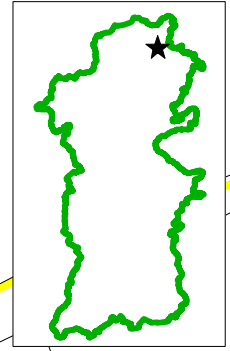
Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

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Case Officer: Tamsin Law- Principal Planning Officer  
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# 3.7

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

<b>Application No:</b>	P/2017/1236	<b>Grid Ref:</b>	316308.38 305645.95
<b>Community Council:</b>	Castle Caereinion	<b>Valid Date:</b>	<b>Officer:</b> 31/10/2017 Eddie Hrustanovic
<b>Applicant:</b>	A.N & D Davies & Sons Mr Ian Davies & Mr Gareth Davies Tynllan Farm Castle Caereinion Welshpool Powys SY21 9AL		
<b>Location:</b>	Tynllan Farm Castle Caereinion Welshpool Powys SY21 9AL		
<b>Proposal:</b>	Outline: Residential development of 9 dwellings with garages, new vehicular access, formation of estate road and all associated works/infrastructure (all matters reserved)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The proposed development is a departure from the development plan and is recommended for approval.

### Site Location and Description

The site subject to this application is immediately adjacent to the Castle Caereinion development boundary, however for the purposes of the Powys Unitary Development Plan (UDP) is defined as open countryside.

The site is located on the northern side of the village and it will be accessed of B4385 which runs through the village. The site is currently in agricultural use and it is adjacent to number of discussed agricultural buildings, which will be removed in order to free up the space for the recently approved housing development for 5 dwellings (P/2016/1065). The surrounding land consists of both arable and improved pastureland with associated hedgerows. Several residential dwellings are situated to the west, south, and south east the site.

The current proposal seeks outline planning permission, with all matters reserved for future consideration including access (which will be created from the B4385 County Highway) of the site. A total of 9 dwellings are proposed (7 open market + 2 affordable units). The scheme is arranged in a cul-de-sac form as found on the existing residential estates within the village.

Indicative plan and the covering statement state that in terms of scale, it is proposed that each dwelling will be two storeys with either 3 or 4 bedrooms and in the order of 175-200m<sup>2</sup> floor space, with the exceptions of affordable units which will have a floor space upto 130m<sup>2</sup>. Each dwelling will approximately measure 15m x 14m (length and width) with varying design features, while the heights would be between 4.5m upto 10m. Indicative plans also show sufficient gardens and amenity spaces between the each plot.

## **Consultee Response**

### Castle Caereinion CC

On review of the application, there is scope in the planning arrangement to have further phases of development beyond the initial application for 9 properties. As the community is keen to support development, can you request the Developer / Agent to issue supporting documents for further development phases. We are keen to keep our community safe, and about to undergo a large traffic calming programme within the village (supported by Norma Ledbetter of PCC) and we want to ensure all developments are sympathetic to our safety requirements within our community. We would like to know if there will be a consideration of affordable housing to assist young families to purchase homes within our community which will help to support our school; we would also like to know how the developer intends to ensure we have the highways infrastructure in place (pavements and roads) to support the development. As we feel both sets of queries require further supporting documents from the Agent / Developer, could you please grant an extension to this application whilst clarification is sought.

### PCC - Highways

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Whilst the Highway Authority do not object to the principle of development, any detailed application should include full access details which should include visibility splays, access surfacing, radii, width, gradient and drainage for the access.

Furthermore, full engineering drawings must be provided for the culvert under the access road and the storm water grate located in the verge. The indicative surface water attenuation system is not acceptable to the Highway Authority and a sustainable means of disposing of surface water will need to be submitted for consideration.

To ensure that adequate provision is made for highway access onto the County Highway to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

### PCC - Building Control

Building Regulations application required.

### Wales & West Utilities

Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry.

## Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

Severn Trent Water advise that there is a public sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

## PCC - Environmental Health

I have no objection to the application if its connected to mains drainage.

## PCC – Ecologist

Ecological Topic		Observations
EIA Screening Opinion needed?	No	The site area is understood to be 0.98 hectares and includes up to 9 dwellings. Therefore, it is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with	Yes	An Ecological Statement summarising the ecological surveys and mitigation proposals that have so far been agreed at the site has been submitted with the application by Ian Pryce Property Services. Ecological survey effort so far has included an extended Phase 1

<p><b>application?</b></p>		<p>habitat survey (Churton Ecology, September 2015) and subsequent Great Crested Newt surveys by Jon Sloan Ecological Consultants (August 2016 &amp; July 2017). These observations are also based on an interpretation of available aerial and street imagery, the submitted ecological information, plans and planning statement and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service.</p> <p>The proposal appears to be located in an agricultural field. The site is bounded by hedgerows to the north-east and south-west and it appears that the existing access provision would be used to accommodate site access. A housing development with planning permission granted is located immediately to the south (P/2016/1065). There does not appear to be any requirement for additional hedgerow or tree removal as part of this application, but there does appear to be some vegetation within the existing farmyard area that would be removed for the development. The existing boundary hedgerow appears to be indicated as being retained on the proposed block plan (ref: SK.001, dated September 2017). The same plan also indicates that new native hedgerow and tree planting is proposed within the development.</p>
<p><b>Protected Species &amp; Habitats<sup>1</sup></b></p>	<p>European Species <input checked="" type="checkbox"/></p>	<p>Within 1km of the site there historical records of unknown bat species (within 208m), pipistrelle bat species (within 335m) and Great Crested Newt (within 116m).</p> <p>There would not appear to be any loss of potential bat roost features for the proposals. However, the boundary hedgerow and trees are likely to provide a high value ecological habitat for a range of wildlife, including bats (a European Protected Species) and should therefore be protected from damage during the works in accordance with BS5837:2012.</p> <p>I also recommend that a sensitive lighting scheme is implemented to avoid adverse impacts on any nocturnal wildlife, such as bats, that may use the boundary hedgerow to the north-east of the site for foraging/roosting.</p> <p>With regards to Great Crested Newts, which have been confirmed as breeding immediately adjacent to the site, a European Protected Species licence will be required from Natural Resources Wales prior to commencement of development. In their consultation response (ref: CAS-46753-T4D8), NRW have advised that no development shall take place until the local Great Crested Newt population has been safely translocated to the receptor site and a Detailed Conservation Plan and Mitigation Strategy has been submitted and approved by the Local Planning Authority. This information should be based on the recommendations provided in the Jon Sloan ecology reports that have been submitted as part of the Ecology</p>

<sup>1</sup> Species records within 1km (minimum).

		Statement provided by Ian Pryce Property Services.
	UK Species <input checked="" type="checkbox"/>	<p>In addition to the species identified above, within 1km of the site there historical records of Badger (within 177m), Common Lizard (within 496m) and various breeding bird species including House Sparrow and Starling (within 115m).</p> <p>Nesting birds may use the hedgerows that border the proposed site and vegetation/buildings within the farm yard area. I recommend that any vegetation/site clearance works that are required to accommodate the proposed development are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation/site clearance required to facilitate the development, particularly the field margins and farm yard area. Suitable mitigation should also be provided to offset any losses of suitable reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>Based on the previous ecological information and current plans submitted no other nationally protected species would appear likely to be adversely affected by the proposals.</p>
	Section 7 Species & Habitats <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>In addition to the species identified above, within 1km of the site there historical records of Hedgehog (within 244m), Hare (within 247m) and Polecat (within 839m).</p> <p>Hedgehogs could be present within the field margins and overgrown areas within the farmyard. It is therefore recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider hedgehogs and other small mammals.</p> <p>Hedgerows are a Section 7 priority habitat and those bordering the site should therefore be protected during the works in accordance with BS5837:2012. The proposed new hedgerow and tree planting within the site is welcomed as a site biodiversity enhancement and should consist of a native, locally-occurring species mix to be</p>

		<p>approved by the LPA prior to commencement of the works.</p> <p>I also recommend that woodcrete bird and bat boxes for Section 7 and LBAP-listed species are incorporated within the proposals to enhance the habitat available at the site for these features. Bird boxes should be appropriate for use by House Sparrow, Starling and House Martin.</p>
	<p>LBAP Species &amp; Habitats <input checked="" type="checkbox"/></p>	<p>Please see my observations above regarding bats, great crested newts, hedgerows, reptiles, nesting birds and small mammals.</p>
<b>Protected Sites</b>	<p>International Sites (within 1km) <input type="checkbox"/></p>	<p>There are no international nature conservation sites within 1km.</p>
	<p>National Sites (within 1km) <input type="checkbox"/></p>	<p>There are no national nature conservation sites within 1km.</p>
	<p>Local Sites (within 500m) <input type="checkbox"/></p>	<p>There are no local nature conservation sites within 1km.</p>
<b>Invasive Non-Native Species</b>	<b>No</b>	<p>The presence of invasive, non-native species does not appear to have been detected from the ecological surveys completed so far.</p>
<b>Recommendations</b>		<p>The boundary hedgerow and trees are likely to provide a high value ecological habitat for a range of wildlife, including bats (a European Protected Species) and should therefore be protected from damage during the works in accordance with BS5837:2012.</p> <p>I recommend that a sensitive lighting scheme is implemented to avoid adverse impacts on any nocturnal wildlife, such as bats, that may use the boundary hedgerow to the north-east of the site for foraging/roosting.</p> <p>A European Protected Species licence will be required from Natural Resources Wales prior to commencement of development. In their consultation response (ref: CAS-46753-T4D8), NRW have advised that no development shall take place until the local Great Crested Newt population has been safely translocated to the receptor site and a Detailed Conservation Plan and Mitigation Strategy has been submitted and approved by the Local Planning Authority. This information should be based on the framework provided in the Jon Sloan ecology reports that have been submitted as part of the Ecology Statement provided by Ian Pryce Property Services.</p> <p>I recommend that any vegetation/site clearance works that are required to accommodate the proposed development are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works</p>



	<p>commencing.</p> <p>It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles and small animals during any vegetation/site clearance required to facilitate the development, particularly the field margins and farm yard area. Suitable mitigation should also be provided to offset any losses of suitable reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>The proposed new hedgerow and tree planting within the site is welcomed as a site biodiversity enhancement and should consist of a native, locally-occurring species mix to be approved by the LPA prior to commencement of the works.</p> <p>I also recommend that woodcrete bird and bat boxes for Section 7 and LBAP-listed species are incorporated within the proposals to enhance the habitat available at the site for these features. Bird boxes should be appropriate for use by House Sparrow, Starling and House Martin.</p>
<p><b>Further information required prior to determination of application</b></p>	<p>N/A</p>
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>The work shall not commence until the LPA has been provided with a licence for Great Crested Newts that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitat and Species Regulations (2017) authorising the specified work, or a letter provided by Natural Resources Wales informing the applicant that such licence is not required.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), Welsh Governments TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>The work shall not commence until a Detailed Conservation Plan and Mitigation Strategy, in accordance with the framework provided in the Jon Sloan ecology reports dated August 2016 and July 2017 submitted as part of the Ecology Statement provided by Ian Pryce Property Services, has been submitted and approved by the Local Planning Authority, and it has been confirmed in writing to the Local Planning Authority by the licensed ecologist that the local Great Crested Newt population has been safely translocated to the receptor site.</i></p>

	<p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), Welsh Governments TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.</p> <p><i>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 scheme details.</i></p> <p>Reason: To comply with Powys County Council’s UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1, Section 6 of the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long term retention.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3</p>
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and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1, Section 6 of the Environment (Wales) Act 2016.

*Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

*Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.*

#### **Informatives**

#### **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.

#### **EPS Licence Required**

A European Protected Species (EPS) licence is required in support of this development. Where an offence under Regulation 43 of the Habitat and Species Regulations 2017 is likely to occur in respect of this permission hereby granted, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts unless a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the local planning authority.

**Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017**

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017.

It is therefore an offence to:

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

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

**Reptiles - Wildlife & Countryside Act 1981 (as amended)**

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

	All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.
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#### PCC – Contaminated Land Officer

In relation to Planning Application P/2017/1236, the following advice is provided for the consideration of Development Control. The application proposal is for a residential development at Tynllan Farm. Agricultural buildings and land could contain potential sources of contamination depending on what they were used for in the past such as: pesticides, fuels and oils, slurry tanks and pits, fire sites, animal burial pits or other buried waste, fertiliser, sheep dip pits, asbestos, old machinery, waste chemical drums and ammunition. The current ordnance survey (OS) maps confirm the presence of a 'Slurry Pit' within the application boundary.

Furthermore, historic OS maps identify the presence of an area of unknown filled ground located within 30 metres of the application site boundary. The area of unknown filled ground could be a potential source of land contamination depending on the type and nature of the materials that have been deposited as fill.

Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2016) advises: "responsibility for determining the extent and effects of instability or other risks remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners".

However, no information in respect of the potential risks to the proposed development, associated with the presence of land contamination, has been submitted in support of Planning Application P/2017/1236. Based on the available information, it is recommended that the following Condition and Note, to the applicant, are attached to any permission granted for Planning Application P/2017/1236:

#### Condition A

##### Condition 1. Preliminary Investigation

No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority. This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best practice, and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- A desk study
- A site reconnaissance
- Formulation of an initial conceptual model
- A preliminary risk assessment

If the preliminary risk assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a suitably qualified competent person. The contents of the scheme and scope of works are subject to the approval in writing of the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 2. Site Characterisation

No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins.

The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

#### Condition 3. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 2 has been received from the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 4. Implementation of Approved Remediation Scheme

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

If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WPGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

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

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy \_\_\_\_ of the adopted Local Plan (date)].

#### Note to Applicant

##### Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

#### NRW – Ecology

Thank you for consulting Natural Resources Wales (email dated 10/11/2017) regarding the above. We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

##### Summary of Conditions

Condition 1 – GCN: Inclusion of a planning condition to any planning permission that prevents the commencement of development works until your authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to go ahead, or Natural Resources Wales has informed the applicant that such a licence is not required.

Condition 2 - GCN: No development shall take place until the local Great Crested Newt population has been safely translocated to the receptor site and a detailed Mitigation plan and Conservation Strategy has been submitted and approved in writing by the local planning authority.

### Protected Species – GCN

The proposal will lead to the destruction of a GCN breeding site and resting places at this site and will, therefore, require a licence.

Condition 1 – GCN: Inclusion of a planning condition to any planning permission that prevents the commencement of development works until your authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to go ahead, or Natural Resources Wales has informed the applicant that such a licence is not required.

However, the ecological reports by Churton Ecology and Jon Sloan included in the Ecological Statement by Ian Pryce Property Services, provide sufficient information to allow you to establish that the proposal will not be detrimental to the maintenance of the favourable conservation status of any great crested newt population in the area, provided a conservation strategy is developed and implemented in accordance with the framework in Jon Sloan's reports. This is to include details of an appropriate translocation plan which will need to be carry out under NRW license and completed prior to commencement of development on site.

Condition 2 - GCN: No development shall take place until the local Great Crested Newt population has been safely translocated to the receptor site and a detailed Mitigation plan and Conservation Strategy has been submitted and approved in writing by the local planning authority.

Please also note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

### Foul Drainage

There is no clear indication of the proposed method of foul water disposal at this stage, however we note that block plan drawing SK001 highlights the presence of a foul water main line near the proposal and we would therefore expect a connection can be made in line with current government policy.

Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website <https://naturalresources.wales/permits-and-permissions/water-discharges/?lang=en>

### Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on



our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

## CPAT

Thank you for the consultation on this application. Having checked the location against information held within the Historic Environment Record, including old OS mapping, NRW LiDAR data and aerial photography, I can confirm that there are no archaeological implications for the proposed development at this location.

## **Representations**

None received

## **Planning History**

P/2017/0821 - Full: Engineering operations to remove a former slurry pond to enable the re-profiling and reinstatement of the agricultural field. Approved

P/2016/1065 - Residential development of 5 dwellings with garages (to include 1 affordable), demolition of agricultural buildings and improvements to existing vehicular access. Approved

M/2006/0171 - Conversion and extension of a redundant farm building to form a residential dwelling, construction of a garage and formation of vehicular access at Tynllan Farm. Approved

M/2006/0170 - Conversion and extension of two redundant farm buildings to form 5 residential dwellings and construction of detached garage buildings with formation of vehicular access at Tynllan Farm. Approved

M/2006/0169 - Residential development comprising of 22 dwellings, formation of vehicular access and associated works at Tynllan Farm.

## **Principal Planning Constraints**

None

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1 - Joint Housing Land Availability Studies (2015)

TAN 2 - Planning and Affordable Housing (2006)

TAN 5 - Nature Conservation and Planning (2009)

TAN 6 - Planning for Sustainable Rural Communities (2010)

TAN 12 - Design (2016)  
TAN 18 - Transport (2007)  
TAN 20 - Planning and the Welsh Language (2017)  
TAN 23 – Economic Development (2014)  
TAN 24 – The Historic Environment (2017)

### Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy  
UDP SP5 - Housing Developments  
UDP GP1 - Development Control  
UDP GP3 - Design and Energy Conservation  
UDP GP4 - Highway and Parking Requirements  
UDP GP5 – Welsh Language and Culture  
UDP HP3 - Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP6 - Dwellings in the Open Countryside  
UDP DC10 - Mains Sewage Treatment  
UDP DC11 - Non-mains Sewage Treatment  
UDP DC13 - Surface Water Drainage  
UDP DC8 - Public Water Supply  
UDP DC9 - Protection of Water Resources  
UDP ENV1 - Agricultural Land  
UDP ENV2 - Safeguarding the Landscape  
UDP ENV3 - Safeguarding Biodiversity & Natural Habitats  
UDP ENV7 - Protected Species  
UDP ENV14 - Listed Buildings  
UDP ENV17 - Ancient Monuments and Archaeological Sites  
UDP TR2 - Tourist Attractions

Powys Residential Design Guide

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

### Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

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

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

### Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

### Housing land supply

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

Although located in the open countryside, the site adjoins the settlement development boundary of Castle Caereinion (defined as a small village within the current UDP). Castle Caereinion benefits from a school, shop, village hall and public house and benefits from public transport links to Welshpool, which is located 3.9 miles to the east of the site. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

In light of the above, whilst acknowledging that the proposal does constitute a departure from the development plan, Members are advised that the lack of a five year housing supply in Powys needs to be given considerable weight in the determination of this application. However, before reaching a decision, the scheme will need to be considered against other policies contained within the UDP in order for a balanced view to be made on the acceptability of the development overall.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Castle Caereinion (currently defined as a small village within the UDP, however its status has been upgraded to a large village in the emerging LDP). Castle Caereinion benefits from a school, shop, village hall and public house and benefits from public transport links to Welshpool, which is located 3.9 miles to the east of the site. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

Castle Caereinion had allocated site M114 HA1 - Land adjacent Tynllan (0.45Ha.) which contains 22 dwellings. No further allocations are proposed within emerging LDP allocation for the village.

However it is important to note that the village has recently gained several outline consents;

P/2016/1065 - Residential development of 5 dwellings with garages (to include 1 affordable), demolition of agricultural buildings and improvements to existing vehicular access on land adjacent to the current application site. It is important to note that the site was wholly within the designated settlement boundary.

While the following applications were considered as departures and approved my Members;

P/2016/0892 - Outline: Residential development and creation of vehicular access (5 dwellings). Approved.

P/2016/0893 - Outline: Residential development and creation of vehicular access (5 dwellings). Approved.

P/2016/0959 – Outline: Erection of 5 no dwellings with some matters reserved.

Currently pending there is also an application on one of the above sites to increase the number from 5 dwellings to 12 dwellings.

Whilst Castle Caereinion is currently classified as a small village within the UDP currently and UDP Policy HP4 indicates that the capacity of small villages is generally sites up to 5 dwellings, it is noted that the direction of travel in the LDP is that Castle Caereinion is proposed to be upgraded to a large village although without any further housing allocations, only providing for appropriate infill or affordable housing. Whilst the site is well related to Castle Caereinion consideration should be given to the overall level of growth for the settlement and the services that are available.

Overall, taking all the above factors into account, Officers consider that on balance the proposed additional residential development in this location could accord with the provisions of Planning Policy Wales in so far as it is a sustainable location.

## Siting, Design and External Appearance

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The proposed development is for up to nine dwellings, two of which are to be secured as affordable dwellings. The affordable dwellings are to be a maximum floor space of 130m<sup>2</sup>. This application is in outline form with appearance, landscaping, layout and scale being reserved for future consideration. The indicative site layout details a cul-de-sac formation, consistent with the surrounding built form, whilst the scale of the proposed dwellings are considered to be in keeping with those adjoining the site.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating nine dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

## Residential Amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

The proposed site is immediately opposite the existing dwellings located on the adjacent residential estate known as Tan y Castell. However given the distances between the properties and intervening land between the properties, the officers consider that there would be sufficient separation between the properties not to cause amenity issues between the residents of both sites.

Whilst details relating to design and appearance are reserved for future consideration, Officers consider that the amenities of neighbouring properties can be safeguarded through sensitive design and siting which will be reviewed appropriately by Development Management in considering any future application for the approval of reserved matters.

Following consultation with Environmental Health no objection has been received in relation to its impact on neighbour amenity.

In terms of overshadowing, the Residential Design Guide advises that where new development is less than 40 metres from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2 metres. Whilst this distance is less than 40 metres in relation to the proposed site, the detailed design could take account of the overshadowing guidelines and as such would be considered at reserved matters stage.

Taking into account the character of existing development in the locality, it is considered that the indicative layout demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide.

### Landscape Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

The proposed site currently forms agricultural land used for the purposes of grazing and is located directly adjacent to the existing settlement and the former farm holding. The proposed site is considered to be well associated with the existing settlement adjacent to existing dwellings and the proposed development would not result in a significant adverse impact upon the landscape or the character and appearance of the surrounding area.

### Highway Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

As part of this application process the relevant highways authorities have been consulted. This outline application is only considering the principle of residential development on the site with all matters reserved including the access. Although the access has been shown for indicative purposes Powys Highway Authority have confirmed that they do not object to the principle of development, any detailed application should include full access details which should include visibility splays, access surfacing, radii, width, gradient and drainage for the access. Furthermore, full engineering drawings must be provided for the culvert under the access road and the storm water grate located in the verge. The indicative surface water attenuation system would be not acceptable to the Highway Authority and a sustainable means of disposing of surface water will need to be submitted for consideration.

In light of the comments received it is considered that the proposed development could comply with provisions of Policy GP4 of the Powys Unitary Development Plan 2010 at the reserved matters stage.

### Impact on biodiversity

Policy ENV3 and ENV7 seek to protect biodiversity and protected species and habitats from harmful development. The proposed development would result in the loss of an area of approximately 0.98ha of agricultural land. No negative comments were made by County Ecologist or NRW with respect to the ecology of the site.

Having taken the consultations into account it is considered that, subject to suggested conditions by the County Ecologist and NRW, the ecological impacts of the proposed development are considered acceptable and are therefore in accordance with relevant planning policy. Therefore, on the basis of this advice, it is recommended that any consent

should include conditions requiring the submission of details with the reserved matters application which will increase site biodiversity in accordance with UDP Policy ENV3 and ENV7.

#### Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land (grades 1, 2 and 3a). The land is not designated within grades 1, 2 and 3a. Predictive Agricultural Land Classification (ALC) Map indicates that the land at this location is designated as 3b (Moderate quality agricultural land) and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

#### Foul and surface water disposal

Policy DC10 (Mains Sewerage Treatment) requires that development are adequately served by the public foul sewerage system, while the policy DC13 deals with surface water drainage.

The application states that the proposed development would utilise the existing mains sewerage system. Following consultation with Severn Trent Water and Powys Environmental Health which raised no objections to the scheme, and as such it is considered that there are no reasons that foul sewerage and surface water disposal cannot be acceptably accommodated as the part of the scheme. A condition requiring these details to be submitted and approved by the Council prior to construction will ensure adequate control over these measures in accordance with UDP Policy DC10 and DC13.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy DC10 of the Powys UDP.

#### Welsh Language and Culture

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Castle Caereion has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census it was indicated that in Castle Caereion 15% of the population spoke Welsh, while in 2001 census 17% of the population spoke Welsh. This indicates a decrease of 2%. However consideration should be given to the fact that the percentage of Welsh speakers in the 3 – 15 age group has increased by 12.7% from the 2001 census.

The scheme proposes one affordable unit and it is considered that the provision of affordable dwelling helps mitigate against the impact of a development on the Welsh language, the affordable dwelling provision and the contribution of four open market dwellings make to the lack of a five year housing supply are given considerable weight.

It is considered that the introduction of 9 dwellings in total will help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten local facilities or force sections of the population away from these facilities.

It is also considered that there is an intrinsic link between the provision of affordable housing and the cultural and linguistic vitality of an area. Affordable dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence this aids in retaining those residents and helps mitigate against the impact of a development on the Welsh language, the applicant has highlighted that the provision of affordable housing will be two in this instance.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

Therefore, given that two of the dwellings will be limited by condition as an affordable units, which is considered an appropriate level of affordable homes for the proposal, it is concluded that the development would assist in contributing to the well-being of the Welsh language in Powys.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

With regard to the developments impact on schools, given the scale of the proposed development, the impact on nearby schools is considered to be minimal. No adverse or positive impact can therefore be identified in relation to the balance between Welsh-speaking and non-welsh speaking students.

In relation to impact on health care provision, given the scale of the proposed development, the impact on health care provision is also considered to be minimal. No adverse or positive impact can therefore be identified in relation to Welsh medium services.

With regard to social tensions, conflict or divisions, given the scale of the proposed development, it is not considered that the proposal would have a significant uneven effect on different parts of the local community, which would potentially advantage some groups and disadvantage others. No evidence has been identified that the proposed development would violate traditional values of certain parts of the community.

## **RECOMMENDATION**

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception



to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

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

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% affordable dwellings;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced

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

6. Upon the submission of the reserved matters referred to in conditions 1 and 2 a reserved matters application shall include full access details, visibility splays, access surfacing, radii, width, gradient, drainage for the access, details for the culvert under the access road and the storm water grate located in the verge.

7. The work shall not commence until a Detailed Conservation Plan and Mitigation Strategy, in accordance with the framework provided in the Jon Sloan ecology reports dated August 2016 and July 2017 submitted as part of the Ecology Statement provided by Ian Pryce Property Services, has been submitted and approved by the Local Planning Authority,

and it has been confirmed in writing to the Local Planning Authority by the licensed ecologist that the local Great Crested Newt population has been safely translocated to the receptor site.

8. Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

9. 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 scheme details.

10. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

11. Prior to commencement of development, a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification - the species, sizes and planting densities - and a timetable for implementation and future management to ensure good establishment and long term retention.

12. Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

13. An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed prior to the commencement of development. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (a contaminated land specialist with proven experience within the contaminated land industry) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

(ii) an assessment of the potential risks to:

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

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

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

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

14. 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 shall be completed prior to the commencement, and is subject to the approval in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for the above condition has been received from the Local Planning Authority.

15. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. The verification report contents shall be agreed with the Local Planning Authority before commencement of the remediation scheme.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 16, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 17, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the above conditions.

17. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the Local Planning Authority and the provision of reports on the same shall be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

18. The development hereby permitted must be served by the public foul sewerage system (mains) prior to the occupation of any of the units.

19. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning

authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and retained in perpetuity.

## Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
5. In order to ensure that the dwellings serve an affordable need in perpetuity in accordance with the Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011), Policies HP7 and HP10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), Welsh Governments TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
8. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.
9. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1, Section 6 of the Environment (Wales) Act 2016.
10. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
11. To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1, Section 6 of the Environment (Wales) Act 2016.
12. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
13. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
14. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without

unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

15. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

16. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

17. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DC15 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).

18. To ensure that development is served by the public system in accordance with policy DC10 of the Powys Unitary Development Plan.

19. To ensure that development is served by the public system in accordance with policy DC10 of the Powys Unitary Development Plan.

## **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.

EPS Licence Required

A European Protected Species (EPS) licence is required in support of this development. Where an offence under Regulation 43 of the Habitat and Species Regulations 2017 is likely to occur in respect of this permission hereby granted, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts unless a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the local planning authority.

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017.

It is therefore an offence to:

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

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

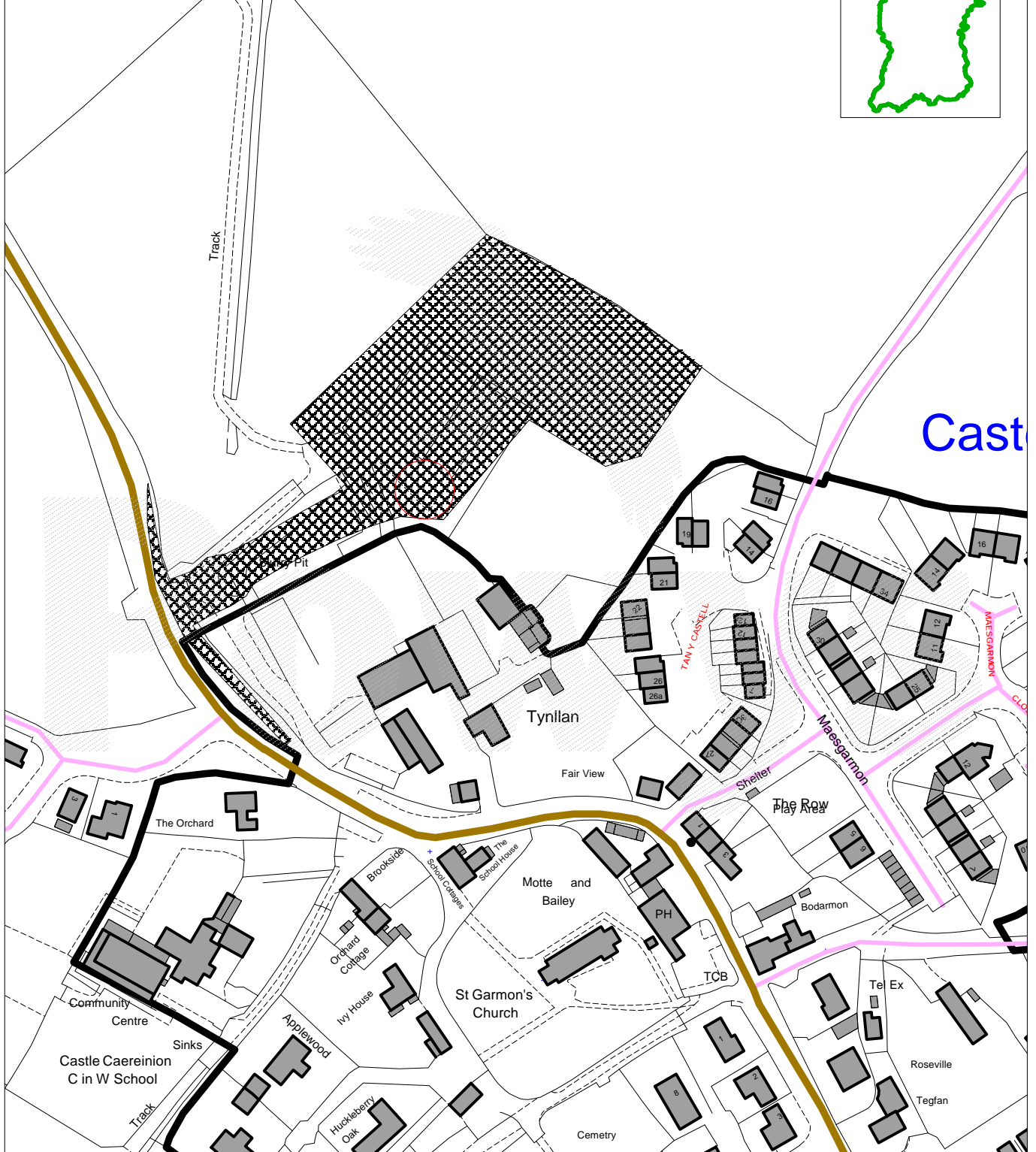
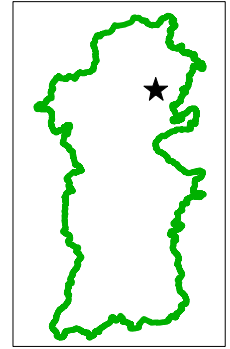
The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

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Case Officer: Eddie Hrustanovic- Swyddog Cynllunio / Planning Officer  
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Objection            Please        Tick

If an objection is lodged the Council is asked to state its reasons based on material planning grounds. (See section in Planning Guide on material planning considerations.)

1. The Council is concerned about the increase in vehicles that would be using a part of the highway where the visibility is difficult at the junction.
2. There is concern that this number of dwellings might affect local wells. A neighbouring planning application was refused in the past due to concern about the water issues.
3. The Council would also like reassurance that a septic tank would be sufficient
- 4.

Support            Please Tick   

The Council is asked to state its reasons based on material planning grounds. (See section in Planning Guide on material planning considerations.)

- 1.
  - 2.
  - 3.
  - 4.
- Signed .....Sarah Yeomans..... Date ...1 December 2017.....

Clerk to the Community Council

PCC - Highways

*Consultation received 24/11/2017*

The County Council as Highway Authority for the County Class III Highway, C2012

Wish the following recommendations/Observations be applied  
Recommendations/Observations

This application should be deferred.

## Reasons for Deferral

This outline application includes access to be determined now and the applicant's agent suggests that the conditions applied to P/2017/0240 are replicated on the current application.

Despite access being included in this application, only the proposed visibility splay is shown on plan, no other details pertaining to the access have been submitted.

The previous application at the proposed development site was for a change of use with no additional movements. The current application being for three dwellings requires the access to be upgraded to reflect the additional movements. As such, revised plans should be submitted showing the proposed access improvements, relocation of the highway signage and street lighting. Furthermore, the access width should be 5.5 metres for a minimum of 10 metres, with the gradient not exceeding 1 in 15 metres for the first 10 metres.

To ensure that adequate provision is made for highway access onto the County Highway to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

### *Consultation received 21/12/2017*

Thank you for the attached plan which addresses our concerns with the access, I do however, have a few other issues with this development as below;

- There is no proposed footway
- There is no safe means of accessing the cabinet and de-fib station by pedestrians
- The Highway Authority will not allow slabs/chippings to be placed in the highway verge (plot 1), this needs to be removed from the drawing
- The proposed location for the road signage and street light is within private ownership, therefore the applicant would need to enter into a S.38 agreement (Highways Act 1980) so that this area can be adopted by the Highway Authority – this is a lengthy process and fees apply
- The reference to the access being approved under a previous application is misleading

### *Consultation received 17/01/2018*

The County Council as Highway Authority for the County Class III Highway, C2013

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Does not wish to comment on the application

1. Notwithstanding the approved plans, full details in relation to the relocation/removal of the existing highway signage and lighting shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of any works on site.

2. Prior to any works commencing on the development site, the alterations to the street lighting and highway signage, 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.

3. Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

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 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

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 the 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 HC7 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 the 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. When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of any septic tank or its soakaway installation.

15. The septic tank effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.

16. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

17. Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge/fence/wall 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.

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

To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

#### Wales & West

Wales & West Utilities acknowledge receipt of your notice received on 08.11.2017, advising us of the proposals for:

Cefn Bryn, Cefn Coch, Welshpool, Powys, SY21 0AE

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, 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.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

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.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### PCC - Environmental Health

*Correspondence received 15/11/2017*

I object the application at the current time as there are no details or information relating to the specifications of the foul drainage system.

I require the percolation test results, plant detail, capacity etc. to determine its suitability.

*Correspondence received 06/02/2018*

I've been to the site today and I have no objection to the application provided that they comply with the requirements of the Building Regulations in relation to foul drainage being sufficient distances from dwellings, watercourses and Private water Supplies.

*Correspondence received 07/02/2018*

I've never had complaints noise or any other nuisance relating to the pub or farm and there are other houses in closer proximity.

Unless one of the two businesses change their current method of operation significantly, I wouldn't consider it a planning consideration from an Environmental Health perspective.

### PCC - Ecologist

Ecological Topic		Observations
EIA Screening Opinion needed?	No	The development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application?		<p>An ecological appraisal has not been submitted with the application. These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys and Brecon Beacons Biodiversity Information Service.</p> <p>The proposal is for 3 dwellings and a septic tank located in a small field adjacent to the property Cefn Bryn. The proposed parking and access shown on the Block plan: 6264/17/03 have received prior planning permission under P/2017/0240.</p> <p>A small section of hedgerow would need to be realigned in-front of Property 1 to create a visibility splay.</p>
Protected Species & Habitats <sup>1</sup>	European Species <input checked="" type="checkbox"/>	<p>There are historic records of an unknown and a pipistrelle bat within 400m. No potential bat roosts would appear to be lost as a result of the proposals. However, the hedgerows are likely to provide linear commuting and foraging habitat for a range of bat species. I recommend that the retained hedge and tree boundaries are protected during construction and prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 is agreed by the Local Planning Authority.</p> <p>I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>GIS plans indicate a pond within 170m although this is not evident from aerial imagery. There are no great crested newt records within the 1km search area and as it is recommended that the northern boundaries are to be retained and protected during development no further mitigation for great crested newt is recommended.</p>

<sup>1</sup> Species records within 1km (minimum).

	UK Species <input checked="" type="checkbox"/>	<p>There are historic records of nesting bird species within 1km of the site and the boundary hedgerow to be realigned for visibility offers suitable habitat for a range of nesting bird species.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird-nesting season (generally March to August inclusive). If work that could destroy bird-nesting habitat is to proceed in the bird-nesting season, a suitably experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>Enhancement of the site by installation of bat boxes (e.g. House Sparrow nest boxes) as part of the proposals would also be welcomed.</p>
	Section 7 Species & Habitats <input checked="" type="checkbox"/>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Hedgerows are Section 7 Priority Habitats. Given the proximity of development works to boundary hedgerows, prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted and approved by the Local Planning Authority.</p> <p>I recommend that the detail of the proposed landscaping is presented on a landscaping plan and should consist of native, locally-occurring species.</p>
	LBAP Species & Habitats <input type="checkbox"/>	See previous observations.
<b>Protected Sites</b>	International Sites (within 1km) <input type="checkbox"/>	None within the search area.
	National Sites (within 1km) <input type="checkbox"/>	None within the search area.
	Local Sites (within 500m) <input type="checkbox"/>	None within the search area.
<b>Invasive Non-Native Species</b>	<b>Unknown</b>	From aerial imagery, it is unlikely there are invasive species at this location.



<p><b>Recommendations</b></p>	<p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird-nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>I recommend that the retained hedge and tree boundaries are protected during construction and prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 is agreed by the Local Planning Authority.</p> <p>I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>A Landscape Planting plan including a Species List shall be submitted and approved by the Local Planning Authority prior to commencement.</p> <p>Enhancement of the site by installation of bat and bird boxes (e.g. House Sparrow nest boxes) as part of the proposals would also be welcomed.</p>
<p><b>Further information required prior to determination of application</b></p>	<p>N/A</p>
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a Landscape Planting plan including a Species List shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature</p>

Conservation and Planning and the Environment (Wales) Act 2016.

*Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

*Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

#### **Informatives**

#### **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 Schedule1 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.
<b>Relevant UDP Policies</b>	SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 7: Protected Species

## Representations

Following the display of a site notice on the 10/11/2017 for the period of 21 days one public representation of objection was received. Following the amendments to the proposal a subsequent site notice was displayed on the 26/01/2018 for the period of 21 days, no public representations have been received.

The objections raised are as follows;

- 1) poor access / highways
- 2) limited amenities within the area
- 3) the impact on existing business' in the village.

## Planning History

P/2017/0240 - Full: Change of use of part of dwelling into a self contained holiday unit together with alterations to vehicular access – Conditional Consent

## Principal Planning Policies

### National planning policy

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note 1 - Joint Housing Land Availability Studies (2015)

Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)

Technical Advice Note 12 – Design (2016)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Welsh Government Circular 016/2014: The Use of Conditions

Welsh Officer Circular 10/99: Drainage

### Local planning policies

Unitary Development Plan (March 2010)

SP3 – Natural, Historic and Built Heritage

SP5 – Housing Developments

GP1 – Development Control

GP3 – Design and Energy Conservation  
GP4 – Highway and Parking Requirements  
ENV 2 - Safeguarding the Landscape  
ENV 3 - Safeguarding Biodiversity and Natural Habitats  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Developments  
HP6 - Dwellings in the Open Countryside  
HP9 - Affordable Housing in Rural Settlements  
HP10 - Affordability Criteria  
DC1 - Access by Disabled Persons  
DC11 - Non-mains Sewage Treatment  
DC13 - Surface Water Drainage  
RL4 - Outdoor Activity and Pony Trekking Centres  
RL6 - Rights of Way and Access to the Countryside

Powys Residential Design Guide (2004)

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

### Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

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

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

#### Principle of Development

The application site lies outside of any development boundaries identified in the Powys Unitary Development Plan (2010) and is within the rural settlement of Penrhos. Outside of settlement boundaries, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed

development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Cefn Coch is defined in the UDP as a Small Village. Cefn Coch is served by a limited range of community services such as a public house and a bus service to Newtown and Welshpool.

Llanfair Caereinion is an Area Centre located approximately 5.8Km to the north east of Cefn Coch. Llanfair Caereinion offers a large variety of services facilities including a Primary School, High School, Community Centre, Public Houses, Dentist and Place of Worship. Llanfair Caereinion is also easily accessible by public transport with regular bus services to Oswestry, Welshpool and Newtown as well as a steam railway service to Welshpool.

Therefore, on balance Officers consider that an additional residential development in this location would accord with the provisions of Planning Policy Wales as it is considered to be a sustainable location.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

This application is submitted in outline with all matters reserved to be considered during the submission of the reserved matters other than access.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the dwelling proposed is to be a detached dwelling measuring;

- Length 8 -13 metres
- Width 6 - 9 metres
- Height 5.5 - 7.5 metres

The dwelling is not proposed as an affordable dwelling, however due to the nature of the proposed dwellings and their floor area being under 130m<sup>2</sup> the properties are envisaged to be naturally affordable.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating a single dwelling without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The proposed site is located immediately adjacent to the development boundary of Cefn Coch. The site is bound by the development boundary to the south east, south and west. The site is located adjacent to the dwelling known as. It is considered that the current proposal site is integrated well adjacent to the development boundary.

The development will be seen immediately adjoining the property of Cefnybryn and opposite Cefn Coch Inn which is considered to be the centre of Cefn Coch and is considered acceptable in visual impact terms.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the indicative layout provided, it is considered that the application site is capable of accommodating a dwelling without

unacceptably adversely affecting the character and appearance of the area compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the dwelling will be located adjacent to the dwelling known as Cefnybryn located adjacent to the proposed site. The indicative layout shows that the dwelling would be slightly offset and located approximately 14 metres to the west of Cefnybryn. It is considered that there is sufficient distance between the existing property and the proposed dwellings as to not have a significant adverse impact upon the amenities enjoyed by the occupants of this neighbouring property.

This layout is for indicative purposes only and the layout of the site could be altered at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and right of way the proposal would result in a visual change in comparison to the current over grown parcel of land, taking into account the location adjacent to existing dwellings within the development boundary, landscaping measures would reduce the visual impact and that the proposed scale of the dwelling, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

The Highway Authority were initially consulted on this application and raised objections to the development. Following the submission of additional information and the reduction of the scheme to a single dwelling the Highways department raise no objection to the proposal subject to conditions being attached to any grant of consent.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Ecology and Biodiversity

As part of this application process our County Ecologist had been consulted and has provided comments on the application.

The Ecologist has raised no concerns to the proposed development. The Ecologist has requested that a number of conditions are attached to any grant of planning permission. A condition was recommended for a landscaping plan to be submitted, however landscaping is for consideration at reserved matters and therefore is not required to be included.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions on lighting the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

### Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Cefn Coch is identified as one of these areas and it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Dwyriw Ward reported that 27% of the population spoke Welsh. This is a slight decrease from the 2001 census which stated that 33% of the population of Dwyriw ward spoke Welsh however is a small reduction from the 1991 census where 30% spoke Welsh. The data illustrates that Dwyriw has suffered from a decline of Welsh speakers in the village. With every rural village, it suffers from an ageing population. However the reduction is only 3% in the last 20 years, which is comparatively low.

In relation to economic development, it is considered that the potential construction of a dwelling would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.



In conclusion, the scale and type of development is considered not to have a significant detrimental impact on the Welsh Language and Culture of the settlement, and therefore fully complies with National and Local Policies.

### Foul and Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

Policy DC10 of the Powys Unitary Development plan seeks to ensure that development proposals are only permitted where they can be adequately served by the public foul sewerage system.

Environmental Health were consulted and stated that provided the drainage system complies with the requirements of building regulations in relation to foul drainage being sufficient distances from dwellings, watercourses and Private water Supplies they have no objection to the the application.

In light of this, it is considered that surface water drainage can be appropriately managed.

### Public Representations

Public representations of objection have been raised with regards to the proposal and are as follows;

#### 1. poor access / highways

The objector has raised concerns regarding the access, the access means that cars will be pulling out directly onto the C2013 which runs through the village of Cefn Coch. Although classified as a minor road, this road serves considerable volume of traffic. It is the main access to the industrial site H.V Bowens, Tan-y-Foel Quarry and as a result a large number of heavy goods and articulated lorries pass through the village throughout the day. The access for the proposed properties at Cefn-y-Bryn will be subject to poor visibility towards the East due to the location of the existing Cefn-y-Bryn which is located directly on the roadway. Vehicles pulling out onto the carriage way will be moving directly on to the juncture where the southern C2015 road joins on to the East-West C2013 road. An additional junction at this location is a safety concern. Vehicles frequently park between the proposed access and Frongoch Hall Lane to the west of the proposed site. When such parked vehicles are present the visibility will be further reduced.

The highways department have been consulted and following the submission of amended highways details consider the proposed access to be sufficient for the development of one dwelling as referred to in the highways section above.

#### 2. limited amenities within the area

There are no amenities within Cefn Coch. The nearest amenities (school, shop, doctors) are located within the key settlement of Llanfair Caereinion which is 5 miles to the North East of Cefn Coch. The recent classification changes proposed within the draft of the Local

Development Plan will see Cefn Coch demoted to a rural settlement and as such the provision of amenities within this area will continue to be frequented at Llanfair Caereinion.

Consideration has been given to the sustainability of the area in the sustainability section above. It is considered that the proposal for a single dwelling would have a detrimental impact.

3. the impact on existing business' in the village.

The objector has raised concerns in relation to the impact upon local businesses. Cefn Coch is very much a working village and the proposed site is very close to Cefn Coch Inn and Cefn Coch Farm. The Inn which hosts events and functions throughout the year can be described as "lively" and has a flourishing trade in meals particularly in the summer months. Residents of the new proposed properties might expect that their quiet enjoyment of their properties might be impacted by the sound and traffic generated by the Inn. It is foreseeable that the inhabitants of these properties might request restrictions to be imposed upon the business, potentially harming its viability and having a detrimental effect upon the economy of the village.

Similar arguments maybe made with regard to Cefn Coch Farm. This busy livestock farm requires the movement of livestock, vehicles and agricultural machinery sometimes at anti-social hours and the proposed houses will be built directly opposite Cefn Coch Farm entrance. As with the Inn this activity could impact upon the new houses and the social coherence of the village might be compromised.

I feel strongly that existing business at the heart of this village should not face the risk of restrictions in their methods of operation.

The proposal is considered in line with policy GP1 which states;

3. The amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise, light, dust, odour, hours of operation or any other planning matter;

It is noted that the site lies opposite Cefn Coch Inn and Cefn Coch Farm. The concerns have been raised to Environmental health; however the officer considered that there have been no previous complaints with regards to noise or any other nuisance relating to the pub or farm and there are other houses in closer proximity. The Environmental Health officer concluded that unless one of the two businesses change their current method of operation significantly, I wouldn't consider it a planning consideration from an Environmental Health perspective.

It is therefore considered that the proposed development of a single dwelling would impact the current businesses of Cefn Coch.

## **RECOMMENDATION**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries significant weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent

## **Conditions**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx in so far as the extent of the application site is drawn and the access point onto the C2013 highway (drawing no: 6264/17/02 Rev A).
5. Notwithstanding the approved plans, full details in relation to the relocation/removal of the existing highway signage and lighting shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of any works on site.
6. Prior to any works commencing on the development site, the alterations to the street lighting and highway signage, 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.
7. Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
8. 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.
9. 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.
10. Before any other development commences 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 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

11. Before any other development commences 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.
12. Prior to the occupation of the 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.
13. Before any other development commences 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.
14. The width of the access carriageway, constructed as Condition 11 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.
15. 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.
16. There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.
17. Prior to the occupation of the 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,
18. When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of any septic tank or its soakaway installation.
19. The septic tank effluent in connection with the development hereby permitted shall not interfere or connect in any way with the highway surface water drainage or give rise to a nuisance upon the highway.
20. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

21. Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge/fence/wall 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.
22. No storm water drainage from the site shall be allowed to discharge onto the county highway.
23. No external lighting shall be used in the development unless a lighting design scheme to take any impacts on nocturnal wildlife into consideration has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved scheme.
24. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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22. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4
23. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
24. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

## **Informative Notes**

## Building Regulations

Building Regulation application may be required.

## Biodiversity

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.

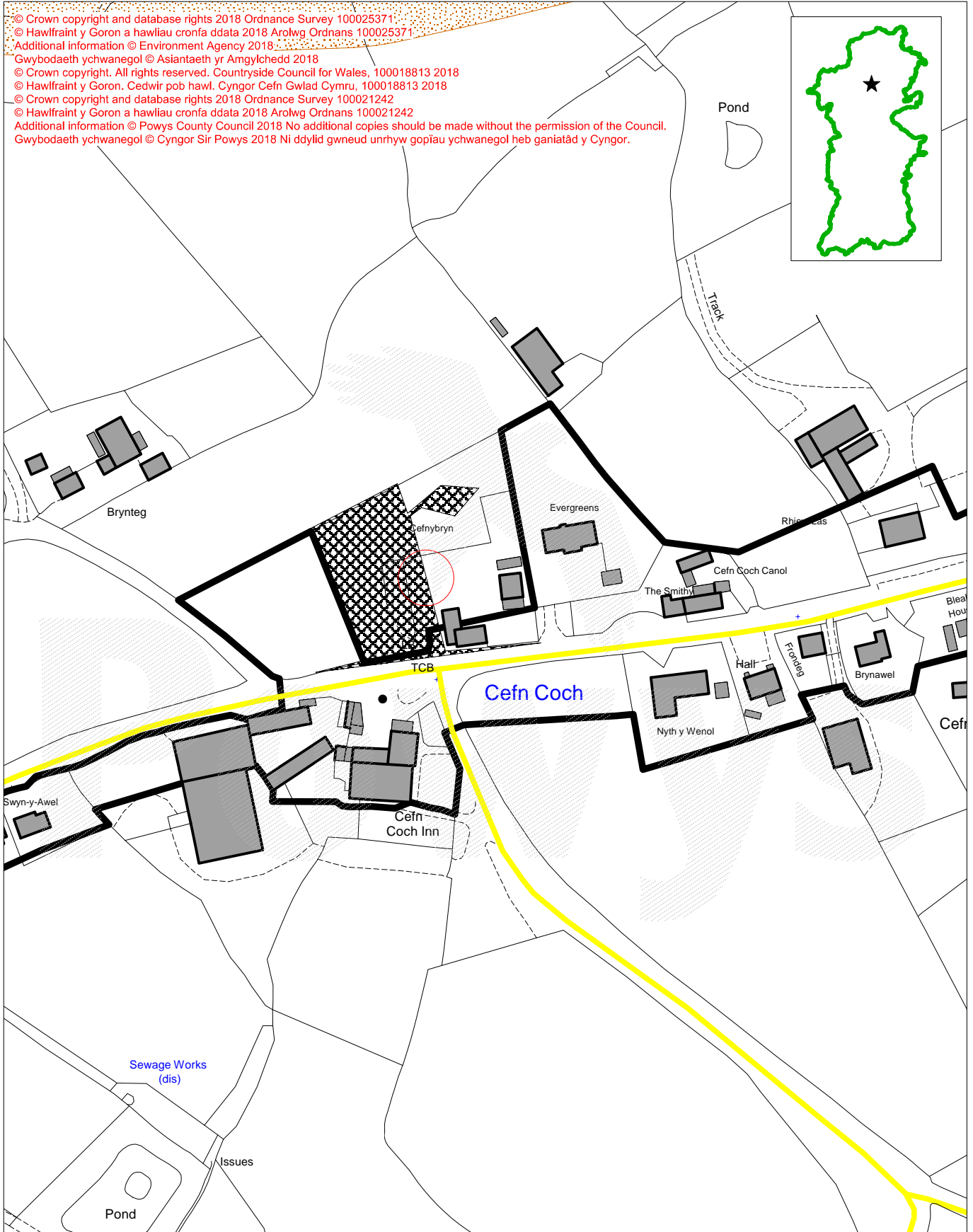
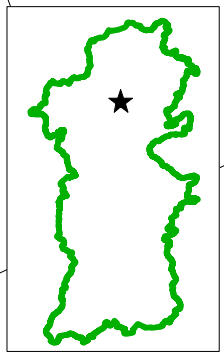
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The Highway Authority notes that the existing access between the proposed development site and Plas Coch is yet to be stopped up as per M2005/0178, condition 4.

To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

### Building Control

Building Regulations approval required.

### Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

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.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

*Correspondence received 10<sup>th</sup> November 2017-*

I note that the percolation test was done in 2012. Were they done as part of another application?

I will require the test holes to be reopened for inspection.

*Correspondence received 20<sup>th</sup> February 2018 –*

I've been to the site last week and inspected the holes. I have no objection to the application.

### **Representations**

The proposed development was advertised by site display and within the local press. At the time of writing this report, no public representations have been received by Development Management.

### **Planning History**

- No planning history on application site.

- P/2017/1265 - Outline: Residential development of one dwelling with associated works. Pending determination. (NEIGHBOURING SITE).
- P/2009/1135 - Reserved matters application for access, appearance, landscaping, layout and scale in connection with planning application M2006 0541 relating to erection of a dwelling & formation of access. Approved. (ADJOINING SITE).

## **Principal Planning Constraints**

No known planning constraints.

## **Principal Planning Policies**

### National Policies

Planning Policy Wales (9th Edition, 2016)

- Technical Advice Note (TAN) 1 – Joint Housing Land Availability Study (2015)
- Technical Advice Note (TAN) 5 – Nature Conservation and Planning (2009)
- Technical Advice Note (TAN) 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note (TAN) 12 – Design (2016)
- Technical Advice Note (TAN) 18 – Transport (2007)
- Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2013)
- Technical Advice Note (TAN) 23 – Economic Development (2014)

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Welsh Office Circular 13/97 - Planning Obligations

### Local Policies

Powys Unitary Development Plan (2010)

- SP2 – Strategic Settlement Hierarchy
- SP5 – Housing Developments
- SP6 – Development and Transport
- GP1 – Development Control
- GP2 – Planning Obligations
- GP3 – Design and Energy Conservation
- GP4 – Highway and Parking Requirements
- ENV2 – Safeguarding the Landscape
- ENV3 – Safeguarding Biodiversity and Natural Habitats
- ENV7 – Protected Species
- HP3 – Housing Land Availability
- HP4 – Settlement Development Boundaries and Capacities
- HP5 – Residential Development
- HP6 – Dwellings in the Open Countryside
- DC3 – External Lighting
- DC11 – Non-mains Sewage Treatment

## DC13 – Surface Water Drainage

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

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

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

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

#### Principle of Development

The application site lies outside of the settlement development boundary identified in the Powys Unitary Development Plan (2010). Outside of settlement boundaries, UDP Policy HP4 applies and states that *'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'*. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

#### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that *'Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.'*

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be

taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*“The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### Sustainability

Planning Policy Wales (PPW) confirms “sustainable development” to mean the process of improving the economic, social, environmental and cultural well-being of Wales, and that the planning system provides for a presumption in favour of sustainable development.

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Cefn Coch is defined within the Powys UDP as a small village. Existing services within the village include a public house, post box and public telephone. Cefn Coch is located within approximately 10 miles of Newtown and approximately 4.5 miles from Llanfair Caereinion, both of which are identified as Area Centres within the plan. Services within the respective settlements include primary education, recreation ground, Doctor’s surgery, shops and public houses.

In light of the range of services located within a relatively short travelling distance of the development site, Officers consider that there is an argument to support the principle of residential development at this location given its siting adjacent to an existing settlement. On this basis, the proposed site is considered to be a sustainable location for residential development of a single dwelling.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst matters relating to scale, appearance, layout and landscaping are reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating the proposed single dwelling without unacceptably adversely

affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Highway Safety and Access

UDP policy GP4 confirms that permission for development will be dependent on adequate provision for highway access including visibility, turning, passing and parking. Access to the proposed site of development will be provided via a new access off the county highway whilst turning and parking provision will be provided within the application site boundary.

Whilst Officers acknowledge that access details are reserved for future consideration, given the Highway Authority response received, it is considered that access to the application site can be achieved, compliant with policy GP4 of the Powys UDP.

### Drainage

UDP policy DC11 indicates that where it is not feasible for development proposals to connect to the public foul sewerage system, permission will be granted for the provision and use of private treatment plants providing that the ground conditions, in terms of drainage and porosity are suitable and will not give rise to pollution or amenity problems.

The scheme proposes the installation of a private treatment plant and discharge to a soakaway. Following inspection of the porosity test holes, the Environmental Health Officer has confirmed that the Authority have no objection to the proposed means of foul drainage. The proposal is considered to be in accordance with UDP policy DC11 as above.

### Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area.

Members are advised that the 2011 census, reported a decline in the percentage of Welsh speakers within the Dywriw Ward. Given the scale of the proposed development and notwithstanding the identified importance of Welsh language within the host ward, it is not considered that the proposal will have a detrimental impact on the cultural or linguistic vitality of the area.

## **RECOMMENDATION**

Whilst the proposed development represents a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of consent subject to the conditions detailed below;



Conditions:

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXXX (drawing no: 1808.30A)

Reasons:

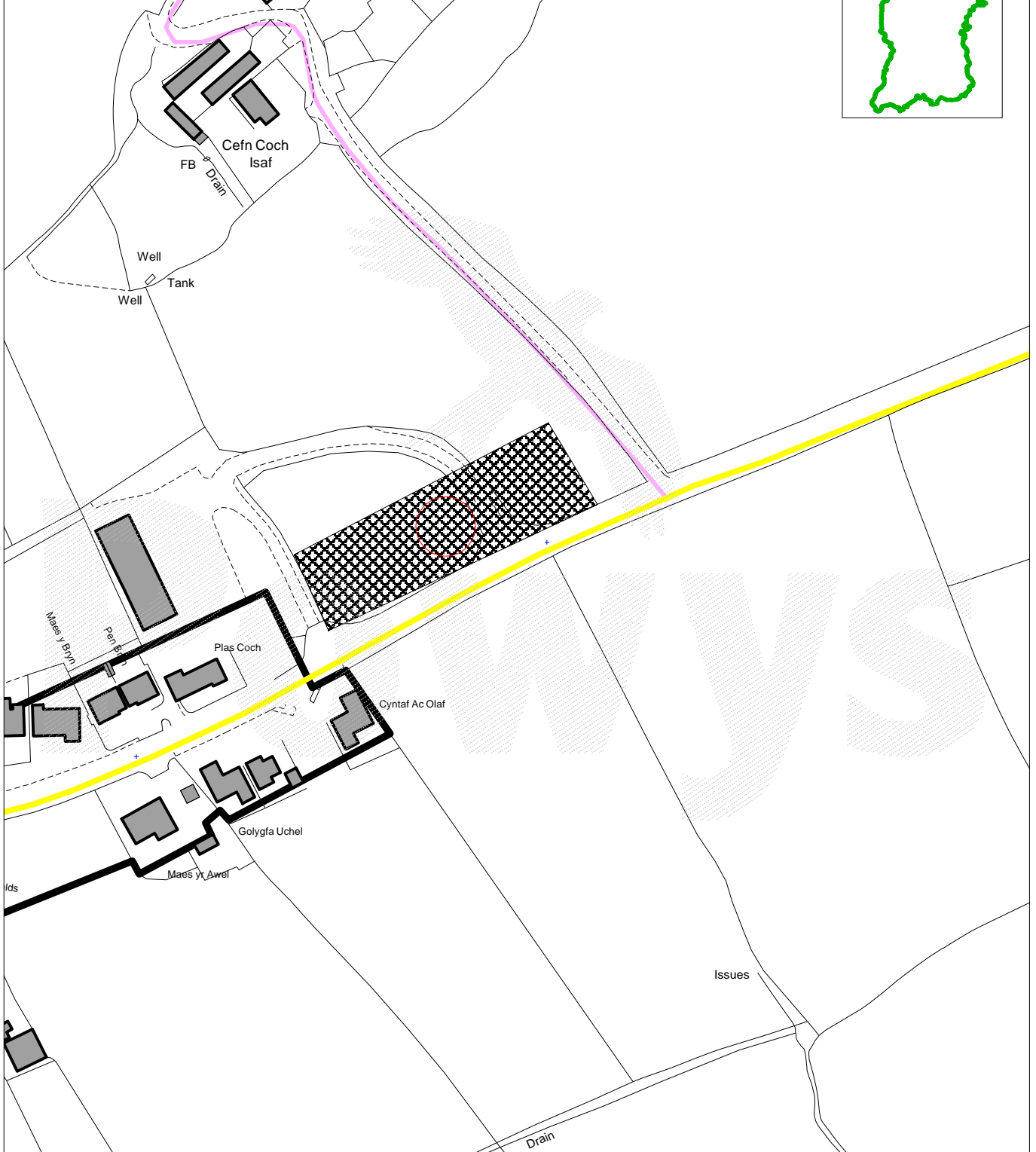
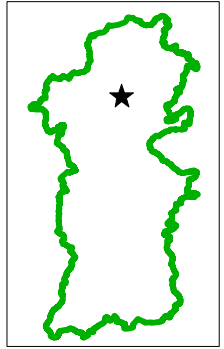
1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

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# 3.10

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

<b>Application No:</b>	P/2017/0497	<b>Grid Ref:</b>	311271.68 264076.6
<b>Community Council:</b>	Penybont C	<b>Valid Date:</b>	<b>Officer:</b> 16/05/2017 Tamsin Law
<b>Applicant:</b>	Mr & Mrs DG, MM, DG, IJ, MJ & N Owen, Cwmrhocas, Penybont, Llandrindod Wells, Powys, LD1 5SY		
<b>Location:</b>	Land to South of A44, Penybont, Llandrindod Wells, Powys		
<b>Proposal:</b>	Outline: Residential development (up to 5 no. dwellings) with some matters reserved and associated works		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application is recommended for approval and is a departure from the development plan.

### Site Location and Description

The site is indicated to cover an area of 0.85 hectares and is located to the east of Penybont. The site is considered to lie outside the development boundary of Penybont, as indicated in Inset Map R83 of the Powys UDP; however a small section of the site does lie within. The site does directly adjoin the development boundary.

The site is currently open agricultural grassland and is bound existing residential dwellings to the north and east and agricultural land to the south and west. The site is accessed from the C1353, a classified highway, which leads to the A44.

Consent is sought in outline with all matters reserved, for the development of up to 5 new dwellings with garages, formation of access road and all associated works.

### Consultee Response

#### Penybont Community Council

At a meeting of the Penybont Community Council Planning Committee on Tuesday 13<sup>th</sup> June 2017 in respect to the above application. The council resolved to object to the whole application.

The areas of concern are as follows:

1. The application falls outside of the UDP 2010 (Map MEWNOSOD R83 Inset Map)
2. It is acknowledged that it has become a Candidate Site (788) in the new LDP which has not been approved.

3. The ecological report dated March 2017 is as stated in paragraph 3, '...was completed during January, a time of year which is considered to be *sub optimal*.' As a direct consequence, the description contained within 5.3 *Habitat* is inaccurate and misleading as to the diversity of the area.
4. Para 5.7 is inaccurate as residents whose land adjoins this application have informed the council that the Great Crested Newts are clearly visible at the appropriate times in the year.
5. The council agrees with the Highways Agency that the planned exit from the site will cause a danger to other road users and residents.

Residential planning consent at Cattle Market Penybont Llandrindod Wells Powys LD1 5UA for multiple units (RAD/2004/0557) remains unfinished and an eye sore for this tourist area. Any further development should be halted.

### Wales & West Utilities

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, 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.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### CPAT

I write to confirm that there are no archaeological impacts arising from the proposed development at this location.

### Dwr Cymru Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

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

### SEWERAGE

#### Conditions

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

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

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com)

#### Countryside Services

Thank you for the opportunity to comment on this planning application.

The applicant is proposing to use the route of the footpath as the vehicle access to the site. This footpath is recorded as being 2m wide, and this width should not be impinged upon either during construction or once the site comes into use. It is advisable that the applicant thinks carefully about the issues to do with public pedestrian rights and private vehicle access rights to the site, to ensure that the public accessing the site are kept safe.

It is therefore strongly advised that the applicant checks the definitive line of the public rights of way on their land to ensure that they understand where they are located.

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public footpath be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services

directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the footpath can be legally stopped-up for a defined period.

We would therefore advise that advice is sought from Countryside Services before any development begins.

### Cadw

Thank you for your letter inviting our comments on the above planning application.

### Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monument known as Penybont Common Roman road and early turnpike road RD258. Our assessment of the application is given below.

### Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

### National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24 : The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.



PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

## Assessment

The application is located some 950m southwest of scheduled monument Penybont Common Roman road and early turnpike road RD258; however it will not be visible from the designated monument and will not cause any damage to its' setting.

The projected line of the Roman road which connected the forts at Castell Collen and Leintwardine will pass close to the application area. Therefore Clwyd-Powys Archaeological Trust should be consulted as to the possibility that undesignated archaeological features associated with the road could be located in the application area.

## Powys Highways Authority

### 1<sup>st</sup> Response Received

This application should be refused.

### Reason for Refusal

Whilst this is an "outline" application, it is noted that the means of access is a matter to be determined at this stage. Unfortunately the applicant has provided very little detail on the access arrangements and the level of visibility that would be available.

Requisite visibility for an access of this nature within an existing 30mph speed limit, is 2.4m x 45m, as stipulated within Manual for Streets and TAN 18. Having visited the site it is clear that such visibility is not achievable at this location due to third party boundary obstructions to the east of the access. Indeed the available visibility measured during a recent site meeting was recorded at just 14metres which is suitable for vehicular speeds of just 12mph.

The application is therefore contrary to Policy GP4 in that it would not provide a safe means of access due to inadequate access visibility. The additional traffic movements such a development would generate through such a sub-standard access would exacerbate risks to highway users which would be to the detriment of highway safety.

#### 2<sup>nd</sup> Response Received

Please see my latest response based on the latest updated highway submission.

This application should be refused.

The revised access arrangement put forward by the applicant as shown on drawings “Figure 1 & Figure 2” is totally unacceptable to the Highway Authority.

The revised proposal as submitted seeks to narrow the existing C1353 carriageway width by circa 1.6m metres on a particularly hazardous stretch of the carriageway directly on a bend which already provides limited forward visibility. Such a proposal would result in a wholly unacceptable and dangerous alignment along the C1353 that would put vehicles attempting to align themselves to exit the site, at risk of collision with vehicles travelling from the south to the north along the C1353 county highway. It would also severely increase the likelihood of collisions for those vehicles travelling along the C1353 whilst attempting to negotiate that bend.

This is emphasised by the submitted swept path drawing, which although simulated and controlled, clearly shows that a refuse vehicle and car travelling in opposite directions would not be able to pass safely simultaneously. The drawing does not simulate the movements for HGV vehicles, which routinely use this route to service nearby poultry units and relies on vehicles having to almost traverse the centreline prior to the bend; it makes no allowance for variations in driver behaviour. In addition the applicant has failed to demonstrate the forward visibility available for right turning vehicles and the access does not appear capable of providing simultaneous access and egress which would further increase associated highway safety risks.

In light of the above the Highway Authority maintains that the application is contrary to Policy GP4 in that it would not provide a safe means of access. The additional traffic movements such a development would generate through such a sub-standard access would exacerbate risks to highway users which would be to the detriment of highway safety.

#### 3<sup>rd</sup> Response Received

I have reviewed this site and the response from yourselves.

Unfortunately I do not agree with your assessment and without alteration I will not be changing my recommendation. I do not see the parallels between this site and the site at Cefnlllys; there was no detrimental change to the existing highway layout to facilitate development at Cefnlllys as there is in this instance. Potential conflict does not just arise through the meeting of lorries at this point, you have clearly demonstrated that a lorry and car could not pass safely at this point as a result of the narrowing which they are able to do at present. The proposed narrowing as proposed is totally unacceptable and creates a totally alien alignment, which would in reality be ignored on the ground.

I do however feel that there may be scope to provide a realignment of the kerb edge adjacent to the site to provide the visibility (not white lining/hatching) and for the kerb opposite to be amended accordingly so that road narrowing is not necessary; there would appear to be sufficient land available for such works.

Perhaps you could look into this as an option?

#### 4<sup>th</sup> Response Received

The drawings provided are generally in line with what I thought may provide a solution; it would be helpful if swept paths demonstrating vehicular movements before and proposed could also be provided.

Are the drawings based on a topo and can the existing boundary features be added to demonstrate that the realignment can be provided within the existing highway limits?

#### 5<sup>th</sup> Response Received

I am relatively satisfied that the realignment as shown will be acceptable. Can I ask that you produce a final drawing showing the realignment (existing alignment shown dotted line), with a continuous drop kerb across the access (not give way line), visibility splay to the east, radii and initial 10m of the access which should be a minimum 4.8m wide over that length.

#### 6<sup>th</sup> Response Received

I have finally had opportunity to review the revised access proposals submitted by the agent as attached.

The information submitted is considered sufficient to demonstrate that suitable levels of access visibility can be provided to serve the site, subject to the realignment of the adjacent C1353 county highway and footway. The proposals to bring forward the access and realign the carriageway include "swept path" drawings which demonstrate that the proposed realignment would have no detrimental impact on vehicular movements along the C1353. Accordingly the Highway Authority removes their previous recommendation of the refusal subject to the inclusion of the following highway conditions.

- No works shall be commenced on the development site until engineering drawings detailing the highway realignment works required along the C1353 county highway are submitted to and approved in writing by the Local Planning Authority. The realignment works shall be constructed to adoptable standards prior to any other works being commenced on the development site.

- No other development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. The parking and turning areas shall be constructed to a depth of 0.35 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.

- No further development shall commence until the access has been constructed so that there is a clear visibility splay 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 43 metres distant in easterly 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.

- Upon formation of the visibility splays as detailed 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.

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

- The width of the access carriageway constructed be not less than 4.8 metres for a minimum distance of 10 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.

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

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

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

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

### Environmental Health

As the sewerage is going to mains I have no concerns from that angle however I feel the development should have restrictions regarding times.

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:

- 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.”

## **Representations**

The application was advertised through the erection of a site notice and through press advertisement. Two letters of objection have been received and are summarised below;

- The site does not fulfil the criteria for infill site required by small villages
- The site does not adjoin an existing road or pavement hence the need to construct a new road
- Part of a larger field and would ‘box in’ existing dwellings
- The proposal is not required by housing demand
- Reports submitted were undertaken in ‘sum optimal time’
- Large traffic volume in the lane, especially with recent poultry developments.
- Other development within the settlement remains incomplete
- Not considered as an acceptable site within the LDP
- Concerns regarding poor highway safety
- Inaccurate information submitted as part of the application – no Post Office or Store in the settlements

## **Planning History**

None.

## **Principal Planning Constraints**

TPO

## **Principal Planning Policies**

National Planning Policy

Planning Policy Wales (9th Edition, November 2016)  
Technical Advice Note 1 - Joint Housing Land Availability Study (2015)  
Technical Advice Note 2 - Planning and Affordable Housing (2006)  
Technical Advice Note 5 - Nature Conservation and Planning (2009)  
Technical Advice Note 10 – Tree Preservation Orders (1997)  
Technical Advice Note 11 – Noise (1997)  
Technical Advice Note 12 - Design (2016)  
Technical Advice Note 15 – Development and Flood Risk (2004)  
Technical Advice Note 18 – Transport (2007)  
Technical Advice Note 20- Planning and the Welsh Language (2017)  
Technical Advice Note 23 - Economic Development (2014)

Local Planning Policies

SP2 - Strategic Settlement Hierarchy

SP3 - Natural, Historic and Built Environment  
SP4 - Economic and Employment Developments  
SP5 - Housing Development  
SP6 - Development and Transport  
SP9 – Local Community Services and Facilities

GP1 - Development Control  
GP2 – Planning Obligations  
GP3 - Design and Energy Conservation  
GP4 - Highway and Parking Requirements  
ENV1 - Agricultural Land  
ENV2 - Safeguarding the Landscape  
ENV3 - Safeguarding Biodiversity and Natural Habitats  
ENV4 – Internationally important Sites  
ENV5 – Nationally Important Sites  
ENV6 – Sites of Regional and Local Importance  
ENV7 – Protected Species  
ENV8 – Tree Preservation Orders  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside  
CS3 – Additional Demand for Community Facilities  
RL6 – Rights of Way and Access to the Countryside  
T2 - Traffic Management  
DC8 – Public Water Supply  
DC9 – Protection of Water Resources  
DC10 - Mains Sewerage Treatment  
DC13 - Surface Water Drainage  
TR2 – Tourist Attractions and Development Areas/

Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011)

Powys Residential Design Guide (2004)

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

## **Officer Appraisal**

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

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

### Principle of Development

The application site is located partially outside but adjoins the settlement development limits for Penybont as defined by the Powys Unitary Development Plan (2010). Outside of settlement boundaries, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered as a departure.

### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The latest Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies"*.

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be within a sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Penybont is considered a large village in the UDP. Whilst large villages do not have as wide a range of services and facilities as the area centres, they normally act as an important service hub to the surrounding area. It is noted that the settlement of Penybont is served by a number of facilities including a pub, community centre, trotting race track and football pitch. The village also benefits from good transport links to surrounding settlements including the

larger settlements of Crossgates and Llandrindod Wells. Penybont is also serviced by a railway station (located outside the village boundary limits, as part of the Heart of Wales line).

The application site does adjoin the development boundary of Penybont however Members should consider the sustainability of the settlement. Whilst Officers consider that Crossgates and Llandrindod Wells are in easy travelling distance via a range of transport methods, consideration should be given to the sustainability of Penybont, which has limited facilities. Looking at the emerging LDP, Penybont will lose its status as a Large Village and be defined as a Small Village where development of open market dwellings will be restricted to infill development for 2 dwellings.

Penybont has benefitted from the approval of 6 dwellings in the last few years (5 dwellings as departures and one dwelling within the settlement) and approximately 12 dwellings remains incomplete. As such, consideration of the sustainability of the settlement must be balanced against the need to improve the housing land supply.

It is Officers consideration that Penybont benefits from strong links to Llandrindod Wells and Crossgates which will provide wider services over those within Penybont. It is therefore considered, in light of the services provided in relatively close proximity to the site, that on balance, the proposal is considered to be located within a sustainable location.

#### Affordable housing provision

The Unitary Development Plan Policy HP7 requires the provision of affordable housing within applications for five or more dwellings or sites of 0.3 hectares and over. It is noted that this application seeks consent for five dwellings and as such a single affordable dwelling is being provided. Subject to appropriately worded conditions it is considered that the proposed development fundamentally complies with relevant planning policy.

#### Design and layout

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Whilst design and layout are reserved and will be dealt with at a later point in time, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The indicative layout resembles a modern residential layout which is broadly comparable to those as seen in the settlement. More importantly it shows that up to 5 dwellings could be accommodated on the site.

Although Officers acknowledge that all matters relating to this application, apart from access, have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating 5 dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.



### Landscape and Visual Impact

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory integration into the landscape'.

The site occupies an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change.

In terms of landscaping the indicative layout plan indicates that there will be existing hedgerows retained within the site to the east, west and south. It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage.

Whilst the proposal would result in a visual change in comparison to the current use, taking into account the location on the edge of settlement, it is considered that the proposal is acceptable and in accordance with Policy ENV2 of the UDP.

### Highway Safety

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

Following initial concerns over the proposed access amended details were submitted in support of the application. Consultation was undertaken with the Highways Authority who confirmed that based on the submitted information, which details a realignment of the highway and footway, that they removed their objection to the proposed development.

In light of the officers comments it is therefore considered that the development does not have a detrimental impact upon highway safety, access and parking and therefore fundamentally complies with policy GP4 of the Powys Unitary Development Plan (2010).

### Drainage

PCC Environmental Health and Dwr Cymru Welsh Water were consulted with regard to drainage.

The PCC officer offered no objection as the site would utilise mains sewerage and Welsh Water offered no objection to this.

In light of the above it is considered that the proposals fundamentally comply with Policy DC10 of the Powys Unitary Development Plan (2010).

### Local Amenity

Consideration has been given to the proposed development of up to 5 dwellings in this location with regard to potential adverse impact upon local amenity. Whilst it is noted that all

matters are reserved for a future date, consideration has been given to the proposed site plan provided. It is considered that any potential likely adverse impacts upon existing neighbouring dwellings can be addressed through design and should be considered at the reserved matters stage.

Comments received from PCC Environmental Health offered no objection to the proposed development subject to a condition restricting the hours of construction.

In light of the above and subject to the inclusion of appropriately worded condition it is considered that the proposals fundamentally comply with relevant planning policy.

### Welsh language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application.

Policy GP5 indicates certain settlements where the Welsh Language has been identified as being important to the social, cultural and community fabric. Penybont is not identified as being one of those settlements under GP5. However, it is considered that Welsh Language is a material consideration across the County.

From the 2011 census for the Penybont Ward there was a slight increase in the number of people speaking Welsh (3 years of age and above) from the 2001 census (12.7% up to 12.8%).

Given the scale of the proposed development and the provision of affordable housing it is not considered that the proposal would have an unacceptable adverse impact on Welsh Language and culture.

### **Recommendation**

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

### **Conditions**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called ""the reserved matters"" ) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
5. No development shall commence until engineering drawings detailing the highway realignment works required along the C1353 county highway are submitted to and approved in writing by the Local Planning Authority. The realignment works shall be constructed to adoptable standards prior to any other works being commenced on the development site.
6. No other development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. The parking and turning areas shall be constructed to a depth of 0.35 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.
7. No further development shall commence until the access has been constructed so that there is a clear visibility splay 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 43 metres distant in easterly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
8. Upon formation of the visibility splays as detailed 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.
9. Before any other development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
10. The width of the access carriageway constructed be not less than 4.8 metres for a minimum distance of 10 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. Any vehicular entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
12. The gradient of the access shall be constructed so as not to exceed 1 in 30 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

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

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

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

- 0800-1800 hrs Monday to Friday
- 0800-1300 hrs Saturday
- At no time on Sundays and Bank Holidays

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

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

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

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

18. No development shall take place, nor any demolition works or site clearance, until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of trees shown to be retained. The approved scheme shall be carried out during the course of the development.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
5. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
6. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
7. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
8. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
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12. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
13. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
14. In the interest of highway safety in accordance with Technical Advice Note 18: Transport and Policy GP4 of the Powys Unitary Development Plan (2010).
15. In the interest of protecting neighbour amenity during construction works in accordance with Policy GP1 of the Powys Unitary Development Plan (2010).
16. In accordance with policy HP7 and HP10 of the Unitary Development Plan (March 2010)
17. In accordance with policy HP7 and HP10 of the Unitary Development Plan (March 2010)

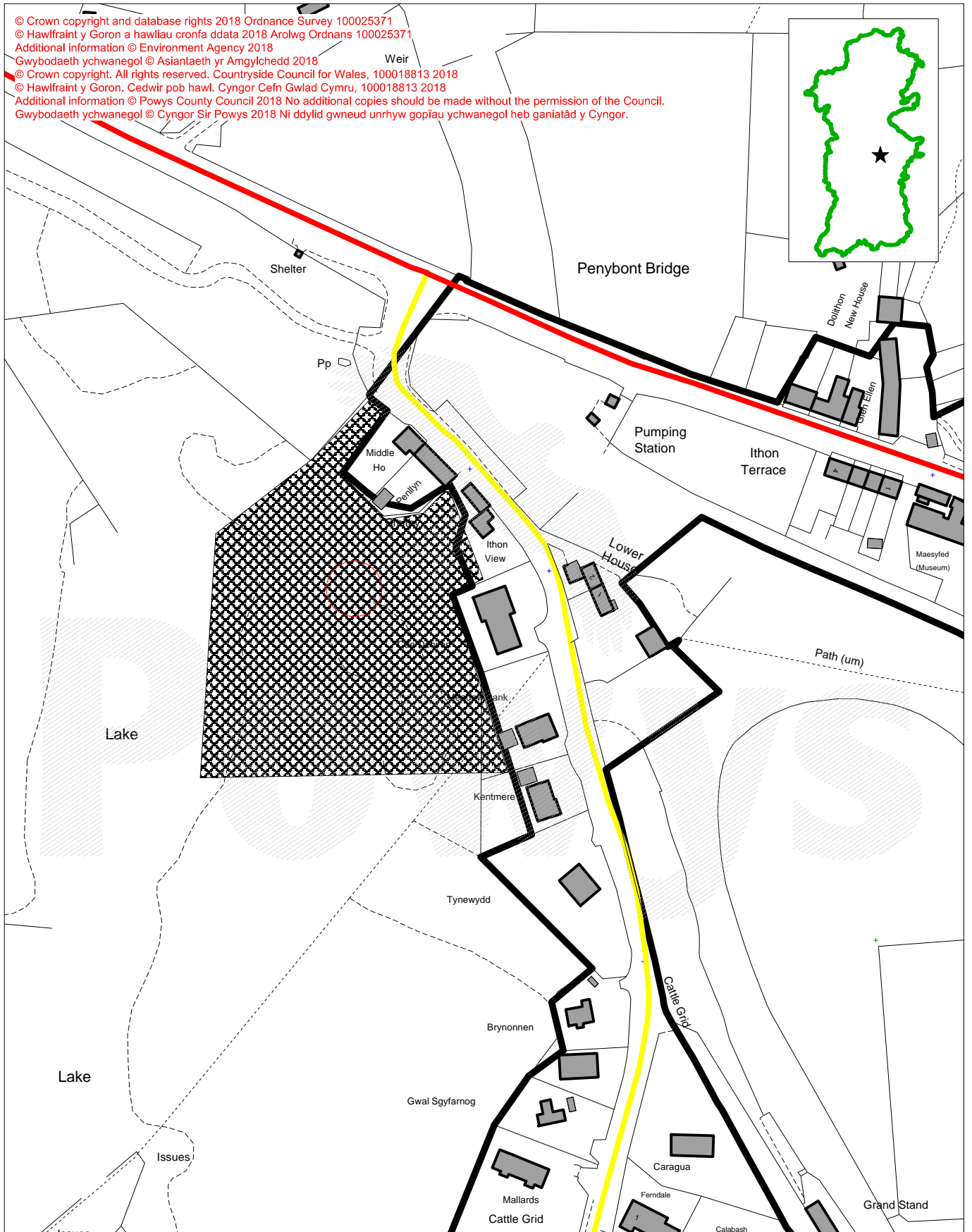
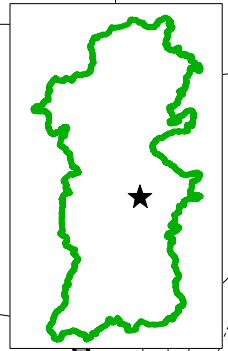
18. In order to protect existing trees on site in accordance with policy GP1 of the Powys Unitary Development Plan (2010).

### **Informative Notes**

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Case Officer: Tamsin Law – Principal Planning Officer  
Tel: 01597 827230 E-mail: [Tamsin.law@powys.gov.uk](mailto:Tamsin.law@powys.gov.uk)

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# 3.11

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

<b>Application No:</b>	P/2017/0789	<b>Grid Ref:</b>	325440.59, 311109.3
<b>Community Council:</b>	Welshpool	<b>Valid Date:</b>	<b>Officer:</b> 29/08/2017 Bryn Pryce
<b>Applicant:</b>	Mr J.H & E.L. Jones J.H. & E.L. Jones Pool Quay, Dyers Farm, Welshpool Powys		
<b>Location:</b>	Land adjoining Swan Bank, Pool Quay, Welshpool Powys SY21 9JS		
<b>Proposal:</b>	Outline: Erection of up to 3 no. dwellings and garages, formation of vehicular access, access road and all associated works (with some matters reserved)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan.

### Site Location and Description

This site is located off the A483 trunk road adjacent to the settlement and small village of Pool Quay. The existing site forms agricultural land used for the purpose of growing crops. The site is bound to the north by the settlement of Pool Quay, to the north west by the Montgomery canal, the south west by agricultural land and the south east by the A483 trunk road.

This applications seeks outline consent for 3 dwellings and garages, formation of vehicular access, access road and all associated works (with some matters reserved). The application considers the principle of residential development on the site and access to it with all other matters reserved for future consideration. An indicative layout for the site and indicative scale has been provided with the application. The site is located directly adjacent to the settlement boundary of Pool Quay.

### Consultee Response

Welshpool Town Council

*Correspondence received 27<sup>th</sup> September 2017*

The Council **SUPPORTS** this application.

*Correspondence received 2<sup>nd</sup> November 2017*

My Council has no further observations on the application noted below.

Highways Dept North

*Correspondence received 21<sup>st</sup> October 2017*

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

Welsh Government Highways

*Correspondence received 12<sup>th</sup> September 2017*

I refer to your consultation of 8<sup>th</sup> September 2017 regarding the above application, and advise that the Welsh Government as highway authority for the (ROAD) trunk road directs that planning permission is not granted at this time as the applicant has provided insufficient information to determine the application.

The applicant must provide the following information to support this application or resubmit the application with the following details;

1. The applicant must demonstrate that the 215m southbound visibility is unrestricted from a 4.5m set back. We have concern with regard to the speed limit gateway sign and telegraph pole.

The following points should be brought to the attention of the applicant:

- a. As the proposed development is over the 6 dwelling threshold which allows a 2.4m setback for visibility splays, a 4.5m setback is required. This also allows for any future growth at the development.
- b. The centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay.

If you have any further queries, please forward to the following Welsh Government Mailbox [NorthandMidWalesDevelopmentControlMailbox@Gov.Wales](mailto:NorthandMidWalesDevelopmentControlMailbox@Gov.Wales)

*Correspondence received 31<sup>st</sup> October 2017*

I refer to your consultation of 8<sup>th</sup> September 2017 regarding the above application, and advise that the Welsh Government as highway authority for the A483 trunk road directs that planning permission is not granted at this time as the applicant has provided insufficient information to determine the application.

The applicant must provide the following information to support this application or resubmit the application with the following details;

- 1) The applicant must demonstrate that the 215m northbound visibility is unobstructed from a 2.4m set back. We have concern with regard to the speed limit sign and telegraph pole.

The following points should be brought to the attention of the applicant:

- a. Any further development at the site will require the access to be re-designed.
- b. The centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay.

If you have any further queries, please forward to the following Welsh Government Mailbox [NorthandMidWalesDevelopmentControlMailbox@Gov.Wales](mailto:NorthandMidWalesDevelopmentControlMailbox@Gov.Wales)

*Correspondence received 16<sup>th</sup> January 2017*

I refer to your consultation of 08 September 2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road directs that any permission granted by your authority shall include the following conditions:

- 1) The access and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (drawing no. RPP01.1.3.01 Rev E).
- 2) The minimum visibility distances available for vehicles emerging from the proposed access / junction shall be 160 metres in the northbound direction and 215 metres in the southbound direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the trunk road carriageway. These visibility distances shall be available at a point 4.5 metres from the nearer running edge of the trunk road, measured along the centreline of the access road. The visibility splay so formed shall be free of any growth or obstruction, which would interfere with the minimum visibility requirements.
- 3) Adequate provision shall be made within the development site to enable vehicles to turn around, so that they may enter and leave the site in a forward gear.
- 4) No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road.
- 5) The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.
- 6) The applicant shall enter into an Agreement with the Welsh Ministers under Section 278 of the Highways Act 1980 to enable the Applicant to undertake agreed improvement works on the trunk road. This Agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. Without such an agreement in place, any consent that may be granted cannot be implemented.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

The following points should be brought to the attention of the applicant:

1) The applicant should be advised that all temporary or permanent signage, road markings or traffic orders shall be at the expense of the developer and agreed with the Highway Authority before works commence.

2) Any adjustment, re-siting and / or protection of any statutory undertakers apparatus in the highway shall be undertaken with the prior written consent of the relevant Authority and shall be carried out at the Applicant's own expense.

3) The applicant should note that planning permission does not constitute permission under the Highways Act for various activities that may be associated with the development i.e. use of the highway/footway/verge to: for example; deposit material, deposit skips, erect scaffolding, excavate within the highway or erect traffic management apparatus. Such activities will require the separate consent of the Highway Authority;

4) Any temporary traffic management arrangements required in connection with this application shall be in accordance with Chapter 8 of the Traffic Signs Manual and in accordance with the Safety at Street Works and Road Works Code of Practice, and shall be approved by the highway authority.

5) Road traffic signs in Wales must be bilingual, Welsh above English, and adhere to Welsh Government specifications, see following link for standard details; [http://www.traffic-wales.com/traffic\\_signs.aspx](http://www.traffic-wales.com/traffic_signs.aspx)

If you have any further queries, please forward to the following Welsh Government Mailbox [NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK](mailto:NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK)

#### Building Control

*Correspondence received 8<sup>th</sup> September 2017*

Building Regulations application required.

#### Wales & West Utilities

*Correspondence received 11<sup>th</sup> September 2017*

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty and the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, its agents or servants for any error or omission.

Wales & West Utilities apparatus may be directly affected by these proposals and the Information you have provided has been forwarded to Asset Management for their comments. If Wales and West are affected an Engineer will then contact you direct.

Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

You must not build over any of our plant or enclose our apparatus. Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### STW

*Correspondence received 14<sup>th</sup> September 2017*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

*Correspondence received 25<sup>th</sup> September 2017*

Re: Outline: Erection of up to 7 no. dwellings and garages, formation of vehicular access, access road and all associated works (with some matters reserved).

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

Construction-phase noise control

For the protection of amenity for nearby residential properties, Environmental Protection recommends the following condition for the control of construction-phase noise:

*“Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.”*

#### Powys Ramblers

*Correspondence received 27<sup>th</sup> September 2017*

Thank you for the opportunity to comment on this application.

The nearby rights of way does not seem to be affected by the proposed development. In the event of planning permission being granted can the applicant please be informed of the importance of not obstructing the right of way during any works and making sure it is kept open throughout.

#### Affordable Housing Officer

*Correspondence received 15<sup>th</sup> September 2017*

Thank you for your invitation to comment on this application.

We would be seeking a provision of a minimum of 30% affordable housing provision, and the following guidelines to be adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council’s Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9.

*Correspondence received 10<sup>th</sup> November 2017*

Thank you for your correspondence regarding this application.

We seek provision of affordable housing on residential development sites in accordance with the Affordable Housing Topic Paper September 2016, and the following guidelines to be adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.

- All units will have to meet the floor areas specified in Powys County Council's Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9.

### PCC Ecologist

*Correspondence received 20<sup>th</sup> February 2018*

Thank you for consulting me with regards to planning application P/2017/0789 which concerns the outline application for erection of up to 3 no. dwellings and garages, formation of vehicular access, access road and all associated works (with some matters reserved) on Land adjoining Swan Bank, Pool Quay, Welshpool.

I have reviewed the proposed plans, aerial images as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 53 record of protected and priority species within 500m of the proposed development, no records were for the site itself. Records identified within 500m of the site included floating water-plantain, otter, and bat species.

The following statutory designated sites are present within 500m of the proposed development:

- Montgomery Canal SAC/SSSI

These designated sites are located along the western boundary of the site of the proposed development, given the proximity (approximately 50m) of the proposed development to the Montgomery Canal SAC the potential for the construction and operation phases of the development to result in a Likely Significant Effect to the Montgomery Canal SAC and/or its associated features has been considered.

Having reviewed the information provided by the applicant it has been determined 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.

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

From reviewing aerial images the site of the proposed development appears to be an area of arable land and improved grassland which is considered a habitat of low ecological value. However, the hedgerows and trees on the boundary of the development is considered to be of moderate ecological value.

### Tree and Hedgerow Replacement Plan

It appears that sections of hedgerow will be required to be removed or translocated to provided vehicular access.

I also note from reviewing aerial images that a tree was located on the eastern boundary of the proposed development site in close proximity where the existing footway will be extended.

The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

‘Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows’

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – ‘Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value’. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Where impacts to trees and hedgerow are identified an appropriate compensation strategy will be required. A Hedgerow Replacement Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of tree– details of the location, length (hedgerow) and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the trees present in the local area.

#### Tree Protection Plan

Given the proximity of development and works to the mature tree on the eastern boundary of the proposed development site, it is considered prudent to require information from the applicant as to how these features biodiversity importance for wildlife will be protected during the construction period of works. It is therefore recommended that a Tree Protection Plan is secured through an appropriately worded condition.

#### Great Crested Newts

It has been noted that there is a pond within 70m of the development site, a search for great crested newt records within the wider area was undertaken and the nearest record for this species was found to be within 3km of the proposed development. Given the proximity to the pond consideration has been given to the potential suitability of the site to be used as terrestrial habitat by Great Crested Newts – European protected species.

Having reviewed information available in form of aerial images the habitat present at the site of the proposed development offers unfavourable suitable opportunities for Great Crested Newt terrestrial habitat. Given the lack of suitable habitat, distance and lack of habitat connectivity from the pond (where great crested newts were recorded) and the proposed development site - it is considered that the proposed development site would be unlikely to support great crested newts.



### Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

### Landscaping Plan

Reviewing the proposed plans native tree planting is proposed for the development - It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that a Landscaping Plan is secured through an appropriately worded condition.

### Otter – Reasonable Avoidance Measures (RAMs)

I have also reviewed the consultation response from NRW dated 26<sup>th</sup> September 2017.

I agree that the recommended condition regarding the provision of a suitable Reasonable Avoidance Measures (RAMS) for otter and bats is required necessary to comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5, ENV6 and ENV7.

Therefore, submission that the recommended RAMS should be secured through an appropriately worded condition.

### Biodiversity enhancements

As the application is an outline application further details will be submitted at a later date as reserved matter consideration should be given to incorporate biodiversity enhancements.

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. These measure could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;
- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

*Prior to commencement of development a Hedgerow Replacement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

*Prior to commencement of development a Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

*Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

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

*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 UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

NRW

*Correspondence received 26<sup>th</sup> September 2017*

Thank you for consulting Natural Resources Wales (letter dated 07/09/2017) regarding the above.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

**Summary of Conditions**

**Condition 1 - EPS:** The submission of a RPA plan that will guarantee the safeguard and protection of the tree line between the Montgomery Canal SAC and the proposal, during and post construction.

**Condition 2 – EPS:** Construction works to be carried out during daylight hours only.

**Condition 3 – EPS:** No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect otters from being trapped in open excavations and / or pipe and culvers are submitted to and approved in writing by the local planning authority. The measures may include a) creation of sloping ramps to allow badgers to exit excavations; b) open pipework greater than 150mm outside diameter, being blocked off at the end of each working day.



**Condition 4 – EPS:** The submission and implementation of an exterior lighting scheme that will aim at retaining dark wildlife corridors.

**Condition 5– biosecurity:** the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

### **Protected Species**

No ecological report was submitted in support of this application. NRW has multiple records of bats and otters in the proximity of this location.

Bats, otters and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Any development that would contravene the protection afforded to bats and otters under the Regulations would require a derogation licence from Natural Resources Wales.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

The proposal has the potential to cause disturbance to otters and bats.

Provided suitable Reasonable Avoidance Measures (RAM) are secured via appropriate planning conditions and implemented during the construction phase, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

It is our opinion that the tree line between the Montgomery Canal and the North-western corner of the proposal requires protection during construction as this is likely to provide shelter and connectivity for both otters and bats. A Root Protection Area (RPA) will need to be identified and fenced off. No machinery or works to be carried out within the buffer zone.

**Condition 1 - EPS:** The submission of a RPA plan that will guarantee the safeguard and protection of the tree line between the Montgomery Canal SAC and the proposal, during and post construction.

To further minimise disturbance to bats and otters we recommend that construction works are limited to day light hours, to avoid the times when bats and otters are likely to move across or near the site. Holes and trenches must be covered at night or ramps installed to provide a means of escape for any mammal, including otters that may be otherwise become trapped in excavations.

**Condition 2 – EPS:** Construction works to be carried out during daylight hours only.

**Condition 3 – EPS:** No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers/otters from being trapped in open excavations and / or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include a) creation of sloping ramps to allow badgers to exit excavations; b) open pipework



greater than 150mm outside diameter, being blocked off at the end of each working day.

Impact on EPS must also be considered post development. We suggest an exterior lighting plan is submitted to your authority to demonstrate that all areas likely to be used as wildlife corridors (tree lines and hedgerows) are kept dark.

Security lighting must be installed in a way that minimise/avoid light spill in areas that could potentially be used by foraging and commuting bats and otters (all tree lines and hedgerows surrounding the site, river corridor). Low level and low wattage, as well as low pressure sodium or high pressure sodium lamps, should be preferred to mercury or metal halide lamps.

**Condition 4 – EPS:** The submission and implementation of an exterior lighting scheme that will aim at retaining dark wildlife corridors.

### **Protected Sites**

The development site is adjacent to the Montgomery Canal Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

We advise that the proposal may have implications for the Montgomery Canal SAC and, as part of any planning application submitted the LPA will need to carry out a test of likely significant effects under regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

We remind you that the competent authority, for the purposes of the 2010 Regulations must not normally agree to any plan or project unless they are sure beyond reasonable scientific doubt that it would not adversely affect the integrity of the SAC.

Without prejudice to the assessment of the LPA, provided that:

- all construction activity is confined within the site boundary
- pollution prevention measures are followed during construction
- a buffer zone or Root Protection Area (RPA) is set up to guarantee there will be no deterioration to the vegetation along the banks of the canal.

the proposal is not likely to have a significant effect on the SAC.

### **Flood Risk**

The site lies close to a **zone C2**, as defined by the development advice map referred to under TAN15 Development and Flood Risk (July 2004). We are therefore satisfied that a flood consequences assessment is not required in this instance. As a precautionary measure, the applicant may wish to install some flood proofing measures as part of the development, for example resilient walls, floors, doors, electric wiring etc. For further information on flood proofing, please see ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties'. This may be viewed on the Planning Portal website at [www.planningportal.gov.uk](http://www.planningportal.gov.uk).



### **Foul Drainage**

We understand foul water will be pumped to the mains sewer in accordance with government policy. Should this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website <https://naturalresources.wales/permits-and-permissions/water-discharges/?lang=en>

### **Biosecurity**

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases. We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

**Condition 5– biosecurity:** the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

### **Pollution Prevention**

All works at the site must be carried out in accordance with GPP5 and PPG6 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

### **Scope of NRW Comments**

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales->



[and-planning-consultations-final-eng.pdf](#)). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

*Correspondence received 7<sup>th</sup> November 2017*

Thank you for consulting us on the amended plans for the above. We have no additional comments to make, please refer to our response letter of 26/9/2017 (CAS-40069-D6C3).

Canal & Rivers Trust

*Correspondence received 27<sup>th</sup> September 2017*

Thank you for your consultation.

Glandŵr Cymru, the Canal & River Trust in Wales, cares for Wales' historic canals, made up of the Swansea, Llangollen, Montgomery and Monmouthshire & Brecon Canals. Our canals perform many different functions and are a haven for people and wildlife and a national treasure. We are a statutory consultee in the development management process.

Glandŵr Cymru has reviewed the consultation. This is our substantive response under the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, as amended. Based on the information available we have **concerns** relating to the risk to the structural integrity of the canal.

The application site includes a section of the embankment that retains and supports the adjacent Montgomery Canal, which is a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). In the worst case scenario the collapse of a section of the embankment could result in the canal being breached, which would cause substantial flood damage to the proposed properties and have a devastating impact on the ecological value of the designated sites.

It is therefore essential that any risk to the structural integrity of the embankment as a result of the proposed development is fully assessed and mitigated. It is also essential that no works are carried out by future occupiers of the dwelling closest to the embankment, that may risk de-stabilising the embankment or damaging the towpath and canal. This would include any work to excavate or re-profile the embankment to create level garden areas.

Land stability and the consideration of the suitability of development with regard to ground conditions are material planning considerations as set in Planning Policy Wales Chapter 13 which states at paragraph 13.5.1 that the *“responsibility for determining the extent and effects of instability or other risk remains that of the developer,”* and at 13.8 that land instability must be considered by LPA to ensure that *“new development is not undertaken without an understanding of the risks including those associated with subsidence, landslip or rock falls”*.

Due to the risks to the embankment Glandŵr Cymru would advise that this land should be excluded from the red edge of the application site, with an appropriate boundary treatment such as a native hedgerow introduced at the bottom of the embankment to define the curtilage of the closest proposed property. This would also reduce the likelihood of visually intrusive boundary fencing being erected to replace or supplement the hedgerow on the towpath boundary, and would be beneficial to Glandŵr Cymru to continue to be able to gain access to inspect the embankment.

Should the Council be minded to grant planning permission for the development as currently propose, we would also request the imposition of the following condition:

No excavation or other engineering work to, or within 5 metres of, the embankment that retains the adjacent Montgomery Canal shall be carried out, unless detail have first been submitted to and approved in writing by the local planning authority. The details shall include foundations details, construction methodology and cross sections to demonstrate how the embankment would be protected.

Reason: To prevent any risk of damage to the Montgomery Canal embankment in accordance with Planning Policy Wales Chapter 13 and protect the ecological value of the Montgomery Canal Special Area of Conservation and Site of Special Scientific Interest, in accordance with policies ENV4 and ENV5 of the Powys UDP.

We would also want to ensure that any current boundary trees/hedgerow habitats between the canal and the site are retained and protected during the course of the development. We would request that the Council consider whether a condition would be required to secure details to protect the existing boundary vegetation. No details of boundary treatment have been submitted at this stage, we would not support closed board fencing adjacent to the canal.

Finally, there is an existing path along the northern boundary of the application site which runs perpendicular from the canal towpath. It is unclear if this currently provides an informal access to the canal towpath. An access in this location could be formalised as part of the development to this site to enable future an existing residents of the site to access the canal. If the applicant is amenable to this then we would suggest the following condition:

Prior to the development hereby permitted being built above slab level full details of the proposed access to the towpath to be constructed shall be submitted to and agreed in writing by the Local Planning Authority and carried out in accordance with the agreed details. The details shall include cross sections; the materials to be used; set out any stability works required to the embankment and set out the future maintenance provisions for the access.

Reason: In order to ensure that the integrity of the waterway infrastructure is not compromised, future maintenance provision of the access has been identified and agreed and the proposed access does not have a detrimental impact on the appearance of the canal corridor and to accord with policies TR11 and T6 of the Powys Local Plan

If the Council is minded to grant planning permission, it is also requested that the following informative is attached to the decision notice:



*“It is essential that the applicant/developer contacts the Canal & River Trust’s Third Party Works Team (01782 779909) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust”.*

For Glandŵr Cymru to effectively monitor our role as a statutory consultee, please send me a copy of the decision notice.

If you have any queries please contact me, my details are below.

Cllr Francesca Jump

*Correspondence received 21<sup>st</sup> September 2017*

I would like to call in the above application as the application site is outside the development area.

## **Representations**

A public site notice was erected at the site for a period of 21 days. No third party representations have been received by Development Management at the time of writing this report.

## **Principal Planning Constraints**

Flood Zone  
SSSI  
Special Area of Conservation  
Public Right of Way  
Nat FloodZone 2

## **Principal Planning Policies**

### National planning policy

Planning Policy Wales (9<sup>th</sup> edition, 2016)  
Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015)  
Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)  
Technical Advice Note (TAN) 12: Design (2016)  
Technical Advice Note (TAN) 18: Transport (2007)  
Technical Advice Note (TAN) 23: Economic Development (2014)

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

### Local planning policies

Powys Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy

SP3 – Natural, Historic and Built Heritage  
SP4 – Economic and Employment Developments  
SP5 – Housing Developments  
SP6 – Development and Transport  
SP12 – Energy Conservation and Generation  
SP14 – Development in Flood Risk Areas  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highways and Parking Requirements  
ENV2 – Safeguarding the Landscape  
ENV3 - Safeguarding Biodiversity & Natural Habitats  
ENV4 - Internationally Important Sites  
ENV5 - Nationally Important Sites  
ENV7 – Protected Species  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside  
HP14 – Sustainable Housing  
TR2 - Tourist Attractions and Development Areas  
RL6 - Rights of Way and Access to the Countryside  
DC1 – Access by Disabled Persons  
DC3 – External Lighting  
DC10 – Mains Sewage Treatment  
DC13 – Surface Water Drainage

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

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

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

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

## Principle of Development

This application site lies adjacent to the settlement of Pool Quay which is classified in the Powys Unitary Development Plan 2010 as small village. The site is accessed via a new access proposed off the A483 Trunk Road. The proposal is for up to three dwellings of which all are to be open market and therefore the proposed development represents a departure from the adopted Unitary Development Plan.

## Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

*'The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies'.*

## Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to must consider the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

PPW requires that development be sustainable and that adverse impacts do not outweigh the benefits. Furthermore, PPW states that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and new isolated homes in the countryside should be avoided. In line with PPW, residential development outside of settlement boundaries are considered in terms of the site's proximity to services and facilities likely to be required for residential use, and whether the site is suitably connected to these services and facilities.

Pool Quay is defined in the UDP as a small village with no allocated sites. The settlement itself has a public house, post box and public transport bus stop with pedestrian footways linking from the site to the bus stop. Pool Quay is located approximately 3.2 miles north east of Welshpool which is an area centre as defined in the UDP. Welshpool has a full range of facilities and services and is readily accessible from Pool Quay via public transport links. The proposed location is considered to be sustainable for the scale of development proposed.

Officers consider that in this case the proposed site on balance given the scale of the proposed development is considered to be a sustainable location for three dwellings with access to a range of services and facilities that is well associated with the existing built up

settlement form. In light of the above, officers consider that the key settlement is considered to be a sustainable location for a development of the proposed scale.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site. The indicative layout for the site shows three open market dwellings. The design and access statement indicates that the dwellings will be between 10-20 metres in length and 9-12 metres in width. The height to the ridge will vary but will range from between 5- 9 metres in height.

No indicative details of design of the dwelling are given at this stage but it is a matter to be considered at any future reserved matters application stage. The design and access statement or planning application form doesn't give any information in terms of proposed materials at this stage.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating five dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

The proposed site is located adjacent to the settlement boundary of Pool Quay. It is considered that the siting of the proposed dwellings is acceptable in the proposed location. Although landscaping is not considered as part of this application process substantial landscaping is shown on the indicative layout as a landscape buffer strip of 10 metres in width. This landscape buffer will be secured by grampian condition upon any grant of consent to further screen the proposed development. It is considered that the proposed site is well integrated within the existing small village, will benefit from the proposed landscaping works and would not have an unacceptable adverse visual impact upon the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Agricultural land Classification

Planning Policy Wales (PPW) paragraph 4.10 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. UDP policy ENV1 states that when considering proposals for development, the best and most versatile agricultural land will be safeguarded wherever possible.

The Predictive Agricultural Land Classification (ALC) Map indicates that the application site is classified as 'Moderate quality agricultural land' (3b). Planning Policy Wales (PPW) seeks to protect agricultural and grade 1-3a. Given the classification of the application site, it is not considered that development on the proposed site would result in the loss of high grade agricultural land, compliant with UDP policy ENV1.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

This application is submitted in outline with access being the only matter being considered at this stage. All other matters are reserved for future consideration. As part of this application process the trunk road highways authority have been consulted and no objections have been raised following amendments to the submitted plans, subject to the inclusion of the recommended conditions upon any grant of consent. Officers are satisfied that subject to the conditions as suggested that the proposed development is considered to have an acceptable access.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding. Policy DC10 seeks to ensure that the adequate provision for foul sewerage can be provided on site via the public foul sewerage system.

As part of this application process the council's Environmental Health Officers have been consulted who have raised no objection to the scheme as it is to be served by the public sewerage system. Severn Trent have also been consulted and have raised no objection to the proposal subject to the inclusion of a condition to include details of the foul and surface water disposal for the scheme.

Officers consider that subject to the suggested condition that the proposed development fundamentally complies with policy DC10 and DC13 of the Powys Unitary Development Plan 2010 in respect of foul and surface water drainage.

## Flood Risk

This application site is located in close proximity to the C2 flood zone however is wholly outside of the zone as shown on the Development Advice Maps. As part of this application process NRW have been consulted on the application and have raised no objections in respect of flood risk and have not requested any further information. Officers consider that the site is located outside of the C2 flood zone and therefore is acceptable in this respect.

In light of the above, officers consider that the proposed development fundamentally complies with policy SP14 of the Powys Unitary Development Plan.

## Ecology and Biodiversity

This application site is located in close proximity to the Montgomery SSSI and SAC. As part of this application process the county ecologist and NRW have been consulted. NRW's comments have no objections to the scheme subject to a number of conditions to secure a lighting scheme, biosecurity risk assessment, reasonable avoidance measures for bats and otters. Officers have considered the suggested conditions and have recommended that they be included upon any grant of consent. Other conditions were suggested in respect of root protection areas for the existing tree line alongside the canal, however amended plans remove the development from that area and this outline application only gives an indicative layout of the site with layout being fully considered at any reserved matters stage. It is considered that the root protection areas will be considered at any reserved matters stage in terms of designing the final layout of the site and a condition is not necessary at this outline stage.

In addition to the suggested conditions as a means of integrating the site into the settlement an additional landscaping buffer strip has been requested to the south west of the proposed site to further screen and integrate the site into the settlement. Officers consider whilst the buffer strip will provide additional protection to the wider landscape it will also provide additional habitats and benefits to the biodiversity of the surrounding local area. A condition will be placed upon any grant of consent to secure this landscape buffer.

In addition to NRW's comments on protected species they have comments upon the likely impact upon the Montgomery Canal SSSI and SAC. They have stated in their response that the proposed development is not likely to have a significant effect on the SAC.

The county ecologist has provided comments raising no objections to the scheme subject to recommended conditions. Some of the suggested conditions relate to aspects of the proposed site which will be finalised at any reserved matters stage and are not considered to be appropriate at this outline application stage.

In light of the above, officers consider that the proposed development subject to the suggested conditions complies with policies ENV2, ENV3, ENV4, ENV5 and ENV7 of the Powys Unitary Development Plan 2010.

## Habitats Regulations Assessment

The proposed site is located within close proximity to the Montgomery Canal SSSI and SAC. As a result the county ecologist has carried out a habitats regulations assessment for the

site. The outcome of the assessment indicates that the proposed development would result in no likely significant effects upon the SAC.

## **Recommendation**

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore on balance justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

Conditions:

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as received on 20/02/18 (drawing no's: RPP01.1.3.01 Rev E).
5. The access and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (drawing no. RPP01.1.3.01 Rev E)
6. The minimum visibility distances available for vehicles emerging from the proposed access / junction shall be 160 metres in the northbound direction and 215 metres in the southbound direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the trunk road carriageway. These visibility distances shall be available at a point 4.5 metres from the nearer running edge of the trunk road, measured along the centreline of the access road. The visibility splay so formed shall be free of any growth or obstruction, which would interfere with the minimum visibility requirements.
7. Adequate provision shall be made within the development site to enable vehicles to turn around, so that they may enter and leave the site in a forward gear.
8. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road.
9. The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.

10. The applicant shall enter into an Agreement with the Welsh Ministers under Section 278 of the Highways Act 1980 to enable the Applicant to undertake agreed improvement works on the trunk road. This Agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. Without such an agreement in place, any consent that may be granted cannot be implemented.
11. Prior to the commencement of development drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
12. Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.
13. Prior to the commencement of development 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.
14. Prior to the commencement of development a Biosecurity Risk Assessment shall be submitted to and approved by the Local Planning Authority. The risk assessment shall be implemented as per the details approved.
15. Prior to the commencement of development measures for the protection of otters from being trapped in open excavations and/or pipe and culverts are to be submitted and approved in writing by the Local Planning Authority. The measures approved will be implemented in full.
16. No development shall commence until full details of the proposed landscape buffer zone as detailed on plan no. RPP01.1.3.01 Rev E (received 20/02/18) is submitted alongside an implementation and maintenance scheme and approved in writing by the Local Planning Authority. The approved schemes shall be implemented in full.
17. Prior to the commencement of development a reasonable avoidance measures method statement regarding bats and otters shall be submitted to and approved in writing by the Local Planning Authority the approved measures shall be implemented and adhered to in full.
18. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i) the type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 1 dwelling;



ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];

iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

19. The affordable dwelling shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and reenacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.
20. A Hedgerow Replacement Plan shall be submitted to the Local Planning Authority at the same time as the reserved matters as listed in condition 1 above and implemented as approved and maintained thereafter.

#### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution
12. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
13. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
14. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
15. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
16. To ensure that the application site is adequately landscaped in the interests of the amenity of the area, in accordance with policies GP1, ENV2 and ENV3 of the Powys Unitary Development Plan (2010), Technical Advice Note 5 - Nature Conservation and Planning (2009) and Planning Policy Wales (2016).
17. To comply with Powys County Council's UDP Policies SP3, ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
18. The dwellings are hereby permitted as an exception to normal housing policies. This condition is imposed to control the future affordability and management of the development in accordance with policies HP7 of the Powys Unitary Development Plan (2010).
19. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
20. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

## **Informative Notes**

### *Welsh Government Transport (Trunk Road Authority)*

- 1) The applicant should be advised that all temporary or permanent signage, road markings or traffic orders shall be at the expense of the developer and agreed with the Highway Authority before works commence.
- 2) Any adjustment, re-siting and / or protection of any statutory undertakers apparatus in the highway shall be undertaken with the prior written consent of the relevant Authority and shall be carried out at the Applicant's own expense.
- 3) The applicant should note that planning permission does not constitute permission under the Highways Act for various activities that may be associated with the development i.e. use of the highway/footway/verge to: for example; deposit material, deposit skips, erect scaffolding, excavate within the highway or erect traffic management apparatus. Such activities will require the separate consent of the Highway Authority;
- 4) Any temporary traffic management arrangements required in connection with this application shall be in accordance with Chapter 8 of the Traffic Signs Manual and in accordance with the Safety at Street Works and Road Works Code of Practice, and shall be approved by the highway authority.
- 5) Road traffic signs in Wales must be bilingual, Welsh above English, and adhere to Welsh Government specifications, see following link for standard details; [http://www.traffic-wales.com/traffic\\_signs.aspx](http://www.traffic-wales.com/traffic_signs.aspx)

### *Canal and Rivers Trust*

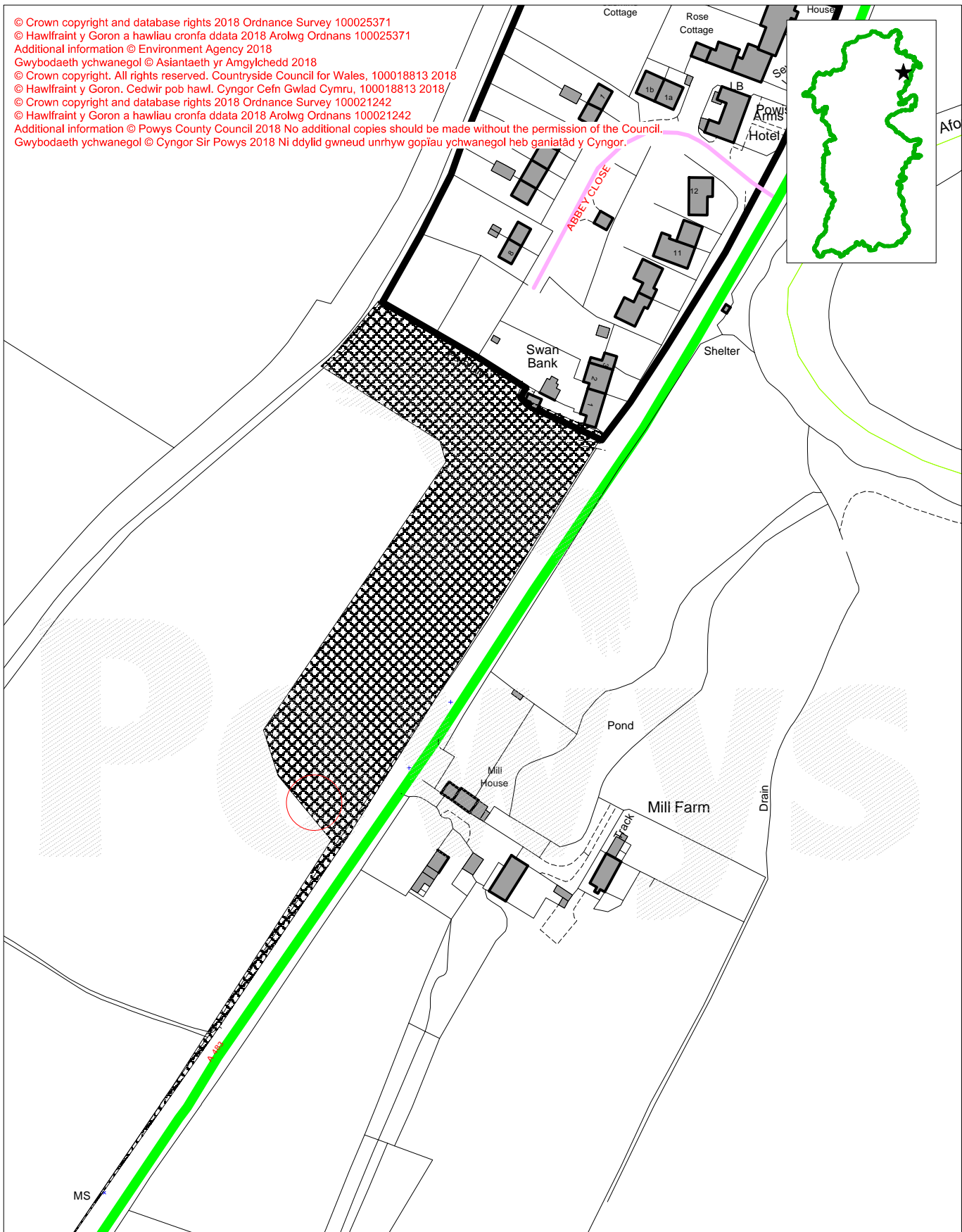
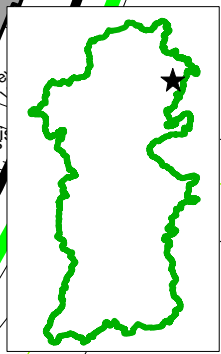
It is essential that the applicant/developer contacts the Canal & River Trust's Third Party Works Team (01782 779909) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust"

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## Delegated List

**13/02/2018****21/02/2018**

For the purpose of the Local Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

**FOR INFORMATION**

**Decisions of the Head of Regeneration, Property & Commissioning on  
Delegated Applications**

<b>Application No.</b>	<b>Valid Date</b>	<b>Decision</b>	<b>Decision notice sentdate</b>	<b>Proposal</b>	<b>Location</b>
P/2017/0991 CLA1	29/08/2017	LAWFUL USE	14/02/2018	Section 191 application for lawful development certificate for existing use to establish residential use of land	Little Penthryn Llandrinio Lanmynach SY22 6RR
P/2017/1220 REM	18/10/2017	CONSENT	14/02/2018	Section 73 application to vary condition no. 2 attached to planning permission P/2013/0130 to allow design changes	Barn F Whitney-On-Wye Cabalva Farm Hereford HR3 6EX

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/0063 FULL	17/01/2017	CONSENT	15/02/2018	Erection of 2x holiday lets	Under Moorwood Leighton Welshpool SY21 8LN
P/2017/0264 FULL	03/03/2017	CONSENT	15/02/2018	Full: Erection of a detached outbuilding comprising a 3 bay domestic garage and associated parking area with WC and store in connection with Rosehill and two storey office accommodation in association with existing Farrier business	Rose Hill Forden Welshpool SY21 8TR
P/2017/0771 FULL	06/07/2017	CONSENT	15/02/2018	Full: Construction of detached dwelling, installation of package treatment plant and formation of new vehicular access off public highway	Hillis Farm Llanfilo Brecon LD3 0RH
P/2017/0863 FULL	09/08/2017	CONSENT	15/02/2018	Full: Erection of a 32,000 bird poultry unit, feed bins, formation of new vehicular access and all associated works	Tyncelyn Oakley Park Llanidloes SY18 6LP
P/2017/0956 FULL	12/09/2017	REFUSE	15/02/2018	Full: Proposed erection of 1no eco-dwelling	Land at Kincoed Farm Mochdre Newtown SY16 4JW



Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/1216 FULL	26/10/2017	REFUSE	15/02/2018	Full: Change of use of land for the siting of three holiday pods, creation of parking area and all associated works	Tynewydd Tal-y-Wern Machynlleth SY20 8NZ
P/2017/1246 FULL	14/11/2017	CONSENT	15/02/2018	Full: Change of use of part of enclosure 3771 from touring caravans for holiday and storage purposes to siting of 6 no. static caravans for holiday purposes	Land at Mill Caravan Park Three Cocks Brecon LD3 0SL
P/2017/1341 FULL	07/12/2017	CONSENT	15/02/2018	Full: Installation of a 20.0m lattice mast, supporting 3no antenna, 2no 600mm	Land at Revolution Bike Marsham St Llangynog SY10 0EP
P/2017/1467 FULL	18/12/2017	CONSENT	15/02/2018	Full: Construction of a new livestock building	Fanfawr Pontfaen Brecon LD3 9RT
P/2017/1336 FULL	13/11/2017	CONSENT	16/02/2018	Full: Erection of 3 no. holiday chalets, laying of access road and installation of septic tank drainage system	Plas Robin Llandyssil Montgomery SY15 6LQ

<b>Application No.</b>	<b>Valid Date</b>	<b>Decision</b>	<b>Decision notice sentdate</b>	<b>Proposal</b>	<b>Location</b>
P/2017/1358 HOUS	27/11/2017	CONSENT	16/02/2018	Householder: Erection of a new conservatory on the existing flat roof of garage	Ty Isaf Ceinws Machynlleth  SY20 9EX
P/2017/1409 FULL	30/11/2017	CONSENT	16/02/2018	Full: Erection of an agricultural building for the storage of machinery	Dolobran Hall Pont Robert Meifod  SY22 6JE
P/2017/1431 FULL	08/12/2017	CONSENT	16/02/2018	Full: Change of use of property from commercial use (hair salon) to residential use including proposed parking area	Tangles Salon Four Crosses Llanymynech  SY22 6RB
P/2017/1469 FULL	18/12/2017	CONSENT	16/02/2018	Full: Proposed construction of a farm building	The Gables  Llanfyllin  SY22 6UQ
P/2017/1507 FULL	21/12/2017	CONSENT	16/02/2018	Full: Demolition and erection of replacement dwelling	Frochas Cottage Frochas Welshpool  SY21 9JD

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/1138 FULL	16/10/2017	CONSENT	19/02/2018	Full: To demolish the existing dwelling and rebuild dwelling with a septic tank	2 The Burlands Gipsy Castle Lane Hay-on-Wye HR3 5PW
P/2017/1306 HOUS	09/11/2017	CONSENT	19/02/2018	Householder: Demolition of the existing outbuilding & attached store, erection of a two storey extension and internal & external alterations	Wergliodd-Gam Mochdre Newtown SY16 4JP

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