

# Planning, Taxi Licensing & Rights of Way Committee

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Meeting Venue  
**Council Chamber - County Hall,  
Llandrindod Wells, Powys**

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Meeting Date  
**Thursday, 14 June 2018**

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County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

Meeting Time  
**9.30 am**

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

7 June, 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>2.</b>	<b>MINUTES OF THE PREVIOUS MEETING</b>
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 24 May, 2018 as a correct record.

(To Follow)

<b>Planning</b>
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<b>3.</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>4.</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)

**4.1. Updates**

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

(To Follow)

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

(Pages 9 - 60)

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

(Pages 61 - 102)

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

(Pages 103 - 128)

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

(Pages 129 - 140)

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

(Pages 141 - 146)

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

(Pages 147 - 152)

<b>5.</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 153 - 164)

<b>6.</b>	<b>APPEAL DECISIONS</b>
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To receive the Planning Inspector's decisions regarding appeals.

(Pages 165 - 178)

**Rights of Way**

At the conclusion of the meeting the Committee will undertake mandatory training regarding Commons Act 2006 – method of determining applications.

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**Planning, Taxi Licensing and Rights of Way Committee**  
**14<sup>th</sup> June, 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/2014/0009</b></p> <p>St Harmon</p> <p>300294.42 272355.33</p> <p>06.01.2014</p>	<p>Full: Erection of 2 broiler units, link control room, boiler building, feed bins, hard standing and access improvements</p> <p>New Broiler Unit, Banc Gwyn, Llawrllan Hill, St Harmon, Rhayader, Powys, LD6 5NG</p> <p>Mr Carl Thomas, Beili Ddol Farm, Rhayader, Powys, LD6 5NS</p> <p><b>Recommendation:</b> Conditional Consent</p>
<p><b>P/2017/0764</b></p> <p>St Harmon</p> <p>294795.69 274076.13</p> <p>17.07.2017</p>	<p>Section 73 application for variation of condition no. 6 and condition no's. 11-18 of planning permission R4297/D</p> <p>Bryn Titli Wind Farm, North of Rhayader, South of Llangurig, Powys</p> <p>Zephyr Investments Ltd, 11th Floor, 200 Aldergate Street, London, EC1A 4HD.</p> <p><b>Recommendation:</b> Conditional Consent</p>

<p><b>P/2018/0103</b></p> <p>Treflys</p> <p>291873.94 251225.81</p> <p>25.01.2018</p>	<p>Reserved matters in respect of approved planning permission P/2015/0039</p> <p>Land opp The Walk, Beulah, Llanwrtyd Wells</p> <p>Mr G Walker, H &amp; W Developments, 9 Broad Street, Builth Wells</p> <p><b>Recommendation:</b> Conditional Consent</p>
<p><b>P/2018/0370</b></p> <p>Carreghofa</p> <p>326056.73 320693.8</p> <p>05.04.2018</p>	<p>Full: Erection of an extension, alterations and all associated works</p> <p>Carreghofa Primary School, Llanymynech, Powys, SY22 6PA</p> <p>Powys County Council</p> <p><b>Recommendation:</b> Conditional Consent</p>
<p><b>DIS/2018/0068</b></p> <p>Llanfair Caereinion</p> <p>309310.69 306336.61</p> <p>05.04.2018</p>	<p>Discharge of conditions no's 5, 19 &amp; 22 of planning consent P/2017/1071</p> <p>Land at Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU</p> <p>S M &amp; G D Jones, Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU</p> <p><b>Recommendation:</b> Discharge conditions 5, 19 &amp; 22 of planning permission P/2017/1071</p>

<p><b>AGRI/2018/0024</b></p> <p>Painscastle</p> <p>315527.3 246484.71</p> <p>17/05/2018</p>	<p>Application for prior notification of proposed agricultural building</p> <p>Fronhowey, Painscastle, Builth Wells, LD2 3JJ</p> <p>Powys County Council</p> <p><b>Recommendation:</b></p> <p>prior approval not required</p>
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# 4.2

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

<b>Application No:</b>	P/2014/0009	<b>Grid Ref:</b>	300294.42 272355.33
<b>Community Council:</b>	St. Harmon	<b>Valid Date:</b>	<b>Officer:</b> 06/01/2014 Tamsin Law
<b>Applicant:</b>	Mr Carl Thomas, Beili Ddol Farm, Rhayader, Powys, LD6 5NS		
<b>Location:</b>	New Broiler Unit, Banc Gwyn, Llawrllan Hill, St Harmon, Rhayader, Powys, LD6 5NG		
<b>Proposal:</b>	Full: Erection of 2 broiler units, link control room, boiler building, feed bins, hard standing and access improvements		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The application is supported by an Environmental Statement.

### Site Location and Description

The application seeks full planning permission for the construction of two poultry units and associated works to house 80,000 birds in total, split between two sheds comprising broilers.

The application site is located to the within an area of open countryside, approximately 1 mile to the east of the settlement of St Harmon. The proposed units would be located to the south of the existing highway with agricultural land to the east, south and west. The application site is existing agricultural land.

The site is located within 5km of the following statutory designated sites;

- Cae Coed-Gleision SSSI approximately 1937m from the proposed development
- Marcheini Uplands, Gilfach Farm & Gamallt SSSI approximately 2351m from the proposed development
- Caeau Wern SSSI approximately 2573m from the proposed development
- Upper Nantserth Pasture SSSI approximately 3328m from the proposed development
- Cors Cae'r Neuadd SSSI approximately 3780m from the proposed development
- River Wye SAC approximately 4031m from the proposed development
- Elenydd-Mallaen SPA approximately 3391m from the proposed development

The proposed buildings would measure 91.45 metres in length, 21.335 metres in width with a maximum height of 5.44 metres (6.5 metres including fan height) falling to 2.8 metres at the eaves. A boiler room will be located to the south of the proposed building. The floorspace created will be approximately 3,902.2 square metres. The buildings will be finished with a polyester coated composite panel finished in juniper green.

The access to the poultry units would be through an existing access from the C1229.

## **Consultee Response**

### **St Harmon Community Council**

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

The Community Council does not support this application and has expressed various concerns that need urgent clarification. These include:-

- Noise emission
- Positioning of power point and supply back up
- Dispersion of odours
- Detrimental environmental impact
- The overall scale of the project/industrialisation of the area

Other important issues are:

- Unsuitability of the access point to the public highway
- Unsuitability of highway access route to the main road network
- Inadequacy of passing places (only 3)
- Surface water run off/potential for flooding
- Bank erosion of the nearby stream
- Soakaways/contamination of water/risk of disease

As this is a major construction project the concern have been raised regarding;

- Damage to the road caused by heavy vehicle movements
- Potential structural damage to the old properties (adjacent to the road) due to vibration
- Lack of provision for the costs of repairs to the road and roadside properties
- Loss of safety for other road users, walkers, horse-riders

On behalf of the Community Council I would request please that the above concern are addressed before this application proceeds to determination. I would appreciate your response as soon as possible.

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

Please be advised that St Harmon Community Council strongly object to the proposed development and would request that the planning permission is refused.

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

The Community Council expressed deep concerns about the inadequate level of information available and its incorrectness (including drawings). This makes it impossible to make an informed judgement and a correct decision. The main concerns include;

- Number of proposed passing places – totally inadequate
- The length of the passing places – not long enough (especially when two lorries have to pass)
- This is a single track road and the inadequate number of passing places will result in vehicles having to reverse quite a long way, sometimes in the dark or vehicles being trapped.
- The road is totally unsuitable for any regular heavy vehicles traffic.

Therefore the Community Council strongly objects to the proposed development and would request that the planning permission is refused.

#### 4<sup>th</sup> Response

As you are fully aware from our letter of 30<sup>th</sup> April 2014 the Community Council has already expressed serious concerns about;

- The totally inadequate number of the proposed passing places
- The passing places need to be long enough for 2 lorries to pass

Our letter of 30<sup>th</sup> July 2014 advised that the Community Council was gravely concerned to discover that;

- Not only the number of passing places has not been increased
- But also that their proposed length of 20m has now been reduced to 10m
- As well as the removal of provision of passing places to be constructed prior to the commencement of the development

Please note that the Council and many members of St Harmon community regard this as totally unacceptable, unrealistic and seriously unsafe.

Due to the seriousness of the above concerns we would request that a site meeting takes place as soon as possible between members of the Council and representatives from the Highways and Planning Departments.

We would be grateful if you could please suggest any available dates at your earliest convenience so that the necessary arrangements can be made.

#### 5<sup>th</sup> Response

The Community Council expressed deep concerns about a number of issues. The main concerns include;

##### General

- The overall scale of the project
- Detrimental environmental impact

##### Access

- The number of proposed passing places and their length reduced from 20m to 10m is totally inadequate and unacceptable. Of particular concern is the busiest length of road – 650 metres between Beili Bedw and the B4518 which has several bends and where no passing places are proposed.
- The road has a high proportion of agricultural traffic, often with trailers for stock, feed, hay etc. There would be no passing places for the first 650m from the B4518 and a farm vehicle meeting a HGV servicing the proposed poultry unit may need to reverse a long distance (impossible during the hours of darkness) – possibly a dangerous manoeuvre reversing onto the B4518.
- The substandard road is totally unsuitable for any regular heavy traffic. It is too narrow and has many bends with poor visibility.
- The additional of the proposed maximum length/weight heavy vehicles in the construction phase followed by the production phase can only destroy the surface. No provision for the costs of repairs to the road. A weight limit should apply to any vehicles servicing the proposed unit – similar to Glan Marteg, St Harmon (P/2009/0725).

#### Access (visibility)

- Long vehicles existing the C1229 on to the B4518 need to use the wrong side of the road to manoeuvre. These move at slow speed creating their own hazard combined with the visibility issues and traffic on the B4518 frequently exceeds the 30mph speed limit.
- The site entrance is located on a blind bend opposite a tall hedge that has recently been cut. Visibility at the site entrance is inadequate for vehicles approaching around the blind bend from the Abberycwmhir direction which is only 180m away. This is currently a dangerous bend and the addition of long slow-moving traffic manoeuvring would only make it worse.
- Lack of visibility over land at the garage to the south east of the junction between the C1229 and B4518. Visibility in the southerly direction is already obscured because of the hidden bend 170m to the south of the junction. This is compounded with the reduced visibility over the garage forecourt and grass verge obstructed by large parked vehicles and cars for sale. These are parked legally because the land is not in the control of either Powys or the applicant.

#### Residential Amenity

- A potentially significant odour effect on the dwelling known as Pencwm due to cold drainage flow (also peak odour emissions rates have not been considered)
- HGVs would be extremely close to Tynant whilst turning the 90degree bend outside. Lorries would be taller than the eaves and it is possible that their mirrors would scrape the wall of the house.
- No provision for sound proofing of affected properties. The noise of HGVs past Tynant and other houses on the C1229 at night with resultant sleep deprivation of the inhabitants of these houses is not acceptable.
- Potential structural damage to the old properties (adjacent to the road) due to vibration. No provision for the costs of repairs to these properties.

#### Alternative locations have not been fully evaluated

- Visibility at U1260 junction with the B4518 at the entrance to Glan yr Afon is vastly superior to that at the C1229/B4518 junction. The decision to favour the proposed Banc Gwyn site was made before it was known that the grass verge vision splay (for access to Banc Gwyn) is in the private ownership of the garage forecourt.
- Another advantage for the selection of Glan yr Afon is that vehicles servicing the proposed poultry unit would not have to negotiate the double bend on the B4518 at Cwm is y rhiw. Long vehicles need to use the opposite side of the road with very limited visibility, and this is a particularly dangerous manoeuvre at night, with fast cars on the road returning home after an evening out.
- For Beili Ddol, the bio-security implications have not been explained. The ammonia calculations have not been updated since NRW published its appendix to its consultee letter of 31 January 2015. This appendix advises that ammonia emissions from the broiler units are considerably less than for free-range birds, reducing depositions at the adjacent SSSI.

The Community Council strongly objects to the proposed development and reiterates its statement that this development is totally unacceptable, unrealistic and seriously unsafe. Taking all the above material considerations into account the Council requests that the planning permission is refused.

## 6<sup>th</sup> Response

I write on behalf of St Harmon Community Council who reviewed and discussed the additional information (Environmental Statement, December 2016) regarding this proposed development at the last Council meeting on 27th June 2017.

The Community Council expressed deep concerns about a number of issues. The main concerns include:-

### General

- The overall scale of the project
- Detrimental environmental impact

### Access

- The number of proposed passing places and their length reduced from 20m to 10m is totally inadequate and unacceptable. Of particular concern is the busiest length of road – 650 metres between Bailey Bedw and the B4518 which has several bends and where no passing places are proposed.

- The road has a high proportion of agricultural traffic, often with trailers for stock, feed, hay etc. There would be no passing places for the first 650m from the B4518 and a farm vehicle meeting a HGV servicing the proposed poultry unit may need to reverse a long distance (impossible during the hours of darkness) – possibly a dangerous manoeuvre reversing onto the B4518.

- The substandard road is totally unsuitable for any regular heavy vehicle traffic. It is too narrow and has many bends with poor visibility.

- The addition of the proposed maximum length/weight heavy vehicles in the construction phase followed by the production phase can only destroy the surface. No provision for the costs of repairs to the road. A weight limit should apply to any vehicles servicing the proposed unit – similar to Glan Marteg, St Harmon (P/2009/0725)

### Access (visibility)

- Long vehicles exiting the C1229 on to the B4518 need to use the wrong side of the road to manoeuvre. These move at slow speed creating their own hazard combined with the visibility issues and traffic on the B4518 frequently exceeds the 30mph speed limit.

- The site entrance is located on a blind bend opposite a tall hedge that has recently been cut. Visibility at the site entrance is inadequate for vehicles approaching around the blind bend from the Abbeycmhir direction which is only 180m away. This is currently a dangerous bend and the addition of long slow-moving traffic manoeuvring would only make it worse.

- Lack of visibility over land at the garage to the south-east of the junction between the C1229 and B4518. Visibility in the southerly direction is already obscured because of the hidden bend 170m to the south of the junction. This is compounded with the reduced visibility over the garage forecourt and grass verge obstructed by large parked vehicles and cars for sale. These are parked legally because the land is not in the control of either Powys or the applicant.

## Residential Amenity

- A potentially significant odour effect on the dwelling known as Pencwm due to cold drainage flow (also peak odour emissions rates have not been considered)
- HGVs would be extremely close to Tynant whilst turning the 90° bend outside. Lorries would be taller than the eaves and it is possible that their mirrors would scrape the wall of the house.
- No provision for sound proofing of affected properties. The noise of HGVs past Tynant and other houses on the C1229 at night with resultant sleep deprivation of the inhabitants of these houses is not acceptable.
- Potential structural damage to the old properties (adjacent to the road) due to vibration. No provision for the costs of repairs to these properties.

## Alternative locations have not been fully evaluated

- Visibility at the U1260 junction with the B4518 at the entrance to Glan yr Afon is vastly superior to that at the C1229/B4518 junction. The decision to favour the proposed Banc Gwyn site was made before it was known that the grass verge vision splay (for access to Banc Gwyn) is in the private ownership of the garage forecourt.
- Another advantage for the selection of Glan yr Afon is that vehicles servicing the proposed poultry unit would not have to negotiate the double bend on the B4518 at Cwm-is-y-rhiw. Long vehicles need to use the opposite side of the road with very limited visibility, and this is a particularly dangerous manoeuvre at night, with fast cars on the road returning home after an evening out.
- For Beili Ddol, the bio-security implications have not been explained. The ammonia calculations have not been updated since NRW published its appendix to its consultee letter of 31 July 2015. This appendix advises that ammonia emissions from broiler units are considerably less than for free-range birds, reducing depositions at the adjacent SSSI.

The Community Council strongly objects to the proposed development and reiterates its statement that this development is totally unacceptable, unrealistic and seriously unsafe. Taking all the above material considerations into account the Council requests that the planning permission is refused.

## **PCC - Highways**

### 1<sup>st</sup> Representation

The County Council as Highway Authority for the County Class III Highway, C1299

Wish the following recommendations/Observations be applied  
Recommendations/Observations

I have carefully considered all the information provided relating to this application and despite the significant volumes of objecting correspondence do not believe there are reasonable highway grounds to refuse this application.

The volume of traffic for more than 90% of the year will be just two additional movements per day along the class III road which I do not imagine can be termed as significant.

The swept path drawings supplied indicate that the proposed vehicles will be able to negotiate the bends in the highway if driven at an appropriate speed. I cannot ignore this information and would not wish to assume the ability of any driver.

However, in view of concerns expressed regarding the viability of the manoeuvres shown I would suggest the applicant be requested to carry out a trial run with the vehicles proposed for regular use to the unit. If this were required following an 'in principle' approval of the application by Committee but prior to the issue of a decision, appropriate vehicle size limitation could be agreed and added if necessary.

Visibility at the junction with class II road is, on occasion, partly inhibited by vehicles parked inconsiderately on the frontage of the property to the south. As this is not a permanent obstruction it would not be acceptable to turn down a submission for such an inconsistent reason.

The passing bay lengths, whilst previously agreed as 10 metres to accommodate a domestic sized vehicle whilst a heavy goods vehicle passes, could be discussed further if more specific data were provided to quantify the frequency of hgv movements and justify the longer length.

The number and size of passing bays requested was based on the perception of traffic flows during the site visits carried out. I therefore consider it appropriate to recommend, based on the multiple concerns that three spaces are insufficient for this length, that a further two passing places be required should the development receive approval. The location and size of these and the size of those already proposed could be agreed and approved prior to the commencement of the development.

I would also strongly advise that any passing places should be completed prior to the commencement of any work on the site. It is not clear from where the alternative of after construction arose but I would not support such timing.

I therefore recommend that the following conditions be included on any permission granted in the interest of highway safety.

HC1 Any entrance gates shall be set back at least 15.0 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway.

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 and 90 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 area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction thereafter.

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 binder course material for a distance of 15.0 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.

HC21 Prior to the occupation of the broiler units the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 metres from the edge of the adjoining carriageway.

HC30 The centreline of any new or relocated hedge should be positioned not less than 1.0 metres to the rear of the visibility splay.

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

HC37 Prior to any works being commenced on the development site the applicant shall construct 5 passing bays, in (a) location(s) to be agreed in writing by the Local Planning Authority. The passing bays shall be constructed up to adoptable standard prior to any works being commenced on the development site.

## 2<sup>nd</sup> Representation

The County Council as Highway Authority for the County Class III Highway, C1299

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Main local road – B4519; site access from C1299 about 2km east of Harmon.

Given the time elapsed it is recommended that full details (at 1:500 scale) should be provided to show how the draft conditions (set out in officer comments of 12th September 2014) will be satisfied. Particularly, the provision of passing bays at suitable locations that can accommodate large HGVs. The applicant should re-submit a typical schedule of likely vehicle type, movements and frequency. This will inform consideration of the likelihood of two HGVs meeting along the C1299

There has been considerable discussion on this application. The applicant is advised to provide the full details of all the highway works they propose to sponsor. These are chiefly to provide suitable passing places to mitigate against the increased vehicle movements attracted to the site. The details should also consider construction and drainage matters.

The applicant might be further informed by the document produced by St. Harmon Community Council following their meeting on 20th January 2015.

## **PCC - Ecologist**

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

I have reviewed the submitted documents, including the Baseline Ecological Site Audit prepared by Betts Ecology in December 2013.



The Baseline Ecological Audit recorded a snipe within the site during their site visit on the 10<sup>th</sup> December 2013 and state that the site may hold potential for other ground nesting birds. From the site photographs and aerial photographs on Google maps, it is considered that the site may have potential to support nesting curlew. Curlew are listed on the RSPB Wales Red List of birds of conservation concern and curlew are a UK priority Biodiversity Action Plan (BAP) species and Powys County Council BAP Species. Curlews are very sensitive to disturbance, particularly during their breeding season.

Further investigation is required with the regard to the potential for this species to be present on the site or on adjacent land where they may be affected by the development proposals. This should include a habitat suitability assessment and a record search (2km) from the Powys and Brecon Beacons Biodiversity Information Service and consultation of the Radnorshire Bird Report. This assessment should be undertaken by a suitably experienced ecological consultant.

Should the site be assessed as having potential to support nesting curlew then further surveys may be required and/or suitable mitigation strategy, for example undertaking construction works outside of the curlew nesting season (March to August inclusive).

This information in relation to nesting curlews is required prior to determination.

#### Construction Method Statement and Biodiversity Enhancement Plans

The Baseline Ecological Site Audit prepared by Betts Ecology recommends that as a precautionary approach site clearance is undertaken outside of the nesting bird season and that measures are implemented to avoid harm to any lizards that may be present on site. These measures should be detailed and set out in a Construction Method Statement and be submitted to the LPA for written approval.

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 5, November 2012), TAN5: Nature Conservation and Planning, all planning applications are required to include biodiversity enhancements. Therefore a detailed Biodiversity Enhancement Plan is required to be submitted to the Local Planning Authority for written approval. This could include measures such as identifying and eliminating or minimising pollution (as identified by Betts Ecology during their site visit) of the watercourses on and adjacent to the site.

#### Pollution Management and Mitigation Scheme

There is a watercourse (Cwm Caws) adjacent to the site which eventually connects with the River Marteg and River Wye SAC downstream. Therefore, in order 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 5, November 2012), TAN5: Nature Conservation and Planning and the NERC Act 2006, a Pollution Management and Mitigation Scheme is required to be submitted to the LPA for written approval. This should provide detailed measures of how pollution of the Cwm Caws will be avoided during the construction and operational phases of the proposed development. It

should also comply with the Environment Agency's Pollution Prevention Guidance 5: Works in or Near Water.

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

Thank you for consulting me with regards to planning application P/2014/0009 which concerns an application for the Erection of 2 broiler units, link control room, boiler building, feed bins, hard standing and access improvements at Banc Gwyn, Llawrllan Hill, St Harmon, Rhayader, Powys.

A baseline ecological survey was carried out by Betts Ecology covering the site to assess the habitats present and to identify any features of importance with regards to biodiversity. The survey was carried out in December which is outside of the optimum survey period for many species, however the report states that the nature of the habitat and their observation were considered to provide sufficient insight into the potential for protected species to be supported on site and therefore the timing of the survey was not considered to be a significant constraint to the assessment of the site.

The assessment of the site identified that the land within the site boundary is of low to moderate ecological value comprising areas of grassland and rush pasture. The land has been agriculturally improved and is dominated by common species, no notable plants, vegetation or habitats were identified during the survey. The access track was found to be most bare ground. To the west between the access track and the site a drainage channel was identified and approximately 20m to the north east the Cwm Caws stream is present. No ponds were found to be present on the site.

The assessment of the site for its potential to support protected species concluded the following:

- Badger – No evidence of activity of badger setts were found on the site
- Otter – no watercourses were present within the development footprint, the Cwm Caws stream was assessed as having negligible potential as a commuting route for otters.
- Bats – no buildings or trees present on the site, therefore no potential opportunities for roosting bats. Lack of suitable features e.g. hedgerows on the site to provide foraging and commuting routes for bats
- Dormice – No suitable habitat on site
- Deer – no field signs observed but potentially suitable habitat present
- Hedgehog – No suitable habitat on site
- Birds – snipe were observed on site and red kite were observed flying overhead, no nesting activity was observed as the survey was undertaken out of season. The assessment concluded that the site has little ecological value to birds generally but may be utilised by ground nesting birds and habitat should therefore be retained for them
- Reptiles – no reptiles were observed on site during the survey, the site was generally assessed as having negligible potential to support adder, grass snake and slow-worm due to lack of suitable habitat, however it was identified that the site has low potential to support common lizard and it is recommended that pre-search-clearance is undertaken as precautionary measure
- Amphibians – no suitable habitat was found on site, no ponds were identified within 500m of the site. Boggy/marshy areas were identified as having some pools but these were found to be polluted and contain very few macrophytes. Common species of amphibians were considered to potentially present in low numbers during in the terrestrial phase.

- Fish – No watercourses are present on the site, the nearby Cwm Caws stream was considered unsuitable to support migratory fish species and pollution presence in the stream was considered to reduce the potential for species e.g. trout and bullhead to be present.
- Invertebrates – the site was found to lack suitable habitats to support any notable assemblages or protected or priority invertebrate species.
- Non-Native Invasive species - None were found to be present on the site during the survey.

It is recommended that if planning permission is granted for the proposed development that adherence to the mitigation measures identified in the Baseline Ecological Site Audit Report produced by Betts Ecology dated December 2013 are secured through an appropriately worded planning condition to ensure the development complies with the requirements of Powys LDP Policy DM2.

Further to the Baseline Ecology Survey a Breeding Bird Survey was undertaken by Betts Ecology the results of this survey have been provided in a Report dated June 2014. The main target species of the surveys was Curlew. Surveys were undertaken in April, May and June 2014 following good practice survey techniques. Transect and Vantage point surveys were carried out during the survey visits. The survey results were as follows:

- Meadow pipit (Amber List) confirmed breeding on site
- Skylark (Red-Listed) no breeding on site confirmed, site was used for foraging
- Wheatear (Amber-Listed) possibly breeding on site, used site for foraging
- Linnet (Red-Listed) no breeding on site confirmed, commuting over site
- Red Kite (Amber-Listed) no breeding on site, possible territory identified as bird observed soaring over and beyond site
- Pied Wagtail, Jay and Raven were also recorded during the survey.

The ornithological diversity of the site was considered to be low with 8 species recorded during the surveys, only five of which were using the site for breeding and/or foraging. Of the five species recorded within the site boundary only the meadow pipit was confirmed as breeding on site.

An area of foraging habitat will be lost due to the proposed development, the report states that provided the land surrounding the development remains in its present state, due to its extensive nature the impact of the loss of a small area of low quality foraging habitat as a result of the proposed development would not have a significant impact to bird species in the local area.

Curlew were not recorded using the site during any of the surveys, they were however heard near-by during each survey and observed off site in low numbers – two birds during one survey and one birds during the final two site visits. Based on these observations it was concluded that curlew were potentially nesting within a field adjacent to the site approx. 350m north-west of the proposed. The report concludes that the proposed development would not adversely affect curlew.

In order to minimise impacts to nesting birds mitigation measures have been identified these include pre-clearance search of all areas, site clearance undertaken outside of the bird nesting season or appropriate checks made by suitably qualified and experienced ecologists to confirm no nesting activity present and installation of 10 bird boxes in suitable locations at or near the site.

It is recommended that if planning permission is granted for the proposed development that adherence to the mitigation measures identified in the Breeding Bird Survey Report produced by Betts Ecology dated June 2014 are secured through an appropriately worded planning condition to ensure the development complies with the requirements of Powys LDP Policy DM2.

The following statutory designated sites are present within 5km of the proposed development:

- Cae Coed-Gleision SSSI approximately 1937m from the proposed development
- Marcheini Uplands, Gilfach Farm & Gamallt SSSI approximately 2351m from the proposed development
- Caeau Wern SSSI approximately 2573m from the proposed development
- Upper Nantserth Pasture SSSI approximately 3328m from the proposed development
- Cors Cae'r Neuadd SSSI approximately 3780m from the proposed development
- River Wye SAC approximately 4031m from the proposed development
- Elenydd-Mallaen SPA approximately 3391m from the proposed development

NRW have reviewed the proposed development with regards to potential for significant negative impacts to SACs, SSSIs and Local Wildlife Sites as part of the permit process for the site, the result of this screening have concluded that the predicted process contributions would not exceed the thresholds of significance.

In addition further detailed assessment of the proposed development was undertaken by NRW to determine the likely significance of a cumulative impact from the proposed development and other consented applications in the area. The assessment of potential cumulative impacts concludes that the proposals potential contributions to ammonia levels are not considered to be significant individually or when considered in combination with emissions from existing livestock units, full details of the assessment of cumulative atmospheric releases from the proposed development and other existing livestock units can be found in the NRW response dated 29th January 2016 (Reference SE/2014/117180/03).

A Surface Water Management Plan has been produced by ADAS in relation to the proposed development.

Drainage of surface water from the site will be accommodated through the construction of a detention basin system, which has been designed to limit surface water runoff from the site. Whilst the report identifies that the attenuation pond will not be a permanent pond, the soils in the basin bed will be periodically waterlogged for prolonged periods. It has been identified that an appropriate wetland species seed mix will be sown within the basin bed and inner banks – this is welcomed and is considered to have potential to provide benefits for biodiversity i.e. biodiversity enhancements. It is recommended that if planning permission is granted for the proposed development that in order to ensure the seed mixes proposed and management of this area is appropriate an appropriately worded planning condition is included to ensure the development complies with the requirements of Powys LDP Policies DM2 and DM4.

The report identifies that foul water generated by the proposed development (including welfare facilities and wash-down water) will be captured and handled entirely separately from the surface water drainage system. Dirty water will be taken to a dirty water storage tank where it will be stored before being emptied by a vacuum tanker for disposal.

Details regarding construction method and pollution prevention have been identified within the report, the reports makes reference to EA Pollution Prevention Guidelines PPG5, it should be noted that this document has now been superseded by GPP5 (which can be found at [http://www.netregs.org.uk/media/1418/gpp-5-works-and-maintenance-in-or-near-water.pdf?utm\\_source=website&utm\\_medium=social&utm\\_campaign=GPP5%2027112017](http://www.netregs.org.uk/media/1418/gpp-5-works-and-maintenance-in-or-near-water.pdf?utm_source=website&utm_medium=social&utm_campaign=GPP5%2027112017)) the details provided regarding soil stabilisation during construction of the surface water management features are considered to be appropriate and it is recommended that if planning permission is granted adherence to these measures is secured through an appropriately worded planning condition.

The Design and Access Statement produced by Ian Pick dated June 2014 states that at the end of each flock cycle the buildings will be cleaned out and the manure removed and loaded directly in waiting vehicles, which are sheeted and the manure removed from the site. No manure will be retained on the site as it represents a disease risk to the incoming flock of birds. All manure exported from the site will be disposed of through the use of anaerobic digesters/biomass power stations.

The Design and Access Statement produced by Ian Pick dated June 2014 states that native tree planting is proposed to the north and west of the proposed development, this is also shown on the site layout plan. Whilst the primary purpose of the native tree planting is to mitigate the exposed view of the site from Pencwm to the site entrance the provision of native planting is also considered to provide potential improvements for biodiversity – biodiversity enhancements, these are welcomed in accordance with the requirements of Section 6 of the Environment (Wales) Act 2016 which requires Local Authorities to seek to maintain and enhance biodiversity through all of its functions including the planning process. A Landscaping Planting Specification has been provided within the Design and Access Statement, the species proposed and the planting specifications identified are considered to be appropriate and it is recommended that if planning permission is granted adherence to these measures is secured through an appropriately worded planning condition to ensure the development complies with the requirements of Powys LDP Policies DM2 and DM4.

No details have been provided regarding the need to install exterior lighting associated with the proposed development. Whilst it is recognised that at this time there may be no intention to install exterior lighting, in the future it may be deemed necessary to install external lighting e.g. for safety reasons, to ensure that the lighting would not have a negative impact on local wildlife, therefore I recommend that if planning permission is granted a planning condition is included requiring that any additional external lighting identified as required at the site is approved by the LPA prior to installation to ensure the development complies with the requirements of LDP policies DM2 and DM7.

The proposed development is approximately 4031m from the River Wye SAC and 5668m from the Elan Valley Woodlands SAC, I have undertaken Habitats Regulations Assessments of the proposed development in relation to these European Sites, the screening of the proposed development concluded that there would be No Likely Significant Effect to these sites or their associated features either alone or in combination with other plans or projects – I have attached copies of the screening assessment for your records. With regards to the River Wye SAC, this screening has also taken into account the requirements of the Water Framework Directive.

The Elenydd-Mallaen SPA is approximately 3391m from the proposed development, this European site has not been subject to a HRA screening as it was determined based on the distance from the proposed development, nature of the designated site and associated features that there would be no likely direct or indirect impact to this site and as such a HRA is not required.

Should you be minded to approve the application I recommend that the following conditions are included:

The mitigation measures identified in the Baseline Ecological Site Audit Report produced by Betts Ecology dated December 2013 shall be adhered to and implemented in full and maintained thereafter.

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

The Mitigation and enhancement measures identified in Breeding Bird Survey Report produced by Betts Ecology dated June 2014 shall be adhered to and implemented in full and maintained thereafter.

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

The Native tree Landscaping Planting Specification referred to in the Design and Access Statement produced by Ian Pick dated June 2014 and shown on the Site Layout Plan shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policies DM2 and DM4 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

Prior to first beneficial use of the development a detailed Planting Specification and Aftercare Scheme for the detention basin 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.

Reason: To comply with Powys County Council's LDP Policies DM2 and DM4 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

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

Reason: To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and External Lighting 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 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.

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.

## **PCC - Environmental Health**

1<sup>st</sup> Response

I believe Kevin may have commented on this in the past. However Chris Austin requested a condition on a nearby smaller unit concerning commercial traffic from the unit late at night.

I would be grateful if the similar condition could be considered for this larger proposed development.

1. Commercial traffic generated by the development shall not enter or leave the site between the hours of 20:00hrs to 07:00hrs of the following day.

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

- 1) Concerns over the monitoring location and background readings for the assessment

Having read and discussed with colleagues the Noise assessment undertaken by Matrix Acoustics (M1341/R02) I am unable to accept the findings over the background survey that was undertaken.

The background monitoring location is some distance from the noise sensitive properties labelled A and V in the report. Given the distance, the background data cannot be described as representative of the background noise environment with any certainty.

It is therefore my strong recommendation that the exercise is repeated within the amenity areas of properties A and B.

The Matrix Acoustics (M1341/R02) report states 'During the setting up and collection of the noise monitoring it was noted that the noise of running water in the stream was audible when the ambient noise levels were low. The stream is therefore likely to be the source of the underlying noise during the period when other environmental levels are low.'

Seasonal variations in precipitation will have a large effect on the stream indicated within the report.

- 2) Concerns over the day and night time movements of HGVs and vehicles past property A

The Matrix Acoustics (M1341/R02) report states that 544 vehicle movements per annum, mainly HGVs will take place during the day and desticking of birds at night. This has the potential to have significant impact on the amenity of property A, as these vehicles would pass very close.

In order to assess the impact of vehicle movements, an assessment should be undertaken against the World Health Organisation's guideline with regard to day time and night time noise.

World Health Organisation's guidelines state the following;

In dwellings, the critical effects of noise are on sleep, annoyance and speech interference. To avoid sleep disturbance, indoor guideline values for bedrooms are 30dB LAeq for continuous noise and 45dB L<sub>Amax</sub> for single sound events. Lower levels may be annoying, depending on the nature of the noise source. The maximum sound pressure level should be measured with the instrument set at Fast.

To protect the majority of people from being seriously annoyed during the daytime, the sound pressure level on balconies, terraces and outdoor living areas should not exceed 55dB LAeq



for a steady, continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound pressure levels should not exceed 50dB LAeq. These values are based on annoyance studies.

At night, sound pressure levels at the outside facades of the living spaces should not exceed 45dB LAeq and 60dB LAmax so that people may sleep with bedroom windows open. These values have been obtained by assuming that the noise reduction from outside to inside with the window partly open is 15dB.

3) Construction noise could be reduced with the following suggested condition

Given the proximity of residential receptors it will be necessary to limit the hours of construction in order to prevent noise negatively impacting on residential amenity. I would recommend that the following condition be attached to any consent granted;

Hours of demolition and construction works

Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:30 hours on Saturdays and at no time on Sundays and Bank Holidays.

Reason. To protect the amenity of local residents from excessive noise, vibration and dust.

3<sup>rd</sup> Response

I write with reference to the above application. Following discussions with Mr Paul Smith from Matrix Acoustics with regards to the noise report, I am satisfied that the fans can be controlled through sound attenuation so that they will not give rise to excessive noise at the nearest noise sensitive properties. The issue regarding deliveries is such that the applicant is willing to undertake this during the daytime, noise will be heard from the passing lorries but this will be limited to day time.

Recommendations

Should members grant permission to this application then the following conditions are recommended.

Conditions

(a) Noise Conditions

For the use of fixed plant/machinery, etc.

The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [5 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.

Reason: To protect the local amenities of the local residents by reason of noise.

(a1) Transport Noise

All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.

Reason: To protect the local amenities of the local residents from noise.

(b) Prevention insect and of odour nuisances during storage of manure and manure spreading.

(i) General Odour condition

All emissions to air arising from the units hereby approved shall be free from odours at levels that are likely to be offensive or cause serious detriment to the amenity of the locality outside the site boundary of the holdings, as perceived by an authorised officer of the local planning authority by olfactory means.

Reason: To protect the local amenities of the local residents from the excess of mal-odorous emissions.

(ii) The Site for the Storage of manure

No storage of manure shall be sited next to dwellings, place of work, and popular leisure areas and all stored manure shall be stored on level ground.

No manure shall be stored over field drains or within 10 metres of a watercourse.

Reason: To avoid runoff and prevent deterioration of the local amenities.

Manure transportation

All vehicles used for the movement of manure off site shall be sheeted and/or fully covered.

Reason: To prevent spillage of manure and minimise odour dispersion and prevent population increase of insects.

Manure storage.

All stored manure that needs to be covered shall be covered by the end of the day. The covering shall be tightly with polythene in such a manner as to leave no gaps and the edges of the polythene shall be tightly secured. All poultry manure that needs to be covered shall remain covered for a minimum period of 10 days before it is used.

Reason: To ensure that any flies or fly larvae are killed, prevent sudden increase of fly and other insect infestations and minimise smells and contamination of water.

(iii) The spreading of manure

Poultry manure shall not be applied to ground that is waterlogged, flooded, frozen hard or snow covered. No poultry manure shall be applied within 10 metres of ponds or watercourses or within 50 metres of wells or boreholes. Only manure that is free from flies and larvae and low in odour shall be used.

Reason: To minimise odour emissions and reduce ammonia loss and prevent access by flies that may already be in the area.

(c) Artificial lighting condition.

Any artificial lighting incorporated to these units in connection to this application shall not increase the pre-existing illuminance at the light sensitive locations when the light is in operation.

Reason: To protect the local amenities of the local residents from the excess of illuminance.

Construction noise could be reduced with the following suggested condition.

Given the proximity of residential receptors it will be necessary to limit the hours of construction in order to prevent noise negatively impacting on residential amenity. I would recommend that the following condition be attached to any consent granted:-

Hours of Demolition & Construction Works

Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:130 hours on Saturdays and at no time on Sundays and Bank or Public Holidays.

Reason: To protect the amenity of local residents from excessive noise, vibration and dust.

## **NRW**

1<sup>st</sup> Response

Thank you for referring the above planning application to us which we received on 9 January 2014 and further details on 11 April 2014. We appreciate the extension of time to allow us to provide you with our advice.

We have no objection to the proposed development as submitted, but have provided your Authority with advice to help determine this application. We also inform you that in making your decision you should be aware that this proposal will be subject to the Environmental Permitting Regulations (2012) and regulated by us/

Environmental Permitting

Based on the details submitted with the planning application and environmental statement, a permit will be required by us. We will not issue a permit unless satisfied that a high level of protection is provided for the environment and human health. Any permit issues would be

concerned with the operation and control of the process within a defined boundary once the facility has been built.

The permit is likely to control the following activities within the facility boundary;

1. Management of Activity

- Including the general management of units;
- Accident management plans;
- Energy efficiency and efficient use of raw materials (including water)
- Avoidance, recovery, and disposal of wastes produced by activity (for example manure) NB: not construction of buildings;
- Site security

2. Operations

- Permitted activities
- Operating techniques
- Closure of activity and decommissioning

3. Emissions and Monitoring

- All emissions from the operation to water, land and air
- Transfers off site
- Fugitive emissions of substances
- Odour, noise, dust and vibrations

4. Information management

- Records, reporting and notifications

In addition, any discharged to the water environment (surface and ground waters) from the operations will need be included in any permit application for this facility.

Dust

We note representations have been made to your Authority regarding potential dust issues on neighbouring land. We can confirm that as part of any determination of a permit for this site, we expect a supporting risk assessment to cover issues such as dust, resulting from the operations. If a risk assessment flags any environmental impact (including dust), we would expect the applicant to assess how this would affect human health and the environment, for example on sensitive receptors such as residential properties, or wildlife sites. If we are not satisfied with the adequacy of the risk assessment we will request further work/information to a sufficient standard before determining the permit.

We consider each permit application on an individual basis. During our determination we access the information submitted to establish if suitable and appropriate measures are in place to ensure the protection of the environment and human health. We do not assume that an issue at one site will occur at another undertaking the same operations.

If a permit is issued, it is likely to contain condition(s) relating to emissions of substance which may cause pollution, such emissions could include dust. The operator will be required to comply with the conditions, and if they are breached, enforcement action can be taken. The permit will also allow for a condition to be varied if circumstances change through the

lifetime of operation. Our compliance team will ensure that if an issue, such as dust, arises it will be addressed with the operator while keeping local residents informed.

#### Ammonia screening

We received a pre-application enquiry for an environmental permit at this site for an 80000 broiler facility. We provided the agent with an initial ammonia screening assessment. We can confirm that based on this assessment it is unlikely that we would require detailed modelling to assess ammonia impacts on designated sites.

#### Water framework Directive

The Water Framework Directive (WFD) places a duty on your authority to have regard to River Basin Management Plan. This means that a Local Authority should ensure when determining a planning application they are compliant with meeting the no deterioration objective of the WFD. In considering this application, you should therefore ensure that it has sufficient information to conclude that the proposal (plan) will not result in any deterioration of waterbody status or prevent a waterbody achieving Good Ecological Status. The same duty will apply to us when issuing any environmental permit but will only be considered WFD in the activities we will regulate. Therefore issues such as construction stage, associated development (such as access tracks) and landscaping will not be assessed during a permit application and WFD not considered by us in this process. We recommend you discuss potential mitigation measures that can ensure you meet your WFD duty with your Ecologist, for example securing a Construction and Environmental Management Plan in planning permission is granted.

#### Ecology

We note from the submitted ecological report that it identified several concerns regarding pollution at the existing site. We acknowledge this baseline assessment. However, for this proposal to be operational, as stated above, an environment permit will be required. This will ensure the management and general running of the farm will need to be to a particular standard, our compliance team will work with the operator to get this site to a set standard.

Further assessment may need to be carried out to ensure that impacts on ground nesting birds are avoided. This advice supports the recommendations of the baseline assessment and we recommend you discuss and agree with your ecologist on any information or mitigation required.

#### Habitats Regulations

The River Wye Special Area of Conservation (SAC), Elan Valley Woodlands SAC and Elenydd SPA are less than 5km from the application site. The Planning Authority is the Competent Authority under the Habitats Regulations for planning permissions and we advise that a HRA should be carried out to determine impact upon these sites. This should be done in advance of issuing of any planning permission and should assess direct, indirect and cumulative impacts. If/when an environmental permit is applied for, we will also be a Competent Authority under the Habitats Regulations (however we have not yet received an application).

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity,

your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's ecologist and/or nature conservation organisations such as the local Wildlife Trusts, RSPB etc. The Wales Biodiversity Partnership's website has guidance for assessing proposals that have implications for section 42 habitats and species ([www.biodiversitywales.ork.uk](http://www.biodiversitywales.ork.uk)).

#### Drainage and Surface Water

We note the submission of a surface water management plan (reference TH001 dated 9 April 2014) prepared by ADAS UK Limited. We acknowledge that soakaways for this proposal are not appropriate. As with all development, we encourage and advise that betterment should be provided in terms of surface water run-off control, for example from roof and paved areas. Opportunities should also be taken to improve existing drainage/highway system, if within the scope of the application. We recommend that a composite solution, incorporating hedge and tree planting, swales and rainwater harvesting is considered. We note some tree planting is proposed but assume this solely a measure to mitigate visual impact.

Your land drainage department should ultimately be satisfied that the proposals in place are appropriate and the storage volumed and greenfield run-off rates are acceptable.

We will also request details on drainage resulting from permitted operations on site, if an environmental permit application is submitted. We will require all run-off from the units to be disposed of satisfactorily due to the potential for contamination. The disposal will be in a manner that does not impact on the water environment.

#### Landscape

The application site does not sit within a Landscape of Historic Interest and we confirm it is not within our LANDMAP aspect area classed as 'Outstanding'. We do note from the Design and Access Statement submitted with the application that the site was chosen so that the 'development can be accommodated within the landscape without material harm to the character and appearance of the area through the use of existing landform and landscape features...' However, notwithstanding this, the development is large scale and in the open countryside, and therefore mitigation is likely to be required in order to assist integrating it within the landscape. Therefore we would recommend appropriate conditions are secured to ensure landscape mitigation measures are in place, if the application is granted.

#### Further Advice to LPA

We take this opportunity to draw to the Highways Department's attention concerns that have been raised about drainage issues from tracks outside the redline boundary. In considering the suitability of access to the site we ask that LPA/Highways Department are mindful of possible watercourse pollution and siltation issues arising from increased vehicle usage and be mindful of their WFD and Habitats Regulation duties while considering these aspects.

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

We have reviewed all new information, including this party representations, since our last response on 6 May 2014 and are writing to explain our assessment of this proposal in light of the new information,

As a result, we confirm that we do not object to planning permission for this proposal.

We set out below explanations of our further assessments of the following topics;

- Aerial Emissions Impacts on Statutory Protected Sites
- Aerial Emissions Impacts on Local Ecology Receptors
- Odours Emissions
- Noise Impact

#### Aerial Emissions Impacts on Statutory Protected Sites

We have considered the potential impact on the nearby designated sites of Elan Valley Woodlands SAC and Cae Coed-Gleision SSSI. Specifically we have assessed the potential for ammonia emissions from the development to harm plant and change vegetations in the SAC and SSSI. The potential for adverse effects to bryophytes and lichens arises if ammonia levels exceed 1 ug/m<sup>3</sup> and to other vegetations if levels exceed 3ug/m<sup>3</sup>. As the SAC woodland feature 'Old sessile oak woods with Ilex and Blechnum in the British Isles' includes bryophytes and lichens, the critical level for the SAC is 1 ug/m<sup>3</sup>. For the SSSI, the critical level is 3ug/m<sup>3</sup>.

Our original response was informed by an assessment of potential ammonia level that we carried out using our highly precautionary in-house ammonia screening tool during pre-application discussions. This showed that this development would contribute 0.008 ug/m<sup>3</sup> to ammonia levels at the edge of the SAC nearest to the development. It also showed that it would contribute 0.04ug/m<sup>3</sup> to ammonia levels at the nearest edge of the SSSI. These contributions would not be significant, or adversely affect the SAC or SSSI.

As other representations to you have pointed out there is potential for this development to have a cumulative effect with other intensive livestock units in the area. We have used the additional information provided by local residents regarding the 13 other intensive livestock units in the area to review the potential for cumulative effects of these with the current development. Our recently completed assessment (attached) shows that the existing farms are, together, making a reasonably high overall contribution to ammonia levels in the area. However, it also shows that the cumulative effect of these farms does not extend to the SAC and remains within 3ug/m<sup>3</sup> at the SSSI.

To conclude we have not objected on grounds of effects on the SAC or SSSI because this proposal's potential contributions to ammonia levels at those sites are not significant individually or when considered cumulatively with emissions from existing livestock units.

The contributions are low mainly because this type of unit, and the way it is operated, give lower emissions.

#### Aerial Emissions Impacts on Local Ecology Receptors

Our assessment of emissions from this development and its potential to have cumulative effects with existing livestock units could inform your assessment of effects on ecology receptors of local conservation value.

#### Odour Emissions

Installations as this can give rise to periodic odour. The extent of odour will depend on a number of variables, for example the technology used in the installation, management techniques and operational procedures. We will assess the risk of odour on sensitive

receptors such as residential property in the locality during the permit application. Any permit application will need to include a detailed risk assessment to address this issue which we will thoroughly assess. Unless the applicant can meet the requirements of the EPR regime we will not issue a permit and they will not be able to operate. If we do issue a permit for this proposal, it is likely to include a condition that will control/manage odour. Our compliance officers will ensure that if an odour issue arises and is causing pollution outside of the installation, it will be addressed with the operator while keeping local residents informed.

Odour from the process and emissions will primarily be a matter for the permit application, but we advise that there is some cross over into your planning determination. For example, if the location of the installation has an influence on odour, which causes a nuisance to a residential receptor, then this is a clear planning consideration.

A representation made by a member of the public to you on 28 July 2014 raises the specific issue of cold drainage flow carrying odour to their property. According to their independent review of the submitted Odour Dispersion Modelling Study (prepared by Environmental Pollution Management Ltd, 27 May 2014, referenced 1409AQR), it is possible that Pencwm will experience high concentrations of odour due to the proposed position of the poultry unit (adjacent to the watercourse that flows past Pencwm). The review concluded that the applicant's study had not considered cold drainage flow.

We have also received the independent review and a DVD which intended to illustrate the cold drainage flow effect on 7, 10 and 11 September 2014. In our view the representation has a valid point and there is a possibility of cold drainage flow affecting the residential property at Pencwm. However, based on the information available, mitigation measures by the applicant should be possible which will be considered through the EPR regime. Therefore we have no further comments to make on the impacts from odour to your Authority. The applicant will need to consider this in their risk assessment and consequently their installation, design and operation procedures.

Taking the remaining conclusions of the independent review (2.8.1) into consideration, excluding point iv, we advise that these issues will also be assessed through EPR regime. In respect of point iv, we recommend you seek advice from your Environmental Health Department.

#### Noise Impact

Emissions of noise that are generated outside of the installation boundary will not be addressed by the environmental permit. We will not require the applicant to consider noise emissions from outside the installations such as transport and construction impacts. We have reviewed the Noise Impact Assessment prepared by Matrix including the three revisions (M1341/R01, R02 and R02a). We have no serious concerns regarding noise emissions from inside the installation at this time. We will require any environmental permit application to include an assessment demonstrating the satisfactory control of noise.

We note a representation made on 25 July 2014 by a local resident which attached an independent review by Environmental Pollution Management Ltd on the applicant's submitted Noise Impact Assessment. The concerns raised in the review that are pertinent to EPR such as fan operating, background noise levels, removal of litter and cleaning of houses are unlikely to affect the principle of this development at this location. We are satisfied that the



environmental permit can address these issues. If the environmental permit process required mitigation measures which required modifications or changes to any planning permission, the applicant may need to revise or re-apply for permission.

We advise you to discuss the matters highlighted in Environmental Pollution Management Ltd review that relate to traffic and construction with your authority's Environmental Health Department.

Environmental Permitting Regulations (England & Wales) 2010 (as amended) (EPR 2010)

We have not received an application for an Environmental Permit under the above regulations for this proposal. We note that representations from the public have referenced the relationship between the planning and EPR regimes. Planning and permitting decisions are separate but closely linked, and issues can overlap. Planning authorities should focus on land issues rather than the control of processes or emission. The recommended best practice for developments requiring both decisions is for parallel tracking.

#### Summary

We do not object to this planning application as submitted but advise you that the determination of any future environmental permit is independent to our role as an advisor to you on this planning application. We are likely to require more information as part of our permit determination and this response should not be taken that a permit will be issued.

#### 3rd Response

NRW received a letter dated 12 November 2015 from a third party regarding our advice to you. This prompted us to instigate an investigation according to Stage 2 of our complaints policy which involved an independent officer reviewing the case. We have now completed this review. A report was prepared which has been sent to the third party. There is a recommendation in the report that NRW write to Powys County Council in order to confirm our advice has been fully understood.

1. Our response letter dated 31 July 2015 was in response to additional information and does not supersede our letter dated 6 May 2015. Both letters should be read in conjunction with each other.
2. The statement in our 31 July 2015 letter 'background noise levels...are unlikely to effect the principle of this development at this location' is only in relation to the noise matters within our remit that will be dealt with under the Environmental Permitting Regulations (EPR) regime. We are not advising you on noise matters outside of the EPR remit.
3. It remains NRW's advice that a Habitats Regulations Assessment should be carried out prior to determining this planning application. We are able to provide you with further advice, if you require.
4. We provided you with advice under the 'Landscape' heading in our 6 May 2014 letter. NRW are not endorsing the statement quoted from the Design and Access Statement.

I trust the above points are understood and will be considered by you in your determination of this application. If you do require any further advice, or if there are other points within our letters you wish us to clarify, please contact me.

#### 4th Response

Thank you for referring the Environmental Statement (ES) to us on 9 May 2017. As you're aware we also requested the air quality modelling which informs the ES for review. We were also forwarded an independent review of the ES on 2 May 2017 (document reference: 1409ES and dated 23 March 2017), this was prepared by Environmental Pollution Management Ltd. In providing our advice we have taken into account both the ES and the independent review.

The applicant requested a Scoping Opinion from Powys County Council. This opinion stated an odour assessment which assesses cold drainage flow on the dwelling known as Pencwm should be included in the ES.

Cold air drainage flow (or Katabatic winds) is discussed in section 4.0 of Appendix 5 of the ES. It states that without sophisticated on-site measurements, it is not possible to gauge the depths likely to be attained for cold air drainage flow; however the ES findings suggest it would be rather unlikely that the depth attained at the site would be more than 2 or 3 metres.

The ES also states that the proposed buildings and ventilation system would emit odours from a height of approximately 6.5 metres at a velocity of 11 m/s and therefore plume rise would be significant – approximately “tens of meters above stack height”. This means emissions from the unit would not be directly emitted into any potential cold air drainage flow and therefore it is unlikely that odours from the ventilation system could be entrained with the flow, which in turn, could impact the receptor at Pencwm.

However the ES did not provide any on-site measurements or calculated depth of possible cold air drainage flow at the proposed site. This is due to the type of modelling used (i.e. ADMS), which is unable to model cold air drainage flow.

Given the circumstances we ran further modelling (using German Weather Service KLAM\_21) to better understand the effects of cold air drainage flow at this site. These results show possible hourly average depth of cold air drainage flow up to 7.2 metres at the poultry units with a northerly wind direction. Under other wind directions the flow depth would be under 6 metres. We have noted that the proposed fan exit height of 6.5 metres and exit velocity of 11m/s which will lead to plume rise.

Based on all the information we have, our view is that the stack ventilation plume is unlikely to be entrained into possible cold drainage flow and carried downstream, possibly effecting the receptor at Pencwm. This advice is on the presumption that all the conditions in the model, for example the fan at full speed and not variable speeds, are reflected and applied during the operation at the site.

In summary, the modelling has shown that cold air drainage flow at the site does not have a significant odour impact on sensitive receptor at Pencwm. We remind you that this site will be required to apply for an Environmental Permit from us. At this time the applicant will be required to provide an odour risk assessment to ensure they can comply with relevant guidance. If necessary conditions can be attached to the permit.

#### Further Advice to Applicant

Our review of your odour dispersion modelling study found that you will need to review the odour emission rates used in the odour impact modelling study when submitting an odour risk

assessment as part of the permit application. We also advise you use more representative and robust met data in the odour impact modelling study.

## Land Drainage

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

THE coUNTY Council as Land Drainage Authority would wish the following recommendations/observations be applied;

#### Flood Defence

No contours should be altered within 5m of any watercourse, without prior permission from the Planning Authority. This should also apply to any planning application within the designated C2 flood zone.

No buildings, structures, fences or planting shall take place within 5 metres of the top of the bank of any watercourse, or 3 metres wither side of any culverted watercourse.

Records indicate that the site slopes towards the watercourse, the applicant would need to consider how surface water will be controlled from the site whilst interrupting drainage of the surrounding land and not exacerbating or creating any flooding problems. The Authority would seek on site attenuation to the site 1 in 100 year standard + 20% for climate change, whilst limiting discharge to the existing 1 in 1 year Greenfield run-off for the connected impermeable areas.

No development shall commence until a scheme for the drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any of the dwellings are occupied. The scheme to be submitted shall show foul drainage being connected to the public sewerage system.

Prior to submission of the details required by the condition above, an assessment shall be carried out into the potential for disposing of surface water by means of sustainable drainage system (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. If the assessment demonstrated that there is potential for disposing of surface water by means of SuDS, the details to be submitted pursuant to the above condition shall incorporate such provision. Where SuDS scheme is to be implemented, the submitted details shall:

1. 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;
2. Specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for the implementation; and
3. Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for their adoption by any public authority or statutory undertaker or other arrangements to secure the operation of the scheme throughout its lifetime.

The hydrology of receiving water bodies can be affected by the presence of a new impermeable surface. A new road/dwelling may increase the volume of runoff that reaches

the receiving watercourse and also reduce the time it takes to get there. This has implications for channel stability, aquatic habitats and flooding. Where the movement of any existing channels is required, this may also affect the local hydrological regime. A Flood Consequence Assessment will be required, the scope of which will need to be agreed with Powys County Council Land Drainage Section.

Site operators should ensure that pollution prevention measures are put into place to prevent any works having an impact on surrounding watercourses. Adequate measures should be in place to prevent work materials and suspended solids from entering any watercourse. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters. No material is to be deposited within 10m of any watercourse/ditch or spring. If there are any pollution incidents, these should be reported immediately to the Environment Agency's Emergency Hotline on 0800 807060.

#### Maintenance Responsibilities

The developer must obtain a land drainage consent from Powys County Council Land Drainage Section prior to any works in, under or over the watercourse, or within 7 metres of the base of any floodbank or wall, or where there is no bank or wall within 7 metres of the top of the riverbank.

The developer must not, in any way, create an obstruction or a restriction to the flow of a watercourse under normal or flood flow conditions. No material should be tipped within 7 metres of a watercourse or within the floodplain.

It is presumed that Riparian rights and responsibilities exist in respect of the open or culverted watercourse and advise that the landowner will be responsible to maintain any section of the watercourse that passes or abuts their land.

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

The County Council as the Lead Local Flood Authority (LLFA) would wish to make the following observations/comments/recommendations:-

This response should be read in conjunction with the previous response made by the LLFA dated 31st March 2014

#### Land Drainage / Local Flood Risk.

The proposed site is located in an area shown to be at risk of flooding by surface water, as shown on Natural Resources Wales website (<https://naturalresources.wales/evidence-and-data/maps/long-term-flood-risk/?lang=en>). Development should not be permitted within an area at risk from flooding unless it can be demonstrated that the consequences of any flooding would be acceptable for the development proposed and that it would not give rise to any unacceptable flooding impacts elsewhere.

From a site visit, it appears the site is mainly located within a natural wetland area. The natural storage capabilities would be lost through development of the site, thus causing water to be displaced.

An appropriate Assessment should therefore be prepared to evaluate and assess the impacts of this flood risk and displacement of floodwater. The assessment should also

demonstrate what suitable measures can be achieved to mitigate this flooding and water displacement.

No contours should be altered within 5m of any watercourse, without prior permission from the Planning Authority.

No buildings, structures or fences shall take place within 5 metres of the top of the bank of any watercourse, or 3 metres either side of any culverted watercourse.

Recommendation:

Prior to the granting of any permission, an appropriate flood consequence assessment should be provided to demonstrate how local flood risk can be managed on the site, together with proposals to safeguard the land drainage features.

Reason: To manage local flood risk on and off-site. To ensure that the proposed development does not compromise the function of the land drainage features and that any proposed alterations are fully compliant with regulations and are of robust design.

Advisory: Prior to undertaking any works in, under or over the watercourse, an ordinary watercourse consent must be obtained from Powys LLFA.

The developer must not, create an obstruction or a restriction to the flow of a watercourse under normal or flood flow conditions. No material should be tipped within 5 metres of a watercourse or within the floodplain.

It is presumed that Riparian rights and responsibilities exist in respect of the open or culverted watercourse.

The following is provided in fullness to the consultation.

Surface Water Drainage.

The hydrology of receiving water bodies can be affected by the presence of new impermeable surfaces. Any new hardstanding, road or roof will more than likely increase the volume of runoff that reaches the receiving watercourse and also reduce the time it takes to get there. This has implications for channel stability, aquatic habitats and flooding. Where the movement of any existing channel is required, this may also affect the local hydrological regime.

Records indicate that the site slopes towards the watercourse, the applicant would need to consider how surface water will be controlled from the site whilst interrupting drainage of the surrounding land and not exacerbating or creating any flooding problems. The LLFA would seek on site attenuation to the 1 in 100 year standard plus an allowance for climate change, whilst limiting discharge to the existing 1 in 1 year Greenfield run-off for the connected impermeable areas. The Applicant's current drainage submission does not comply with this standard but instead applies a variable discharge rate according to storm duration, which is notoriously difficult to achieve in practice. The LLFA would recommend that the surface water drainage be re-designed to achieve the required 1 in 1 year maximum discharge rate. As a consequence, a re-design of the attenuation system would also be required.

No surface water run-off shall flow onto the public highway.

No development shall commence until a scheme for the drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the site is operational. The scheme to be submitted shall show the arrangements for the foul water drainage.

Recommendation: No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the buildings come into use.

Reason: To ensure that the proposed surface water drainage system for the site is fully compliant with regulations and is of robust design. To ensure that no surface water runoff from the access road runs onto the public highway.

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

Thanks for the email. Having discussed the drainage report with Graham, the Land Drainage Section would make the following additional comments:

#### Local Flood Risk/Land Drainage

Observation: Having reviewed the submitted FCA prepared by ADAS dated August 2017, we concur with the findings of 2.1 Flood Risk, in that parts of the site are located within a Low Surface Water Flood Risk Area.

Comment: The mitigation principles detailed on Surface Water Drainage Plan Drawing. No. TH001-01/PE-KH11/SuDS 02, showing the grass swale interceptor channel and shallow ditches are deemed acceptable, however, further engineering details and drawings (inc. cross sections) are required to confirm the suitability of the flood defence measures prior to any commencement onsite.

#### Surface Water Drainage

Observation: Having reviewed the submitted FCA prepared by ADAS dated August 2017, the Lead Local Flood Authority (LLFA) find the surface water drainage proposals generally acceptable, however, the Greenfield runoff rate, shown in Table 1 of 11 l/s appears higher than calculations we have prepared. Based on the approximate area of the site we would expect flows of around 6 l/s [5.6 l/s (1 in 1yr) from ADAS 345 (via MicroDrainage) & 6.63 l/s from HR Wallingford (greenfield run-off tool)]. Our figures are in line with Natural Resources Wales figure of 10l/s/ha for the Wye catchment which equates to 6l/s Greenfield runoff rate. The Land Drainage Section therefore recommends that the maximum discharge rate is reduced to 6l/s, with the attenuation pond designed to accommodate the 1 in 100 year rainfall standard +20% CC.

Recommendation: Prior to commencement onsite, full engineering details and drawings for the provision and protection of all existing and proposed land drainage systems shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include arrangements for the surface water drainage of the site to be limited to 6 l/s maximum discharge, include a management and maintenance plan for the lifetime of the development

or other arrangements to secure the operation of these land drainage and surface water systems throughout their lifetime. The development shall only take place in accordance with these agreed details and be fully completed before the site becomes operational.

Reason: To ensure the existing land drainage systems are not compromised and, that the proposed surface water drainage systems for this development site are fully compliant with regulations and are of robust design.

### **Representations**

The application was advertised through the erection of a site notice and press advertisement. A number of objection letters have been received from 48 individuals and the objections are summarised below.

- Concerns regarding highway safety and damage to the existing highway network
- Concerns raised regarding residential amenity in relation to noise, odour, additional traffic movements and damage to existing properties
- The proposed development is of an industrial scale in the wrong location
- The C1229 is unsuitable for traffic that would be generated and associated with the development
- Unacceptable location as there is no existing buildings at the site; development is located in pristine countryside; possibly the largest building in Powys; is visually intrusive
- The development would have a detrimental impact on the landscape
- Alternative sites for the development have not been fully considered
- Concerns raised regarding the surface and foul drainage at the site and potential impact on nearby residents
- Concerns raised regarding the impact of the poultry unit on biodiversity features such as protected species, SACs, SSSIs and SPAs
- Potential for the development to pollute statutory sites
- Impact of the proposed development on air pollution
- Inaccuracies within the application

### Radnorshire Wildlife Trust

On behalf of the Radnorshire Wildlife Trust I wish to object to the proposed erection of two broiler units in close proximity to the Cwm Caws, St Harmon.

Gilfach, Radnorshire Wildlife Trusts 410 acre flagship Nature Reserve, is renowned for nationally rare and vice-county rarity lichen and moss species which are highly sensitive to air quality and air pollution.

The lichen and moss diversity at Gilfach are of significant financial value to the reserve with education programmes at Gilfach based on the rich diversity found there. The level of natural diversity at Gilfach is nationally significant. Further construction of chicken sheds and the accumulative ammonia and nitrae pollution in the Marteg Valley pose a significant threat.

### Protected sites and fauna

The proposed sheds will be located in proximity to the Cwm Caws, a tributary of the Cwmbras which flows into the river Marteg. The Marteg flows through the Gilfach Nature Reserve

and SSSI and Elenydd SPA 3.3km, and into the River Wye SAC 4km, downstream of the Cwm-bras/Marteg confluence.

The proposed sheds will be 1.9km from the Cae Coed-Gleision SSSI. There are a total of seven statutory sites within 5km of the proposed site;

- Cae Coed-Gelision SSSI 1.9km;
- Marcheini Upland, Gilfach Farm and Gamallt SSSI 2.3 km;
- Caeau Wern SSSI 2.5km;
- Upper Nantserth Pasture SSSI 2.5km;
- Elenydd SPA 3.3km;
- Cors Cae'r Neuadd SSSI 3.7km;
- River Wye SAC 4km.

These sites cover a significant area of the Marteg Valley, additional air pollution from intensive farm units has high potential to impact these sites.

Salmon, a feature of the River Wye SAC, are recorded annually swimming up the Marteg as part of their migration to spawning grounds further upstream. The Marteg is used extensively by otter and bird species.

Water vole have been recorded over the last 5 years on the Marteg and its tributaries, otter have been seen on the Cwm Caws.

#### Application documents

The ecological report does not represent the quality of habitat surrounding the proposed site or the species it supports. The Marteg Valley and land in the vicinity of the site is relatively unimproved, dominated by wet, marshy grassland with purple moor-grass tussocks. This habitat supports snipe and curlew, both LBAP species, as well as common lizard which are widespread locally.

The Cwm Caws is at the head of the valley with little human activity and no agricultural infrastructure nearby. Light pollution would be significant in this current dark location. The pollution referred to by the ecological report is likely to be caused by localised agricultural activity by the landowner. Further, intensive, activity could result in long-term problems regarding the water quality of the Cwm Caws.

There are already poultry shed at Shettingau, St Harmon and Glan Marteg, Pant y Dwr which exert pollution pressures on the Marteg Valley. There is real fear that the cumulative impact from issues such as ammonia are detrimental to the wider environment, which have not been addressed by this application.

There appears to be no acknowledgement of the EU Water Framework Directive in view of the Marteg's fish population and features of the River Wye SAC downstream.

I hope the Council considers refusing this application. If the application is to be passed I strongly recommend planting of native hedging, in addition to standard pollution prevention measures, to address any potential pollution risks to the local watercourses.

CPRW



The Brecon & Radnorshire branch of the Campaign for the Protection of Rural Wales (CPRW) wishes to comment on the Environmental Statement uploaded on 22 February 2017 (however it is undated) in relation to planning application P/2014/0009.

#### Visibility and impact on landscape

We understand that it is very likely that a stack would be necessary to overcome cold drainage flow at this location, although this does not appear to have been written in appendix 5, statement of evidence. We expect that a feature or structure with the potential of detrimental impact on the local landscape such as a tall chimney stack would weigh against the development of intensive poultry units at this site.

The drawing does not demonstrate that the development will not blight the view from the elevated local stretches of the Monk's Trod footpath, which is promoted as a tourist destination.

#### Traffic

Within the ES, no attention has been paid to the HGVs passing the settlements of Tynant, Tynddole and Pencwm. The noise would likely exceed World Health Organisation recommendations, especially in the early hours of the morning. The detriment to the recreational value of the quiet access road has not been addressed.

The possibility of alternatively locating the development at Beili Ddol or Glan yr Afon where HGVs already have access has not been properly considered.

There is plenty of alternative land available that in addition would not disturb any archaeological features.

#### Odour

In our opinion, the high odour levels that will occur when litter is cleared at the end of each crop cycle has not been properly addressed within the ES description of maximum odour exposure on p 16.

#### Biosecurity

Biosecurity is a particular concern and we cannot see that this has been addressed within the ES. Nor can we see any comment on or reference to poultry dust or ammonia levels, exposure to both of which could be detrimental to the health of local ecosystems and residents.

We trust that our comments will be considered and we look forward to hearing from you.

Please confirm receipt of this correspondence.

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

#### **Planning History**

No relevant planning history

## **Principal Planning Constraints**

- Cae Coed-Gleision SSSI approximately 1937m from the proposed development
- Marcheni Uplands, Gilfach Farm & Gamallt SSSI approximately 2351m from the proposed development
- Caeau Wern SSSI approximately 2573m from the proposed development
- Upper Nantserth Pasture SSSI approximately 3328m from the proposed development
- Cors Cae'r Neuadd SSSI approximately 3780m from the proposed development
- River Wye SAC approximately 4031m from the proposed development
- Elenydd-Mallaen SPA approximately 3391m from the proposed development

## **Principal Planning Policies**

### National Policies

Planning Policy Wales (9th Edition, 2016)

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

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

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 12 – Design (2016)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Technical Advice Note 24 - The Historic Environment (2017)

Welsh Office Circular 11/99 – Environmental Impact Assessment

### Local Policies

Powys County Council Local Development Plan (2018)

SP7 - Safeguarding of Strategic Resources and Assets

DM2 – The Natural Environment

DM4 – Landscape

DM6 – Flood Prevention and Land Drainage

DM7 – Dark Skies and External Lighting

DM13 – Design and Resources

DM14 – Air Quality Management

E6 – Farm Diversification

T1 – Travel, Traffic and Transport Infrastructure

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

### Introduction

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

### Environmental Impact Assessment Regulations 2017

Part 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 details development proposals and associated thresholds defining where a development proposal constitutes EIA development. These are contained in Schedule 1 and 2 of the Regulations. Schedule 1 of the regulations lists those developments where EIA is mandatory and Schedule 2 where the development must be screened to determine if it is EIA development.

Schedule 1 of the Regulations states that the threshold for the “intensive rearing of poultry is 85,000 places for broilers or 60,000 for hens”. Whilst an Environmental Impact Assessment is not a mandatory requirement for the proposed development, the floor area of the proposed building exceeds the applicable threshold of 500 square metres and therefore for the purposes of the regulations is Schedule 2 development requiring a screening opinion to be issued by the Local Planning Authority.

Members are advised that the proposed poultry development was assessed against the selection criteria contained within Schedule 3 of the Regulations, with the opinion being that the development was not EIA development.

The Welsh Ministers then received a Screening Direction from a third party and issued a Screening Direction on the 22<sup>nd</sup> September 2016;

“I conclude the proposed development is likely to generate adverse environmental impacts resulting from odour nuisance. Taking into account the available information, there remains some uncertainty about the scale of these impacts, however, NRW consider odour impact is likely and has the potential to be significant. Recognising the need to take a precautionary approach for the purposes of the EIA Regulations, I conclude the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location due to the likely impacts of odour emissions on a sensitive receptor. The proposal is therefore “EIA development”.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, states:

“The relevant planning authority or the Welsh Minister or an inspector must not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have taken the environmental information into consideration, and they must state in their decision that they have done so.”

As such an Environmental Statement was requested and submitted.

### Principle of Development

Policy E6 of the Powys Local Development Plan accepts the principle of appropriate farm diversification developments within the open countryside where the schemes are of an appropriate intensity, does not have a detrimental impact upon the vitality and viability of adjacent land uses, has adequate parking facilities and is located within or immediately adjacent to the existing farm complex. In light of the above, and having considered all statutory consultee responses, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

### Farm Diversification

The applicants operate a family owned farming business and are seeking consent to further diversify in order to secure the long-term viability of the farming enterprise. The applicants operate a mixed livestock enterprise comprising beef, sheep and free range poultry from Beili Ddol Farm, Rhayader and Glan yr Afon Farm, St Harmon.

Planning policy acknowledges that rural enterprises play a vital role in promoting healthy economic activity within rural areas. Planning Policy Wales (2016) and Technical Advice Note 23 (2014) emphasises the need to support diversification and sustainability in such areas, recognising that new businesses are key to this objective and essential to sustain rural communities therefore encouraging Local Authorities to facilitate appropriate rural development.

Notwithstanding the policy presumption in favour of appropriate rural development, support needs to be balanced against other material considerations including landscape and visual impact, highway safety implications, ecology together with the potential impact on local amenity. Consideration of such matters is duly given below.

### Landscape and Visual Impact

Guidance within policy DM4 of the Powys Local Development Plan, indicates that development proposals will only be permitted where they would not have an unacceptable impact on the environment and would be sited and designed to be sympathetic to the character and appearance of its surroundings. Policy DM4 requires a Landscape and Visual Impact Assessment to be undertaken where impacts are likely on the landscape and proposals should have regard to LANDMAP, Registered Historic Parks and Gardens, protected landscapes and the visual amenities enjoyed by users of the Powys landscape and adjoining areas.

For the purposes of LANDMAP's Visual and Sensory, the proposed site of development is located within the 'Upland/Exposed Upland/Plateau/Upland Moorland' aspect area which is characterised as three extensive areas, adjacent to more forested hills. There are no distinct hills. Areas of large fields are interspersed with open land. Wild, open, exposed upland plateau and ridges with a smooth & rounded profile and semi-natural rough moorland land cover, plus areas of fields. Whilst the attractive and tranquil nature of the aspect area is

acknowledged, LANDMAP suggests that it is not uncommon or distinctive and therefore the overall visual and sensory value is defined as moderate.

The application site comprises of agricultural land located approximately 340 metres to the south of the C1229 highway. The site is located in a natural dip in the landscape with the surrounding topography screening the development from the east, west and south. The development will be viewed from a short section of highway to the north of the site and for a short section between the non-associated dwelling, Pencwm, and the entrance to the site.

The proposed building would be accessed via the existing access off the County Class III Highway, C1229 and a hardstanding area is proposed directly west of the proposed building.

The site itself is bound by the highway to the north, and existing agricultural land to the east, south and west. The topography of the surrounding agricultural land means that the proposed building would be screened in the wider landscape with sections of the development being viewed on short sections of the adjoining highway.

Policy DM13 of the Powys Local Development Plan seeks to ensure that development is designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detail. Developments should not have an unacceptable detrimental impact upon the amenities enjoyed by the occupants or users of nearby properties by means of noise, dust, air pollution, litter, odour, hours of operation, overlooking or any other planning matter.

In light of the above observations and notwithstanding the scale of the proposed development, given the proposed topography of the area along with the proposed planting of native trees, it is considered that the proposed development is broadly in accordance with planning policy. Should Members be minded to grant planning permission it is recommended that any consent is subject to appropriate conditions restricting materials, securing the implementation and retention of existing and proposed landscaping whilst also requiring details of existing and proposed ground levels to be provided. Subject to the above, Officers consider that the visual and landscape impact associated with the proposed broiler development can be appropriately managed thereby safeguard the Powys landscape in accordance with policies SP7, DM2, DM4, DM7, DM13 and E6 of the Powys Local Development Plan.

### Transport Impacts

Policy T1 of the Powys Local Development Plan 2018 states that development proposals should incorporate safe and efficient means of access to and from the site for all transport users, manage any impact upon the network and mitigate adverse impacts.

Access to the application site will be provided via an existing access, to be improved, off the county class III highway (C1229) located to the north of the proposed unit. The supporting planning statement indicates that the main vehicular movements associated with the proposed poultry development are as follows;

“During the general operation of the site, the proposed development will create an average of 1 vehicle per day (2movements). There are 3 peaks to traffic movements with each flock

cycle. These peaks are at day 31 of the flock with 3 collections, day 35 with 10 collections and day 37 with 4 vehicles for manure removal from the site.”

Following initial consultation, Members are advised that the Highway Authority offered no objection to the proposed development subject to conditions being attached to any grant of consent. They acknowledged that concerns had been raised from third parties regarding the development and its implications on highway safety however state in their response that for 90% of the year the development will only create 2 additional vehicle movements. It is acknowledged that a further response was received from Highways querying the time that had elapsed since their first comment and asking that additional information be submitted. This primarily related to the conditions as previously requested by the Highways Authority and passing bays. Officers consider that the queries raised by the Highway Authority in their second response can be addressed through suitably worded conditions.

Officers consider that subject to the conditions suggested, the proposed development is in accordance with planning policy, particularly policy T1 of the LDP, Technical Advice Note 18 and Planning Policy Wales.

### Biodiversity and Ecology

#### *SSSI's and SAC*

Policy DM2 of the Powys Local Development Plan seeks to maintain biodiversity and safeguard protected important sites. Policy DM2 states that proposed development should not unacceptably adversely affect any designated site, habitat of species including locally important site designations.

The proposed site of development is located within approximately 5km of the following Nationally Designated sites;

- Cae Coed-Gleision SSSI approximately 1937m from the proposed development
- Marcheini Uplands, Gilfach Farm & Gamallt SSSI approximately 2351m from the proposed development
- Caeau Wern SSSI approximately 2573m from the proposed development
- Upper Nantserth Pasture SSSI approximately 3328m from the proposed development
- Cors Cae'r Neuadd SSSI approximately 3780m from the proposed development
- River Wye SAC approximately 4031m from the proposed development
- Elenydd-Mallaen SPA approximately 3391m from the proposed development

NRW have reviewed the proposed development with regards to potential for significant negative impacts to SACs, SSSIs and Local Wildlife Sites, the result of this screening concluded that the predicted process contributions would not exceed the threshold of significance. NRW also undertook their own assessment to determine the likely significance of a cumulative impact from the proposed development and other consented applications in the area. Their assessment concluded that the proposals potential contributions to ammonia levels are not considered to be significant individually or when considered in combination with emissions from existing livestock units.

The proposed development is within 5km of two Special Areas of Conservation and as such following consultation with the Powys Ecologist a Habitats Regulation Assessment of the proposed development in relation to these sites have been undertaken. The HRA Screening concluded that there would be no likely significant effect to these sites or their associated features either alone or in combination with other plans or projects. The Powys Ecologist also advise that in their HRA Screening of the River Wye SAC the requirements of the Water Framework Directive.

The site is approximately 3.4km from the Elenydd-Mallaen SPA. The Powys Ecologist advise that they have not undertaken a HRA Screening on this site as it was determined based on the distance from the proposed development, nature of the designation and associated features that there would be no likely direct or indirect impact to this site, as such a HRA Screening would not be required.

### *Protected Species*

Policy DM2 of the Powys Local Development Plan, TAN5 and PPW seek to safeguard protected species and their habitats. Policy DM2 states that proposed development should not unacceptably adversely affect any habitat or protected species.

A baseline ecological survey was carried out by Betts Ecology covering the site to assess the habitats present and to identify any features of importance with regards to biodiversity. Following consultation with the Powys Ecologist they state that the assessment of the site identified that the land within the site boundary is of low to moderate ecological value comprising areas of grassland and rush pasture. The land has been agriculturally improved and is dominated by common species, no notable plants, vegetation or habitats were identified during the survey. The access track was found to be most bare ground. To the west between the access track and the site a drainage channel was identified and approximately 20m to the north east the Cwm Caws stream is present. No ponds were found to be present on the site.

The assessment also concluded the following assessment for protected species;

The assessment of the site for its potential to support protected species concluded the following:

- Badger – No evidence of activity of badger setts were found on the site
- Otter – no watercourses were present within the development footprint, the Cwm Caws stream was assessed as having negligible potential as a commuting route for otters.
- Bats – no buildings or trees present on the site, therefore no potential opportunities for roosting bats. Lack of suitable features e.g. hedgerows on the site to provide foraging and commuting routes for bats
- Dormice – No suitable habitat on site
- Deer – no field signs observed but potentially suitable habitat present
- Hedgehog – No suitable habitat on site
- Birds – snipe were observed on site and red kite were observed flying overhead, no nesting activity was observed as the survey was undertaken out of season. The assessment

concluded that the site has little ecological value to birds generally but may be utilised by ground nesting birds and habitat should therefore be retained for them

- Reptiles – no reptiles were observed on site during the survey, the site was generally assessed as having negligible potential to support adder, grass snake and slow-worm due to lack of suitable habitat, however it was identified that the site has low potential to support common lizard and it is recommended that pre-search-clearance is undertaken as precautionary measure
- Amphibians – no suitable habitat was found on site, no ponds were identified within 500m of the site. Boggy/marshy areas were identified as having some pools but these were found to be polluted and contain very few macrophytes. Common species of amphibians were considered to potentially present in low numbers during in the terrestrial phase.
- Fish – No watercourses are present on the site, the nearby Cwm Caws stream was considered unsuitable to support migratory fish species and pollution presence in the stream was considered to reduce the potential for species e.g. trout and bullhead to be present.
- Invertebrates – the site was found to lack suitable habitats to support any notable assemblages or protected or priority invertebrate species.
- Non-Native Invasive species - None were found to be present on the site during the survey.

Following earlier correspondence from Powys Ecology raising concerns regarding breeding birds a further Breeding Bird Survey was undertaken which mainly looked at Curlews.

The survey results were as follows:

- Meadow pipit (Amber List) confirmed breeding on site
- Skylark (Red-Listed) no breeding on site confirmed, site was used for foraging
- Wheatear (Amber-Listed) possibly breeding on site, used site for foraging
- Linnet (Red-Listed) no breeding on site confirmed, commuting over site
- Red Kite (Amber-Listed) no breeding on site, possible territory identified as bird observed soaring over and beyond site
- Pied Wagtail, Jay and Raven were also recorded during the survey.

The report identified that the ornithological diversity of the site was considered to be low, with only one of the five species recorded within the site boundary confirmed as breeding on site (meadow pipit). Curlews were not recorded on site during any of the surveys, however were heard nearby during each survey and observed off site in low numbers. Based on these observations it was concluded that curlew were potentially nesting within a field adjacent to the site, approximately 350 metres to the north west.

In order to minimise impacts to nesting birds mitigation measures have been identified these include pre-clearance search of all areas, site clearance undertaken outside of the bird nesting season or appropriate checks made by suitably qualified and experienced ecologists to confirm no nesting activity present and installation of 10 bird boxes in suitable locations at or near the site.



The Powys Ecologist and NRW were consulted on the application and no objection was received subject to the imposition of conditions requiring the work to be carried out in accordance with the measures identified within the Breeding Bird Survey.

In light of the above and subject to the recommendations, it is considered that the proposed development is in accordance with policy DM2 of the Powys Local Development Plan, Technical Advice Note 5 and Planning Policy Wales.

### Residential Amenity

Intensive livestock units have the potential to impact on the living conditions of residents living nearby through a number of factors, in particular emissions of noise and odour, concerns relating to which have been expressed within third party representations received.

Members are advised that the application is supported by an Environmental Statement which contains chapters assessing the significant likely impacts on amenity and the living conditions of neighbouring properties. Consideration of the aforementioned impacts is duly given below;

#### *Noise*

LDP policy DM13 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Officers acknowledge that intensive livestock units have potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

The application is accompanied by a Noise Impact Assessment. Members are advised that the closest residential property not associated with the site is Pencwm and Pant y Brwyn (approximately 500 metres from the proposed building), a number of properties then lie to the further to the east, Cwmbraes and Tynddol approximately 821 and 886 metres respectively.

Following consultation with Environmental Health initial concerns were raised with regards to noise and potential noise arising from vehicle movements during the evening and night time. Following the submission of Noise Assessment from Matrix Acoustics, Environmental Health confirmed that they were satisfied that fans can be controlled through sound attenuation so that they will not give rise to excessive noise at the nearest noise sensitive properties. With regards to the issue concerning deliveries, a condition has been requested restricting deliveries to the daytime which Environmental Health state is acceptable.

On the basis of the submitted information and comments received, officers consider that sufficient information has been submitted in support of the application to demonstrate that the proposed poultry development will not have an unacceptable adverse impact on the amenities enjoyed by the occupants of the neighbouring properties by reasons of noise. As such, the proposed development is considered to fundamentally comply with LDP policies DM13, Technical Advice Note 11 and Planning Policy Wales.

#### *Odour*

In terms of odour, odour levels can be assessed using odour dispersal model based on standardised values. Odour concentrations are expressed as European odour units per cubic metre (ouE/m<sup>3</sup>). The Environment Agency (EA) has published guidance for the objective assessment of odour impacts: How to Comply with Your Permit- H4 Odour Management. It recommends the use of 98th percentile of hourly average odour concentrations modelled over a year. Appendix 3 of this document provides a benchmark of 3.0 ouE/m<sup>3</sup> for moderately offensive odours. Moderately offensive odours are identified as including those associated with intensive livestock rearing. It is noted that the use of this threshold has been supported by Inspectors in planning appeal decisions.

The application is supported by an “Odour Dispersion Modelling Study” prepared by AS Modelling & Data. This assessment uses the standardised approach to odour assessment and the results of the model runs are presented in a report. The conclusion states the following in relation to residential properties not associated with the farm: “the 98<sup>th</sup> percentile hourly mean odour concentration at nearby residences would be below the Environment Agency’s benchmark for moderately offensive odours, a 98<sup>th</sup> percentile hourly mean of 3.0 over a one year period. In all cases the predicted levels are below 1.0 ouE/m<sup>3</sup>, which indicated that odour from the proposed poultry unit would rarely be detectable.”

On the basis of the information submitted, it was considered unlikely that the proposed development will have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of odour. Following consultation, it is noted that no concerns have been offered by the Environmental Health Department in this respect.

Following the direction from Welsh Government regarding the requirement for an Environmental Statement due to issues concerning odour further information was submitted as part of the ES. A “Statement of Evidence Relating to Cold Air Drainage Flow” prepared by AS Modelling & Data was submitted in support of the application.

Cold Air Drainage Flow (Katabatic Winds) is a phenomenon which occurs under certain atmospheric conditions when cooled air flows downhill, it can concentrate odour in low lying places.

In reviewing the information submitted regarding Cold Air Drainage Flow NRW were consulted and ran further modelling to better understand the effects of cold air drainage flow at the site. NRW’s results demonstrated that the possible hourly average depth of cold air drainage flow up to 7.2 metres at the poultry units with a northerly direction. Under other wind directions the flow depth would be under 6 metres. NRW noted that the proposed fan heights of 6.5 metres.

NRW conclude stating that the modelling demonstrates that cold air drainage flow at the site would not have a significant odour impact on the sensitive receptor at Pencwm.

In light of the above, it is considered that the proposed development will not have an unacceptable adverse impact on the amenities enjoyed by occupants of nearby properties by reasons of odour. Therefore, Development Management considers the proposal to be in accordance with planning policy, in particular LDP policy DM13 and DM14.

#### Drainage

A Surface Water Drainage Plan and Flood Consequence Assessment prepared by ADAS were submitted in support of the application which concluded that there was adequate surface water provision at the site.

The submitted information demonstrated that foul water generated by the development (including welfare facilities and wash down water) will be captured and handled entirely separately from the surface water system. Dirty water will be taken to a dirty water storage tank where it will be stored before being emptied by a vacuum tanker for disposal.

Following consultation with Powys Land Drainage initial concerns were raised regarding the level of information provided with the application. Following this the applicant submitted an FCA to address the concerns raised. A further consultation was undertaken with Land Drainage with no objections being raised subject to the imposition of conditions regarding detailed engineering drawings being submitted prior to commencement of development.

Powys Ecology were also consulted on the drainage plans and offered no objection to the proposed drainage

In light of the above, it is considered that the proposed surface and dirty water drainage systems proposed fundamentally comply with policy DM6 of the Powys Local Development Plan.

#### Manure Management

The Design and Access statement details the process with regards to manure and also details the operation of the unit as follows;

The proposed unit will operate on an all in all out basis, with 80,000 birds per crop on a 42 day cycle including 7 days for cleanout at the end of each cycle. Thinning is undertaken with each crop at day 31 with 20% of the birds removed, with the remainder removed at day 35 of the crop cycle.

The DAS states that at the end of each flock cycle the buildings are cleaned out and the manure removed directly in waiting vehicles, which are sheeted and the manure removed from the site. No manure will remain at the site and the manure will be removed for disposal through anaerobic digester.

Following consultation with Environmental Health, NRW and Ecology no objections have been received.

#### Rights of Way and Tourism

LDP Policy DM13 seeks to oppose development which would have an unacceptable adverse impact on existing and established tourism assets and attractions.

Several representations have been received raising concerns that the proposed development will be of detriment to local tourism.

Whilst objectors make reference to potential impact of odour emissions on the nearby tourism accommodation considerations should also be given to the technical professional reports

submitted with the application and the comments submitted by the Environmental Health Officer who offers no objection to the proposed development.

## **Conclusion**

Having considered all statutory consultee responses and third party representations, due consideration has been given to the proposed development and its potential impact upon the amenity and character of the area in this locality.

Having visited the site, Officers are satisfied that the proposed development complies with the relevant policies within the Powys County Council Local Development Plan and the decision is one of conditional consent in line with the conditions as set out below.

The Environmental Information submitted has been considered in full in the determination of this application.

## **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 approved plans and documents (drawing no's: IP/CT/01, IP/CT/02B and IP/DC/13 and documents; Environmental Statement, Design, Access and Planning Statement, Surface Water Management Plan dated 9<sup>th</sup> April 2014, Noise Impact Assessment dated 5<sup>th</sup> September 2014 and Surface Water Management Plan dated August 2017).
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit shall be erected without the consent of the Local Planning Authority.
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 as amended or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used for any purpose other than that hereby authorised.
5. Any entrance gates shall be set back at least 15.0 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway.
6. 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 and 90 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 area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction thereafter.

7. 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 binder course material for a distance of 15.0 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 broiler units the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 metres from the edge of the adjoining carriageway.
9. The centreline of any new or relocated hedge should be positioned not less than 1.0 metres to the rear of the visibility splay.
10. No storm water drainage from the site shall be allowed to discharge onto the county highway.
11. Prior to any works being commenced on the development site the applicant shall construct 5 passing bays, in locations to be agreed in writing by the Local Planning Authority. The passing bays shall be constructed up to adoptable standard before any other works commence on site.
12. The mitigation measures identified in the Baseline Ecological Site Audit Report produced by Betts Ecology dated December 2013 shall be adhered to and implemented in full and maintained thereafter.
13. The Mitigation and enhancement measures identified in Breeding Bird Survey Report produced by Betts Ecology dated June 2014 shall be adhered to and implemented in full and maintained thereafter.
14. The Native tree Landscaping Planting Specification referred to in the Design and Access Statement produced by Ian Pick dated June 2014 and shown on the Site Layout Plan shall be adhered to and implemented in full and maintained thereafter.
15. Prior to first beneficial use of the development a detailed Planting Specification and Aftercare Scheme for the detention basin 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.
16. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
17. The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [5 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation

above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.

18. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
19. All emissions to air arising from the units hereby approved shall be free from odours at levels that are likely to be offensive or cause serious detriment to the amenity of the locality outside the site boundary of the holdings, as perceived by an authorised officer of the local planning authority by olfactory means.
20. No storage of manure shall be sited next to dwellings, place of work, and popular leisure areas and all stored manure shall be stored on level ground. No manure shall be stored over field drains or within 10 metres of a watercourse.
21. All vehicles used for the movement of manure off site shall be sheeted and/or fully covered.
22. All stored manure that needs to be covered shall be covered by the end of the day. The covering shall be tightly with polythene in such a manner as to leave no gaps and the edges of the polythene shall be tightly secured. All poultry manure that needs to be covered shall remain covered for a minimum period of 10 days before it is used.
23. Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:130 hours on Saturdays and at no time on Sundays and Bank or Public Holidays.
24. Prior to commencement onsite, full engineering details and drawings for the provision and protection of all existing and proposed land drainage systems shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include arrangements for the surface water drainage of the site to be limited to 6 l/s maximum discharge, include a management and maintenance plan for the lifetime of the development or other arrangements to secure the operation of these land drainage and surface water systems throughout their lifetime. The development shall only take place in accordance with these agreed details and be fully completed before the site becomes operational.
25. No development shall commence until details of existing ground levels and proposed finished ground and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details

## **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 comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and

Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.

4. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to Policy DM13 of the Powys Local Development Plan and Planning Policy Wales (2016).
5. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
6. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
7. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.
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12. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
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14. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
15. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
16. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation

and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.

17. To protect the local amenities of the local residents by reason of noise in accordance with DM13 of the Powys Local Development Plan 2018.
18. To protect the local amenities of the local residents by reason of noise in accordance with DM13 of the Powys Local Development Plan 2018.
19. To protect the local amenities of the local residents from the excess of mal-odorous emissions in accordance with DM13 of the Powys Local Development Plan 2018.
20. To avoid runoff and prevent deterioration of the local amenities in accordance with DM13 of the Powys Local Development Plan 2018.
21. To prevent spillage of manure and minimise odour dispersion and prevent population increase of insects in accordance with DM13 of the Powys Local Development Plan 2018.
22. To ensure that any flies or fly larvae are killed, prevent sudden increase of fly and other insect infestations and minimise smells and contamination of water in accordance with DM13 of the Powys Local Development Plan 2018.
23. To protect the amenity of local residents from excessive noise, vibration and dust in accordance with DM13 of the Powys Local Development Plan 2018.
24. To ensure the existing land drainage systems are not compromised and, that the proposed surface water drainage systems for this development site are fully compliant with regulations and are of robust design.
25. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy DM4 of the Powys Local Development Plan (April 2018) and Planning Policy Wales (2016).

## **Informative Notes**

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built (usually between late February and late August or late September in the



case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

#### Reptiles – Wildlife & Countryside Act 1981 (as amended)

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

It is therefore an offence to:

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

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

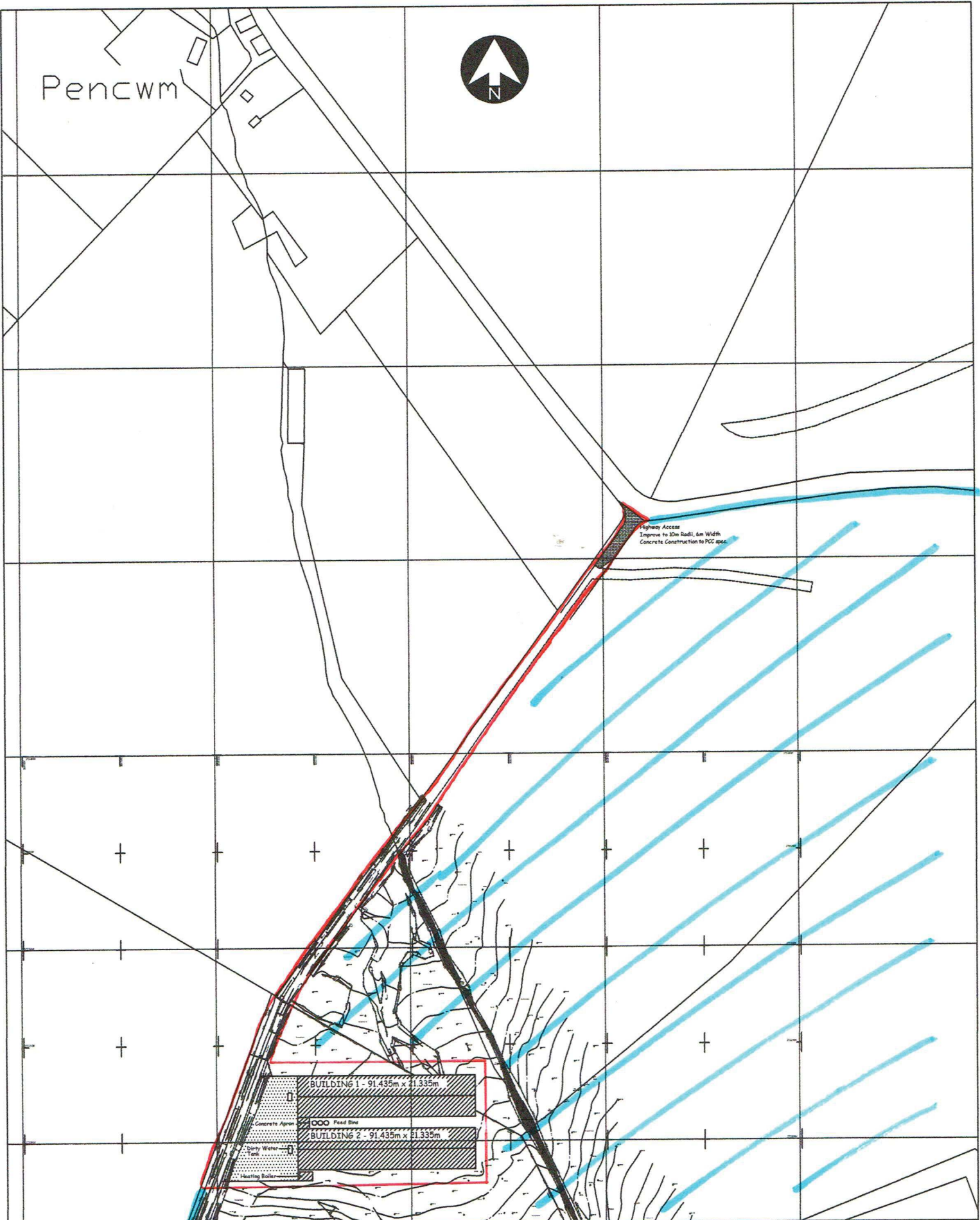
In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are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


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

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Case Officer: Tamsin Law- Principal Planning Officer  
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<p>DWG. TITLE</p> <p>Location Plan</p>		<p>DWG. NUMBER</p> <p>IP/CT/01</p>	<p>DATE</p> <p>Jan 14</p>	

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# 4.3

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

<b>Application No:</b>	P/2017/0764	<b>Grid Ref:</b>	294795.69 274076.13
<b>Community Council:</b>	St. Harmon	<b>Valid Date:</b>	<b>Officer:</b> 17/07/2017 Holly Hobbs
<b>Applicant:</b>	Zephyr Investments Ltd, 11th Floor, 200 Aldergate Street, London, EC1A 4HD.		
<b>Location:</b>	Bryn Titli Wind Farm, North of Rhayader, South of Llangurig, Powys.		
<b>Proposal:</b>	Section 73 application for variation of condition no. 6 and condition no's. 11-18 of planning permission R4297/D		
<b>Application Type:</b>	Application for Removal or Variation of a Condition		

### The reason for Committee determination

The application is accompanied by an Environmental Statement.

### Site Location and Description

Bryn Titli Windfarm is located above the A470 between Rhayader and Llangurig on a plateau where the predominant vegetation is upland grassland used for grazing. The wind farm is served by an access from the A470 and a network of on- site access tracks, hard standing areas, underground cabling and a wind monitoring mast. The site is currently occupied by 22 wind turbines each with a rated capacity of 450 kW and a total site installed capacity of 9.9 mw. The installed turbines measure 53.5 metres to the blade tip, 35 metres to the hub and have a rotor diameter of 37 metres.

There are eleven Sites of Special Scientific Interest and Special Areas of Conservation within 5km of the site and the Elenydd Maellen Special Protection Area lies immediately adjacent to the eastern boundary and covers part of the central part of the site. Most of the site is designated open access land and a number of Public Rights of Way cross or run close to the site.

The wind farm was originally granted permission by Radnorshire District Council on 9<sup>th</sup> August 1993 under planning reference R4297/D. Condition 6 of the planning permission states;

*'The wind turbines hereby permitted shall be decommissioned and removed from the site within 25 years of the first notified commissioning of the site and the site reinstated to ground level and allowed to seed over.'*

It is understood that the wind farm commenced operations on 30<sup>th</sup> June 1994 and the 25 year period is therefore due to expire on 29<sup>th</sup> June 2019.

The current application seeks to amend condition 6 with the effect that decommissioning would be extended to 34 years, effectively allowing the scheme to continue to export electricity until 29<sup>th</sup> June 2027 with an additional year allowed for the decommissioning and restoration of the site.

The submission also includes a proposal to update the original conditions (11-18) relating to noise and suggests that the Local Planning Authority might wish to consider a varied/new condition relating to the decommissioning of the site as referred to in condition 6 above.

## **Consultee Response**

### St Harmon Community Council

The planning application reference P/2017/0764 – Bryn Titli Farm, was discussed at our last meeting and St Harmon Community Council agreed in principle to support this application would like to ensure that the restoration of the site is accounted for when decommissioning eventually takes place so that the site complements the surrounding area.

### Rhayader Town Council

There were no objections to this application and Councillors recommended approval.

### Nantmel Community Council

No response.

### Abbeycwmhir Community Council

No response.

### Llangurig Community Council

Please note that following discussion at its meeting this week Llangurig Community Council found no objection to the above planning application and have no comments to make.

### Llandinam Community Council

No response.

### Highway Authority

*Correspondence dated 20<sup>th</sup> September 2017 –*

I refer to the amended plans relating to the above site and have no further comments to make.

### Welsh Government Transport

I refer to your consultation of 26/07/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the trunk road network directs that any permission granted by your authority shall include the following conditions:

1) The applicant must ensure that the traffic management decommissioning plan is updated and submitted for approval in writing to the local planning authority in consultation with the Welsh Government prior to any decommissioning taking place.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

### Environmental Health

*Correspondence received 12<sup>th</sup> December 2018 –*

Please find attached comments from Dick Bowdler (Council's Acoustic Consultant), which we support.

We do not agree with the comments submitted by the developer, justification attached and continue to propose conditions.

(Members please be advised that a copy of Mr D Bowdlers comments are attached in full).

### Rights of Way

There are public rights of way within and in close vicinity to the Bryn Titli Wind Farm site. Therefore, public rights of way would continue to be affected by any extension. Countryside Services advise that turbines are kept tip-height from footpaths and 200 metres from paths of higher status. The applicant took up Countryside Services offer of a meeting, with a site visit being undertaken on 28<sup>th</sup> February 2017.

We note the content of the ES Chapter 10 and the offer of an alternative waymarked route to allow users of the bridleway 255 to maintain a greater distance from turbines 18 and 21. We would like clarification on where the alternative route would be located and the separation distances that would be achieved.

We welcome the commitment to replacing the gate at the site entrance and request that the applicant approves the choice of gate with Countryside Services in advance. We note the proposal to install a stile on footpath 322 near turbine 15. We request that consideration is given to installing a pedestrian gate at this location instead, to allow access to all.

In our meeting with the developers, dated 25<sup>th</sup> October 2016, mention was made with regards to the provision of a contribution to off-site improvements to public rights of way. I can see no mention of this within the ES and query its omission.

Countryside Services request that the mitigation outlined above is set out within an appropriate condition. Countryside Services would welcome the opportunity to be consulted on the decommissioning phase of the project and the potential closure of public rights of way in due course.

## Powys Ecologist

No comments received at the time of writing this report. Members are advised that Officers will seek to secure an ecology response prior to the Committee meeting which will be reported within the update or within the verbal presentation.

## Natural Resources Wales

NRW does not object to variation of condition 6 of planning permission R4297/D. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed. NRW does not have any comment to make on conditions 11-18.

## Protected Species

Bats and their breeding and resting places are protected under the Wildlife and Countryside act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended), and they are a material consideration for planning.

NRW has reviewed the ecological report (Bilston, H (2017). Bryn Titli Wind Farm Life Extension. BSG Ecology. Unpublished). NRW is satisfied it has been carried out to an acceptable standard. The ecology report considers the potential impact of the proposal on local bat populations.

The assessment considers injury/killing of bats. The assessment was based on a carcass search by using dogs. The outcome of the carcass search was one dead common pipistrelle was found.

We concur with the conclusion that the extending of the operational life span of this existing wind farm is not likely to be detrimental to any local populations of bat.

## Ornithology

An assessment of the potential impact of the proposal on ornithological interests has been undertaken in Chapter 6 of the Environmental Statement prepared by BSG Ecology. As part of this, a Collision Risk Analysis (Appendix 6.3) has been submitted.

The 'Bryn Titli Life Extension Planning Statement' (Innogy, June 2017) states that the proposal to extend the life of the wind farm 'would not result in any significant impact on ornithology'. From the information provided, we agree with this conclusion.

Please do not hesitate to contact us if you require further information or clarification on any of the above.

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/planning-and-development/planning-and-development/?lang=en>). 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

## Cadw

### Advice

Having carefully considered the information provided with this planning application, we have no objections. Our assessment 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

Scheduled Monuments within vicinity:

MG084 Rhyd yr Onen Mound & Bailey Castle MG267 Domen Glw Cairn  
RD043 Maen Serth, Esgai Dderw  
RD070 Standing Stone & Round Barrow SE of Henriw RD119Cwm y Saeson Standing  
Stone  
RD176 Drysgol Platform  
RD206 Carn Wen cairn RD207 Carn Nant-y-ffald cairn RD208 Carn y Groes cairn

Condition 6 requires the turbines to be decommissioned within 25 years of the commissioning of the site and the site reinstated. The proposed variation will extend this decommissioning of the turbines for a further 9 years until 2028.

Conditions 11 -18 relate to noise from the turbines and were set before current guidance was set and therefore it is proposed to replace these conditions with new ones that accord with current guidance.

The application is accompanied by an environmental impact assessment which includes a cultural heritage chapter prepared by Headland Archaeology. This concludes that the extension of the operational use of the wind farm proposed in the variation of condition 6 will not have more than a negligible or very slight impact on the setting of the scheduled monuments listed above. We concur with this assessment. All of the above listed scheduled monuments are located at a distance where the noise of the operating turbines does not have any affect on the setting of the scheduled monuments.

#### Clwyd Powys Archaeological Trust

Thank you for the consultation on these variations of condition. I can confirm that none of the variations would have archaeological implications.

#### Built Heritage Conservation Officer

Thank you for consulting me on the above application.

I note that the conditions to be varied are in respect of;

Condition 6 – time limit and decommissioning

Conditions 11-18 noise.

As the proposal relates to retaining a structure on site for a longer period of time than the permission granted and in respect of noise which will be considered by other more appropriate consultees, I can confirm that I would have no objection to the proposal on built heritage grounds.

#### Ministry Of Defence

Thank you for consulting the Ministry of Defence (MOD) on the above variation of conditions in your communication dated 26/07/2017. The MOD was not consulted on the original planning application R4297/D and therefore a full technical and operational assessment has been completed for the 22 turbines.

I am writing to tell you that the MOD has no objection to the wind farm or the variation of conditions as outlined in your above application. Whilst the MOD has no objections to the Windfarm, in the interests of air safety the MOD will request that the development should be fitted with MOD accredited aviation safety lighting. All perimeter turbines should be fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point. All cardinal turbines should be fitted with 25 candela omni-directional red lighting and infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

The application is for 22 turbines at 53.5 metres to blade tip. This has been assessed using the grid references below as submitted in the planning application or in the developers' or your pro-forma.

The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

Defence Infrastructure Organisation Safeguarding wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

If the application is altered in any way we must be consulted again as even the slightest change could unacceptably affect us.

## **Representations**

At the time of writing this report, 7 representations have been received by Development Management and comprise of the following;

Six letters of support have been received:

The first states that:

*'I firmly believe that the UK should be investing in our green infrastructure, in order to secure a more sustainable future. A life extension for the Bryn Titli wind farm provides an excellent opportunity to produce clean energy without the added disruption of construction and will maximise the benefits of our existing green infrastructure.'*

The second, from a local business states that:

*'It (the wind farm) has supported ours and other local businesses for many years and has supported local communities.'*

*The third from the Director of Concord Hydraulics Limited states that:*

*'I am writing to support the proposed planning application to keep the Bryn Titli wind farm project in operation.'*

*We are a small company in Newtown employing five people. We at present supply the wind farm industry with hydraulic hoses, fittings, accumulators, hydraulic cylinders, pneumatics and many more items.*

*I would like to say that we support the Bryn Titli wind farm because it would provide desperately needed employment in the area’.*

The fourth from the Director of Mid Wales Welded Productions reads as follows:

*‘I am writing to support the proposed planning application to keep the Bryn Titli Wind Farm Project in operation.*

*We are a small company in Llanidloes employing 10 staff. We at present supply the Wind Farm industry with fabricated washers and plates, help with repairs to a variety of parts, supply rescue boxes - wall mounting frame that are on each turbine and other standard parts as and when required.*

*I would like to say we support the proposal at Bryn Title Wind Farm because it brings employment and trade to the area.*

*I wish my comments to be taken into consideration by Powys County Council’.*

The fifth from a firm in Caesws reads:

*‘We would like to show our support for application P/2017/0764, for the continued operation of Bryn Titli windfarm, until 2027.*

*Windtechs are a Welsh company employing 10 local people operating & maintaining wind turbines in Wales.*

*Our work on Bryn Titli accounts for a significant part of our income.*

*We have been employed by the owners for over 7 years to carry out scheduled & unscheduled maintenance.*

*Please consider the benefits to local companies, community & environment.’*

The sixth from a Builders Merchant in Llanidloes reads:

*‘I am writing to you in relation to the above planning reference, to support the proposed planning application to keep the Bryn Titli Wind Farm Project, situated approximately 9km south of Llanidloes.*

*We are a builder’s merchant in Llanidloes employing 8 people locally. We at present supply various building materials to local windfarm projects like this one, and again confirm we support the proposal to keep this windfarm in operation at Bryn Titli as it would bring much needed employment into this area.*

*I wish for my comments to be taken into consideration for the above-mentioned planning application.’*

The sixth is from Deutsche Windtechnik:

*'Deutsche Windtechnik specialises in maintenance of wind turbines and relies on this wind farm as part of its operations. Deutsche Windechnic holds 72 employees, employing specifically 17 individuals in the Wales area who depend on this employment'.*

One letter of objection has been received which reads as follows:

*'I am writing as a local resident to formally object to the planning application to extend the life of the Bryn Titli wind farm, Rhayader.*

*There are no reasonable grounds to justify the continued lifespan of this site. Planning approval for this site was granted by Radnorshire District Council for a period of 25 years. It was clearly not the intention of our democratically elected representatives - or the understanding of the community itself - that this would be a permanent site, but this is clearly the intention of the applicant. This is clearly an attempt by the applicant to circumvent the shift in the UK Government's energy policy away from onshore schemes, towards offshore. It is also contrary to local will, as demonstrated through the shift in Powys County Council's LDP towards broader forms of renewable energy, such as solar PV.*

*The construction of the site has already done untold damage to the environment, habitats and biodiversity (with the area home to a number of Sites of Special Scientific Interest, Special Areas of Conservation and Special Protection Area). The applicant recognises the potential for collisions for Red Kites, a locally and nationally significant species, but fails to mention the potential impact the scheme has on the Curlew - another significant species widely recognised to be endangered and which is a common sight and sound in the area in the breeding season.*

*The true cost of this environmental impact will not be fully realised - if at all - until the scheme has been decommissioned and the site returned to nature. We do not yet know how many years or generations it will take to undo this damage. We cannot afford to wait a further nine years to begin this vital process - and if this extension is approved, the community can have no confidence that this will ever happen. We will simply likely enter into a continuous cycle of extensions to the life of the scheme. It is ironic that the applicant suggests that environmental impacts are likely to be more significant as a result of decommissioning! Again, this would suggest a hidden agenda to create a permanency to the scheme.*

*This scheme was one of the very first wind farms brought into commission in Wales. It is as such outdated, less efficient and less economical than offshore schemes being commissioned today. Any reduction from electricity generation capacity by not extending the life of this scheme will therefore easily be met - and indeed likely exceeded - by new offshore schemes coming on stream around the UK (as well as from proposed alternative forms of renewable energy in Powys, such as solar PV). The need to increase electricity generated by renewables is not an excuse to hide behind - and cannot be the job of Powys alone!*

*There can be no economic benefit (beyond a minimal) to the local community through extension of the site. Any economic benefits would have likely been realised during initial construction or early years in the life of the scheme. Indeed, not extending the life of the scheme and the required decommissioning of the site is the only way to generate any further local economic benefit, creating new economic activity and skilled employment opportunities for the local community. This would present an opportunity for the local area to become a centre of excellence in decommissioning wind farms and recreating high quality natural*

*environments, which support clean economic growth. This would also support Mid-Wales' growing tourist economy and could be a major feature of any future Mid-Wales Growth Deal.*

*Much has been made of the community benefits paid by the scheme to the local community. While no doubt valuable to individual community groups, the total sum of around £8,000 per year is pitiful considering the impact the scheme has on the local community and the local environment. The cost of the planning application alone or the PR consultants paid to promote the scheme probably exceeds this token gesture many times over. £8,000 in community benefits is minuscule compared to the profits that the scheme generates for the applicant. A true community benefit would be for the electricity generated by the scheme to become a community asset, providing low cost electricity for local residents, businesses and farmers.*

*The biggest impact of the scheme - and the most common issue raised by people in the community (and not necessarily those in direct proximity or line of site to the scheme) is noise impact, including low frequency and amplitude modulation. This results in severe distress, sleep disturbance and headaches and impacts on individuals' own health (including mental health) and wellbeing, enjoyment of their homes and day-to-day lives. The fact that the scheme is approaching its end life has been the only comfort to them and this masks the true number of those affected as people have been reluctant to make a noise complaint as the end of the scheme was in sight.*

*Approval of the application will subject residents to a further nine years of unjustifiable noise impact. Should the application be approved it is essential that the strictest conditions are placed on night time operation - restricting hours of operation - and specific conditions are placed on it relating to independent inspection of noise impacts, including amplitude modulation. Otherwise the local community will feel voiceless, powerless and unprotected, unable to affect and control changes in their community and in the places where they live'.*

## **Planning History**

R4297 – Full: Temp Consent for 24 months: erection of masts to measure wind speed. Approved March 1991.

R4297A – Full: Erection of 16, 25 metres high wind turbines and associated works. Approved October 1991.

R4297B - Full: Erection of 33, 25 metres high wind turbines and associated works. Approved October 1992.

R4297C – Full: Erection of a control building and substation. Approved June 1993.

R4297D – Full: Erection of 22 wind turbines and associated works. Approved August 1993.

R4297E – Full: Borrow Pit 1, Rock/stone excavation for temp site access. Approved October 1993.

R4297F – Full: Borrow Pit 2, Rock/stone excavation for temp site access. Approved October 1993.

R4297G – Full: Erection of 30 metre high mast. Approved May 1994.

R4297H – Full: Temporary erection of a 25 metre mast for collection of operational wind data. Approved September 1995.

PR539700 – Full: Overhead lines. Deemed Consent. June 1998.

## **Principal Planning Constraints**

Rights of Way  
SSSI  
Special Area of Conservation  
Elenydd Mallaen – Special Protection Area  
Scheduled Ancient Monuments

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales 9<sup>th</sup> Edition November 2016)

Technical Advice Note 5 - Nature Conservation and Planning (2009)  
Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010)  
Technical Advice Note 8 - Renewable Energy (2005)  
Technical Advice Note 11- Noise (1997)  
Technical Advice Note 15 - Development and Flood Risk (2004)  
Technical Advice Note -16 Sport, Recreation and Open Space (2009)  
Technical Advice Note 23- Economic Development (2014)  
Technical Advice Note 24 – Historic Environment (2017)

National Planning Statement for Energy 2011 (EN-1)  
National Planning Statement for Renewable Energy Infrastructure 2011 (EN-3)

### Local Planning Policy

Powys Local Development Plan (2018)

SP7 – Safeguarding of Strategic Resources and Assets  
DM1 – Planning Obligations  
DM2 – The Natural Environment  
DM4 – Landscape  
DM5 – Development and Flood Risk  
DM6 – Flood Prevention Measures and Land Drainage  
DM7 – Dark Skies and External Lighting  
DM13 – Design and Resources  
E2 – Employment Proposals on Non-allocated Employment Sites  
T1 – Travel, Traffic and Transport Infrastructure  
RE1 – Renewable Energy

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
LDP=Powys Local 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**

### Introduction

#### *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 the Development

Paragraph 2.14 of Technical Advice Note 8 (TAN8) - Planning for Renewable Energy acknowledges that 'there will be opportunities to re-power and or extend existing wind farms which may be located outside of Strategic Search Areas (SSA's) and these should be encouraged provided that the environmental and landscape impacts are acceptable'.

Bryn Titli Wind Farm has been operational since June 1994 and is located outside of a SSA. The current application seeks to amend condition 6 with the effect that decommissioning would be extended to 34 years, effectively allowing the scheme to continue to export electricity until 29<sup>th</sup> June 2027 with an additional year allowed for the decommissioning and restoration of the site.

In light of the guidance contained within TAN8 and policy presumption in favour of appropriate renewable energy developments, it is concluded that the principle of development is acceptable subject to all other material considerations being satisfied.

### Landscape and Visual Impact

LDP policy DM4 (Landscape) confirms that proposals for new development must not, individually or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape. All proposals will need to:

1. Be appropriate and sensitive in terms of integration, siting, scale and design to the characteristics and qualities of the landscape including its: topography; development pattern and features; historical and ecological qualities; open views; and tranquillity; and
2. Have regard to LANDMAP, Registered Historic Landscapes, adjacent protected landscapes (National Parks and Areas of Outstanding Natural Beauty) and the visual amenity enjoyed by users of both Powys landscapes and adjoining areas.

Proposals which are likely to have a significant impact on the landscape and/or visual amenity will require a Landscape and Visual Impact Assessment to be undertaken.



For the purpose of LANDMAP, the application site is located within the 'Mountain Plateau with windfarm' Aspect Area which is defined as a single area, to the east of the Wye Valley in the north of the County. The aspect area is mainly open comprising of large regular fields. The overall classification is moderate.

The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which considers the effects on the landscape as a resource in its own right, and views and visual amenity as experienced by people. A Zone of Theoretical Visibility (ZTV) is included. It has been undertaken in accordance with the current Guidelines for Landscape and Visual Impact Assessment (3<sup>rd</sup> Edition, 2013) and assumes a baseline where the existing windfarm has been decommissioned (i.e. no turbines are present).

For consistency with the 1993 LVIA, the study area was defined as a 15km radius from the outermost turbines of the development. The study area encompasses part of the Upper Wye Valley, separating the Cambrian Mountains in the west and the Radnorshire Hills in the east. Existing/under construction/consented/pending wind farms up to approximately 20km from the development site were considered as part of the baseline; these include although not limited to, Bryn Blaen (under construction) approximately 7.55km to the north west, Hirddywel (pending) approximately 10.54 to the north east and Llandinam (operational) approximately 12.42 to the north east.

Visual effects were considered from viewpoints and routes across the defined study area and include public rights of way and the public highway. The LVIA identified significant effects in six Visual and Sensory Aspect Areas and, of the 12 viewpoints chosen, six were identified as showing significant effects. None of the main settlements would experience significant visual effects whilst moderate and significant impacts are experienced on Cwmystwyth Road (Viewpoint 6) and the Wye Valley Walk (viewpoints 2 & 7). Minor and not significant effects were noted along Glyndwrs Way (Viewpoints 11 & 12).

In addressing Landscape and Visual Impacts the applicants Planning Statement offers the following:

*'Although the LVIA identifies some significant adverse impacts, these have previously been found to be acceptable by virtue of the original grant of planning permission. Furthermore, the significant adverse impacts do not constitute matters that would outweigh the wide-ranging benefits of the proposal identified. Having been operational for this use since 1994, the site is a proven location for a wind farm and the proposed life extension is appropriate in planning terms.'*

*On balance, and in the context of the evidence presented in the ES, it is concluded that the Bryn Titli Wind Farm life extension proposal does not conflict with the relevant policies and guidance set out in PPW, the UDP and the Draft LDP.'*

The applicant's Landscape and Visual Appraisal was sent to the Council's Landscape Consultants for scrutiny who later responded with some criticisms relating to methodology and conclusions. These were forwarded to the applicants who thereafter responded with comments and additional information. Having reviewed the additional information submitted, the Council's Landscape Consultant acknowledges the amendments made and confirms that whilst there remains a difference in professional opinion, the Local Planning Authority has before them an LVIA on which to consider the proposed development.

Having carefully reviewed the LVIA, Officers consider that the proposed wind turbine development will not have an unacceptable adverse impact on the character of the landscape or visual amenity. On this basis, it is considered that the proposed development is compliant with policies DM4, DM13 and RE1 of the Powys Local Development Plan, Technical Advice Note 8 and Planning Policy Wales.

### Ecology and Biodiversity

Policy DM2 of the LDP confirms that development proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests including improving the resilience of biodiversity through the enhanced connectivity of habitats within, and beyond the site.

Development proposals which would impact on the following natural environment assets will only be permitted where they do not unacceptably adversely affect important site designations, habitats and species afforded the highest levels of protection through European legislation.

There are eleven Sites of Special Scientific Interest (SSSI) and Special Areas of Conservation (SAC) located within approximately 5km of the application site. Elenydd Maellen Special Protection Area (SPA) lies adjacent to the eastern boundary of the site and covers part of the central part of the site.

The Environmental Statement accompanying the application includes Ecological Chapters addressing actual and potential impacts on Bats and Bird Species. Given that the wind farm is already in existence the impacts on existing habitat have not been assessed.

Having reviewed the Ecological Report entitled 'Bryn Titli Wind Farm Life Extension' prepared by BSG Ecology, dated June 2017. Natural Resources Wales has confirmed that they are satisfied with the survey methodology and findings and therefore offer no objection to the proposal.

Claims have been made within the third party representation received that the consented wind turbine development has resulted in untold damage to the environment and biodiversity which would continue if the operational period were extended. Members are advised that NRW have been contacted in this regard and have responded to the effect that there is no evidence to substantiate the objectors assertions.

In light of the comments received from NRW and notwithstanding the third party concerns expressed, it is not considered that the proposed development will unacceptably adversely affect protected species, their habitats or other designated areas of importance.

Development Management is still awaiting a response from the Council Ecologist. It is hoped that an update report will be provided that includes this response and the consideration of this response.

### Noise impacts

In accordance with policy DM13 of the LDP, development proposals will only be permitted where the amenities enjoyed by the occupants or users of nearby or proposed properties would not be unacceptably affected by levels of noise.

The current submission seeks to revise conditions 11-18 attached to planning permission R4297, which relate to noise emissions. As detailed within the Environmental Health consultation response above, there is a level of disagreement between the applicants and the Council's Acoustic Experts, particularly in regard to the updating of the noise conditions. Whilst there is agreement on the conclusion that predicted and measured turbine noise levels are compliant with extant Government Guidance (ETSU-R-97) there are three matters where there has been a variance of approach, one procedural and the other two technical.

Whilst acknowledging the comments submitted by the applicant's acoustic consultant, no evidence has been submitted to justify an alternative approach to the standard conditions imposed by Development Management on recently consented wind turbine developments. As such, in accordance with the advice given by the Council's acoustic consultant and Environmental Health comments, should Members be minded to grant consent, it is recommended that the noise conditions detailed below are attached to any permission issued. Should the applicants wish to challenge the conditions, Officers would advise that an appeal would be the appropriate course to follow.

Subject to the imposition of the recommended conditions, it is considered that the proposed development is compliant with policies DM13 and RE1 of the Powys LDP, Technical Advice Note 11 and PPW.

### Cultural Heritage

Paragraph 4.2 of Technical Advice Note 24 – Historic Environment confirms that the conservation of archaeological remains is a material consideration in determining a planning application. When considering development proposals that affect scheduled monuments or other nationally important archaeological remains, there should be a presumption in favour of their physical preservation *in situ*, i.e. a presumption against proposals which would involve significant alteration or cause damage, or would have a significant adverse impact causing harm within the setting of the remains. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.

The application is accompanied by an Environmental Impact Assessment which includes a cultural heritage chapter prepared by Headland Archaeology which. The cultural heritage assessment concludes that the extension of the operational use of the wind farm as proposed will not have more than a negligible or very slight impact on the setting of the scheduled monuments listed above.

In responding to the consultation exercise, Cadw confirms that there are a number of Scheduled Ancient Monuments (SAMs) located within proximity of Bryn Titli windfarm, namely;

MG084- Rhyd yr Onen Mound & Bailey Castle  
MG267 - Domen Glw Cairn

RD043 - Maen Serth, Esgai Dderw  
RD070 - Standing Stone & Round Barrow SE of Henriw  
RD119 - Cwm y Saeson Standing Stone  
RD176 - Drysgol Platform  
RD206 - Carn Wen cairn  
RD207 - Carn Nant-y-ffald cairn  
RD208 - Carn y Groes cairn

The response received thereafter confirms that Cadw agree with the assessment conclusions given the intervening distances between the site and identified SAMs.

In addition to the above, Members are advised that independent advice has been sought by Development Management from a Cultural Heritage Consultant. The consultant for the Authority has reported as follows:

*'The scope of the cultural heritage assessment presented in the Environmental Statement reflected the requirements set out in our previous advice to the Council (dated 5th July 2016) and no substantial omissions were noted.*

*In terms of the assessment we have two comments:*

*1. The assessment of impact on the setting of scheduled monuments and listed buildings tends to emphasise the potential impact of the turbines on views out from monuments / buildings and does not explicitly, in all cases, address potential impacts on views from third points which feature the monuments / buildings and the turbines. Having reviewed the supplied evidence I am of the opinion that this issue would not however substantial change the findings of the assessment or my advice; and*

*2. As with many impact assessments, the findings, in my view, tend to underestimate the potential impacts and resultant effects. In this case I have reviewed the information presented and while I am of the view that some of the negligible impacts are underreported, the resultant impacts in my view are not significant. In this context the "exceptional circumstances" test set out in paragraph 6.5.5 of PPW is not triggered.*

*In summary, having reviewed the cultural heritage assessment undertaken as part of the Environmental Impact Assessment process I can confirm it has been undertaken in broad accordance with the Scoping Opinion, albeit with some comments, and that its conclusions are generally valid although tending to be slightly underreported, see comment above. Further to this, I have not identified any impacts significant enough in their own right to justify refusal in terms of national or local planning policy relevant to the historic environment'.*

Whilst acknowledging an element of conflict within the review of the Cultural Heritage Assessment submitted as part of the application, the general conclusions regarding the potential impact on cultural heritage assets are not debated. As such, having carefully considered the comments received, Officers do not consider that the proposed development will unacceptably adversely affect or harm the setting of the identified monuments. The proposed development is therefore considered to be compliant with Planning Policy Wales, Technical Advice Note 24 and LDP policies DM13 and RE1.

Public Rights of Way

LDP policy DM13 states that developments will only be permitted where the public rights of way network or other recreation assets listed in Policy SP7 (3) are enhanced and integrated within the layout of the development proposal; or appropriate mitigation measures are put in place where necessary.

A number of public rights of way are located within or adjacent to the site and it is anticipated that during the continued operation of the wind turbine development that these will remain unaffected. Officers consider that it is likely that there will be some effect on access during the decommissioning phase however note that these will be dealt with at the time by applications for temporary closures/diversions and temporary suspension of open access rights.

Following discussions with Powys Rights of Way Officers, improvements have been offered by the applicants and include the fitting of a bridleway gate at the A470 access, a pedestrian gate on footpath 322 near to turbine 15 and the provision of an alternative way marked route to allow horse riders and other users to maintain a greater distance from turbines 18 and 21. Should Members be minded to grant consent, it is recommended that the above mitigation measures be secured by an appropriate planning condition.

Countryside Services (and Powys Ramblers) have raised the possibility of obtaining contributions to offsite improvements to the network. In response to this request, the applicants' agent has stated the following;

*'At our meeting on the 25<sup>th</sup> October 2016, Nina Davies requested a financial contribution towards funding Powys Public Rights of Way network. Welsh Office Circular 13/97 requires planning obligations to be sought only where they are (i) necessary; (ii) relevant to planning; (iii) directly related to the proposed development; (iv) fairly and reasonably related in scale and kind to the proposed development; and (v) reasonable in all other aspects;*

*It is important to note that this proposal relates solely to the continued operation of the wind which has been in situ for over 23 years and which, as far as we are aware, has not generated any complaints in respect of the PRow network during this time. We have considered the request for financial contribution against the tests set out Circular 13/97 and cannot see a direct relationship between the planning obligation and the planning permission. We are therefore of the view that it is not evidenced to be necessary to make the proposal acceptable in land use planning terms and are not willing to enter into an agreement on this matter. We have agreed to a number of on-site improvements sought by Countryside Services in respect of PRow network and consider these to be adequate mitigation/enhancement'.*

Having carefully considered the potential impacts on the public rights of way network, Officers are satisfied that subject to an appropriate condition securing the implementation of the mitigation measures identified above, it is not considered that the proposed development will have an unacceptable adverse impact on the public rights of way network or the amenity of its users. The proposed development is therefore considered to be compliant with policy DM13.

## Decommissioning & Restoration

Policy RE1 of the LDP renewable energy proposals will only be permitted where satisfactory mitigation is in place to reduce the impact of the proposal and its associated infrastructure. Proposals shall make provision for the restoration and after-care of the land for its beneficial re-use.

The application provides the opportunity to revisit and improve the condition relating to the decommissioning and restoration of the site once the turbines have ceased generating energy. The applicant has proposed the following condition:

*"Not less than 12 months before the expiry of the permission, a decommissioning and site restoration scheme shall be submitted to the Local Planning Authority for its written approval. The decommissioning and site restoration scheme shall include provision for: the removal of all above-ground elements; the removal of turbine bases to 0.6m below ground level; and restoration of the disturbed areas. The decommissioning and site restoration must be completed in accordance with the approved scheme within the period set out in the approved scheme."*

Having considered the revised condition and consistent with similar proposals, it is considered that the above condition satisfies the requirements of Welsh Government Circular 016/2014 – The Use of Planning Conditions for Development Management.

## Planning Obligations

Policy DM1 states;

Planning obligations will be sought by agreement with applicants, where necessary, to ensure that:

1. The development provides for adequate infrastructure necessary to serve the proposal, and that satisfactory maintenance and / or restoration arrangements are achieved;
2. Significant adverse socio-economic and environmental impacts are addressed and mitigated;
3. Benefits are secured in the public interest to meet the additional demands of development proposals on local communities.

Where on-site provision or mitigation is not appropriate, off-site provision, or a financial contribution towards it, may be sought.

The approval granted in 1993 was subject to a number of financial obligations which were secured by Section 106 legal Agreements. It is envisaged that the contributions listed below will continue over the proposed extended period of operation;

- £5000 per annum contribution to a fund for environmental improvements on two of the affected farm holdings;
- £5000 per annum to a Community Fund for public and Community benefits of the inhabitants of Rhayader and St Harmon and a 'one off' payment of £4000 to offset/remedy impairment of TV reception resulting from operation of the wind farm.

- The setting up of a Trust fund of £100,000 to sponsor and support educational projects within Radnorshire.

As set out in the application documents, in addition to the above, the applicant is to voluntarily provide an enhanced contribution of £2,500 per MW per annum for the additional eight years of operation.

With regard to the funding of environmental improvements which were secured by way of a Planning Obligation dated 9<sup>th</sup> August 1993 (£5000 per annum to be paid into an account to be disbursed by the Council for use by the then CCW) NRW have asked whether this could be reviewed to facilitate extending improvements beyond the areas previously defined.

The applicant's agents were contacted in this regard and have responded as follows:

*'In principle, my Client is open to the suggestion of modifying the agreement to encompass a wider area, as suggested by Natural Resources Wales, subject to the same level of funding as previously. May I suggest that you make a recommendation to the Committee on the basis that the resolution to permit would grant officers delegated powers to agree the detailed terms of the legal agreement and the detailed wording of conditions'*

Clarify is still being sought on the above and whether it would comply with the tests for planning conditions and obligations. An update report will be provided prior to the Committee meeting to address this issue.

### Safety Lighting

The Ministry of Defence (MOD) has requested that consideration be given to the retro-fitting of both perimeter and cardinal turbines with omni-directional red or infra-red lighting to flash at intervals on one second. In response, the applicants have questioned the necessity/reasonability of this request given the well-established nature of the wind farm and a lack of evidence to the effect that the array has presented a hazard to low flying aircraft. They also state that:

*'Retrofitting lighting to existing turbines would involve designing and procuring bespoke lighting; this would be a time-consuming process which will result in the lights only actually being operational for a very short period of time prior to decommissioning.'*

*Welsh Government Circular 016/2014 requires that conditions are only imposed where they are (i) necessary; (ii) relevant to planning; (iii) relevant to the development to be permitted; (iv) enforceable; (v) precise; and (vi) reasonable in all other respects. The condition proposed by the MoD is not evidenced to be necessary or relevant to the development to be permitted (i.e. the life extension), and is considered to make unjustifiable demands on a wind farm that has been operating without giving rise to aviation issues for over two decades.'*

Whilst Officers acknowledging that lighting technology has advanced since the original grant of consent, it is considered that the introduction of new lighting may result in unacceptable impacts in terms of ecology or landscape/visual. Furthermore, as no evidence has been

provided to demonstrate that the site adversely affects low flying aircraft during its years of operation, Officers would concur with the comments of the applicant, and therefore, in these circumstances it is not recommended that a condition be placed requiring the retrofitting of lighting on any consent.

## **RECOMMENDATION**

Having carefully considered the material presented in support of the planning application, including the detailed assessments provided in the accompanying Environmental Impact Assessment, it is concluded that the extension of the operating life of Bryn Titli wind farm is in accordance with planning policy. Subject to no objection from the Councils Ecologist the recommendation is one of approval subject to the conditions detailed below.

Conditions:

1. The development hereby permitted shall cease operation 33 years after the first export of electricity from the site.

2 Not less than 12 months before the expiry of the permission, a decommissioning and site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning and site restoration scheme shall include provision for the removal of all above-ground elements; the removal of turbine bases to 0.6m below ground level; and restoration of the disturbed areas. The decommissioning and site restoration must be completed in accordance with the approved scheme within the period set out in the approved scheme.

3. A Traffic Management Decommissioning Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the decommissioning of the site. Thereafter, the development shall be undertaken strictly in accordance with the Traffic Management Decommissioning Plan as approved.

4. Not less than 6 months prior to the expiry of planning permission R4297D, an access scheme shall be submitted to and approved in writing by the Local Planning Authority. The access scheme shall include: a plan identifying the alternative waymarked route; provision for the replacement of the gate at the site entrance; and provision for the installation of a pedestrian gate on footpath 322 near T15. The access scheme shall be implemented as approved prior to the expiry of planning permission R4297D, i.e by 29th June 2019.

5. The rating level of noise emissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty and amplitude modulation (AM) penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from the table attached to these conditions and:

A) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant and provide a written protocol to be approved by the Planning Authority. The protocol shall describe the procedure to assess the level and character of noise immissions from the wind farm at the complainant's property in accordance with the procedures



described in the attached Guidance Notes. The written request from the Planning Authority shall set out as far as possible the time or meteorological conditions to which the complaint relates and time or conditions relating to tonal noise or AM if applicable. Measurements to assess compliance with the noise limits shall be undertaken in accordance with the assessment protocol which shall be approved in writing by the Planning Authority.

B) Where there is more than one property at a location specified in the table attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the table attached to these conditions, the wind farm operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the table to be adopted at the complainant’s dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant’s dwelling. The submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the qualified Acoustician. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant’s dwelling.

C) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the protocol within 2 months of the date of the approval of the protocol by the Planning Authority unless otherwise agreed by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the Planning Authority. Certificates of calibration of the equipment shall be submitted to the Planning Authority with the report.

D) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 5 of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's initial assessment unless otherwise agreed by the Planning Authority.

**Informative Notes**

**Note:** For the purposes of condition 5, a “dwelling” is a building within Use Classes C1, C3 and C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) which lawfully exists or had planning permission at the date of this permission.

**Table - Noise Level at All Times - dB L<sub>A90</sub>, 10-minute**

Location (easting, northing grid)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods
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<b>coordinates)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
L <sub>A90</sub> Decibel Levels												
Glascwm House (291940, 276715)	36	36	36	37	38	40	41	43	44	46	46	46
Neuadd-ddu (291971, 275364)	36	36	36	37	38	40	41	43	44	46	46	46
Dernol Old School (291847, 274584)	39	39	39	40	40	41	43	43	43	43	43	43
Dolhelfa-ganol (292799, 273876)	36	36	36	37	38	40	41	43	44	46	46	46
Dolhelfa Uchaf (292493, 274167)	36	36	36	37	38	40	41	43	44	46	46	46
Dolhelfa-isaf (293530, 273318)	35	35	35	35	36	38	40	42	43	45	45	45
Gwen Fron (294878, 276865)	35	35	35	35	36	38	40	42	43	45	45	45
Ysgubar Dollech (292024, 274280)	39	39	39	40	40	41	43	43	43	43	43	43
Croesty (291702, 274901)	39	39	39	40	40	41	43	43	43	43	43	43
Dernol Farm (291486, 274877)	35	35	35	35	36	38	40	42	43	45	45	45
Tan-Y-Berth (291450, 275289)	39	39	39	40	40	41	43	43	43	43	43	43
Brithdir (291033, 275762)	35	35	35	35	36	38	40	42	43	45	45	45
Panty-Y-Drain (291323, 276305)	35	35	35	35	36	38	40	42	43	45	45	45
Tyncoed (291928, 276230)	36	36	36	37	38	40	41	43	44	46	46	46
Ty-Mawr (292545, 273234)	39	39	39	40	40	41	43	43	43	43	43	43
Safn-y-coed (292869, 273319)	39	39	39	40	40	41	43	43	43	43	43	43

Note to Table: The geographical coordinates references set out in the table are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speeds at 10 metres height within the site refers to wind speeds at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

### Guidance Notes for Noise Condition

These notes are to be read with and form part of the planning condition on noise. The measured data is to be split into bins as described below. The rating level in each bin is the arithmetic sum of the wind farm noise level, any tonal penalty applied in accordance with Note 3 and any AM penalty applied in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms"

(1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI). IOAGPG is “A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise” or any update of that report current at the time of measurement. The IOA Metric is “A Method for Rating Amplitude Modulation in Wind Turbine Noise” dated 9<sup>th</sup> August 2016 or any update of that current at the time of measurement.

### **Note 1 – Data Collection**

a. Values of the LA90,10-minute noise index shall be measured in accordance with the IOAGPG. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and to allow an AM penalty to be calculated for selected periods where a tonal or AM assessment is required.

b. To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the Planning Authority. The wind speed at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which are correlated with the noise measurements determined as valid. The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle, arithmetic mean rotor RPM and whether each wind turbine is running normally during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Universal Time (UT).

### **Note 2 – Data Analysis**

a. The independent consultant shall identify a sub-set of data having had regard to:-

- the conditions (including time of day and corresponding wind directions and speeds) at times in which complaints were recorded;
- the nature/description recorded in the complaints if available;
- information contained in the written request from the local planning authority;
- likely propagation effects (downwind conditions or otherwise);
- the results of the tonality/AM analysis where relevant.

In cases where it is possible to identify patterns of clearly different conditions in which complaints have arisen additional sub-sets may be considered provided this does not introduce unreasonable complexity in the analysis and can be justified by the independent consultant.

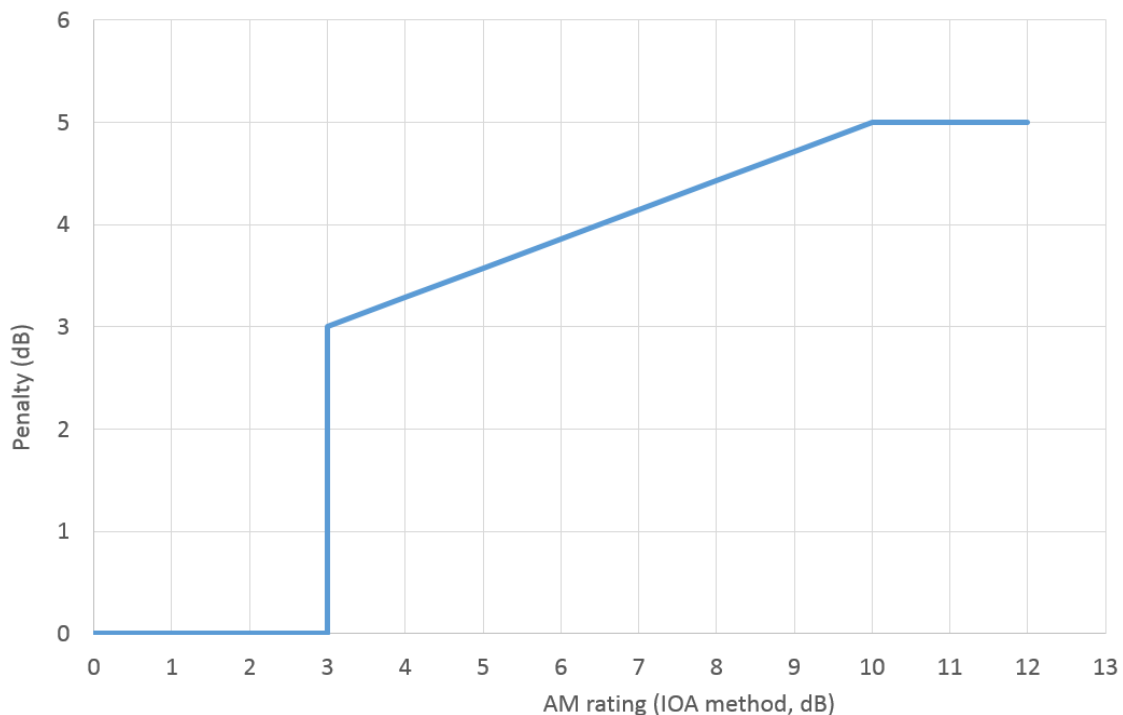
b. Within each of the sub-set(s) of data identified, data shall be placed into separate 1 m/s wide wind speed bins.

### Note 3 – Tonal Penalty

- a. Where, in accordance with the protocol, the noise contains or is likely to contain a tonal component, a tonal audibility shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute period for which a tonal assessment is required this shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure").
- c. For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted. Where data for a ten-minute period are corrupted, that period shall be removed from the tonal analysis.
- d. The tone level above audibility for each ten-minute period shall be placed in the appropriate data sub-set and wind speed bin.

### Note 4 – AM Penalty

- a. Where, in accordance with the protocol, the noise contains or is likely to contain AM, an AM penalty shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute interval for which an AM assessment is required this shall be performed in accordance with The IOA Metric. The value of AM for each ten-minute period shall be converted to a penalty in decibels in accordance with the graph below and the penalty shall be placed in the appropriate data sub-set and wind speed bin. Where a penalty is zero it shall be placed in the bin in the same way.



## Note 5 – Calculation of Rating Level

- a. The  $L_{A90}$  sound pressure level for each data sub-set and wind speed bin is the arithmetic mean of all the 10-minute sound pressure levels within that data sub-set and wind speed bin except where data has been excluded for reasons which shall be clearly identified by the independent consultant. The tonal penalty for each bin is the arithmetic mean of the separate 10-minute tonal audibility levels in the bin converted to a penalty in accordance with Fig 17 on page 104 of ETSU-R-97. The AM penalty for each bin is the arithmetic mean of the AM penalties in the bin. The assessment level in each bin is normally the arithmetic sum of the bin  $L_{A90}$ , the bin tonal penalty and the bin AM penalty except where the AM penalty and the tonal penalty relate to the same characteristic (e.g. amplitude modulated tones) when the sum of both penalties may overly penalise the characteristics of the noise. Such cases shall be identified and only the larger of the AM or tonal penalty shall be applied.
- b. If the assessment level in every bin lies at or below the values set out in the Table(s) attached to the conditions then no further action is necessary. In the event that the assessment level is above the limit(s) set out in the Tables attached to the noise conditions in any bin, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only. Correction for background noise need only be undertaken for those wind speed bins where the assessment level is above the limit.
- c. The wind farm operator shall ensure that all the wind turbines in the development are turned off for such periods as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:-
- i. Repeating the steps in Note 1, with the wind farm switched off, and determining the background noise ( $L_3$ ) in each bin as required in the protocol. At the discretion of the consultant and provided there is no reason to believe background noise would vary with wind direction, background noise in bins where there is insufficient data can be assumed to be the same as that in other bins at the same wind speed.
  - ii. The wind farm noise ( $L_1$ ) in each bin shall then be calculated as follows where  $L_2$  is the measured level with turbines running but without the addition of any tonal nor AM penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

- iii. The rating level shall be calculated by adding the tonal and AM penalties to the derived wind farm noise  $L_1$  in that bin.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal and AM penalties in every bin lies at or below the values set out in the Tables attached to the condition at all wind speeds then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the table attached to the condition

then the development fails to comply with the planning condition in the circumstances represented by that bin.

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**BRYN TITLI WIND FARM**

**EXTENSION OF TIME**

**REVIEW OF THE NOISE SECTION OF THE APPLICATION**

**Powys County Council: P/2017/0764**

**Dick Bowdler**

## **INTRODUCTION**

This report is prepared for Powys County Council to review the noise section of the planning application for this wind farm. My comments are primarily related to Technical Appendix 9.1 and Annexes 1-7 of the application which form the detailed report. I assume the reference in Chapter 9 of the Environmental Statement to Appendix 7.1 is an error. Following my initial investigations, with the approval of the Council, I contacted the applicant's consultants with a request for further information on a number of points. These were:

- A more comprehensive list of the number of properties subject to turbine noise greater than 35dBA, particularly those around Dollech that might be subject to a "valley effect".
- Better resolution copies of the time series graphs.
- Clarification of some of the numbering.
- Clarification of the standard under which the original tests of the turbines were made.

Answers to these questions were provided by an email letter on 18<sup>th</sup> October 2017 (TNEA Response) the contents of which I have also taken into account.

I visited the area surrounding the site on 12<sup>th</sup> August 2017 between about 1200 and 1700hrs to look at the locations and details of affected houses.

Bryn Titli wind farm is an existing wind farm constructed around 1994. It consists of 22 Bonus B37/450 turbines. These have a 450kW rating, a rotor diameter of 37m and a hub height of 35m. The application is for an extension of time for the life of the wind farm which currently expires in 2019. I assume there are to be no changes to the existing turbines or their running modes.

The applicants report says that it has been carried out in accordance with ETSU-R-97 and the Institute of Acoustics Good Practice Guide (IOAGPG). It also refers to an article in the Acoustics Bulletin in 2009 (the 2009 Article). I agree that these are appropriate documents. I note that this was agreed between the Council and the Applicant's consultant.



## **SUMMARY**

I am satisfied that the background noise levels as measured represent a realistic level at these locations. The allocation of background noise and consequent limits to surrounding properties needs careful attention.

There is an anomaly in the turbine noise shown in tables and graphs but I do not consider it to be significant. The levels shown in the tables and graphs are therefore satisfactory.

There are around twenty properties that will exceed 35dB at some wind speeds, most of them marginally at wind speeds of 10m/s and above. None is above 40dB even at 12m/s. Background noise at these properties is strongly influenced by water noise from the River Wye.

An assessment shows that, even allocating the lowest background noise levels to form the limits, the turbines meet ETSU-R-97 limits by a large margin (probably in excess of 7dB or more).

I recommend a noise condition to control noise at nearest houses.

## **1 BACKGROUND NOISE MEASUREMENTS**

1.1 Background noise measurements were carried out in May and June of 2013. The methodology is described in section 5 of the report and data was used at each location for periods when the existing turbines were turned off plus times when the monitor was upwind of the turbines. Monitoring was carried out at five locations. The measurements were carried out in accordance with current good practice and I am satisfied that the results represent a realistic set of background noise values during the period of monitoring.

1.2 At NAL4 (Dolhelfa Ganol) and NAL3 (Chapel House) the background noise graphs and the time series graphs clearly show water noise. I could clearly hear the noise of the River Wye at NML9 on my site visit. Inspection of Fig A6.1c shows that, in the early hours of 16<sup>th</sup> May, following several days of rain, the lowest background noise level at night with little wind was 42dBA. After periods without rain this drops – eventually to about 26dBA on 16<sup>th</sup> June – before rising again. The question arises as to whether the noise measured during the monitoring period is typical of the noise at that location. Most of the higher background noise levels have been excluded and the monitoring took place during a relatively dry part of the year so, my opinion is that the background noise levels measured at NAL4 and NAL3 are representative of the typical levels at those locations. However, they may not be typical of other locations and care should be exercised when using them in other locations. I deal with this in my §3.

1.3 According to the descriptions given in the ES the sound measuring equipment, the met mast location and the processing of data was correctly carried in accordance with the IOAGPG. I have examined the time series carefully and there are no anomalies that would suggest that I need to analyse data in any more detail.

## **2 TURBINE NOISE LEVELS**

2.1 There is an anomaly in the turbine noise levels in Tables 6.2 and 6.3 of the original Appendix 9.1 and the figures in Appendix 1 of the TNEI Response. I have discussed this in Appendix 1 of this report and conclude that it is reasonable to ignore the anomaly in the assessment.

2.2 Accordingly, I agree that the turbine noise levels reproduced in the TNEI Response represent realistic estimates of turbine sound level. The only criticism that I have is that they only go up to 9m/s whereas ETSU-R-97 requires assessments to be made up to 12m/s or 10m/s for the simplified method. With modern turbines, which are generally pitch regulated, the noise level reaches a maximum at about 8m/s. The turbines at Bryn Titli are stall regulated and the noise level carries on increasing with wind speed.

### **3 ASSESSMENT**

3.1 There are no other wind farms that are close enough to require a cumulative noise assessment to be carried out.

3.2 An important starting point in the preliminary assessment of a wind farm is the number of properties affected by turbine noise levels in excess of 35dB up to a wind speed of 10m/s. TNEI provided a series of graphs in Appendix 1 of their response which show the turbine noise levels against the noise limits. They do not provide a full list of affected properties. If we extrapolate these graphs to 10m/s then we can see which properties exceed 35dB. Five or six properties at Neuadd-ddu (NAL2); Dermol Old School and possibly the two adjacent properties (NAL3), Dolhelfa-ganol and possibly Dolhelfa Uchaf and Ty Gwyn (NAL4). Dollech Bungalow and, presumably, Ysgubor Dollech (NAL7), Croesty (NAL8) and Tan-y-Berth (NAL10). Two properties at Tyncoed (NAL13), Ty-Mawr(NAL14) and Safn-y-coed (NAL15). This makes in the region of twenty properties that are subject to turbine noise in excess of 35dB though it is true that most of these are marginal and may only exceed 35dB at the highest wind speeds.

3.3 We need to allocate the background noise levels measured at the various properties to each house (noise sensitive receptor - NSR). Table 1 below shows this. The second column shows the approximate number of properties at each location, the third column shows which background noise levels have been allocated by TNEI and the last column my proposed allocation. Whilst it appears that the location used by TNEI for most of them (NAL6) is the quietest location it seems to me more logical to use the background noise at

a more representative place – otherwise two locations close to each other might have different noise limits for no apparent reason.

**Table 1 – Background Noise Allocation**

NSR	Props	TNEI	DB
NAL2	6	NAL2	NAL1
NAL3	3	NAL3	NAL3
NAL4	3	NAL4	NAL1
NAL7	2	NAL6	NAL3
NAL8	1	NAL6	NAL3
NAL10	1	NAL6	NAL3
NAL13	2	NAL6	NAL1
NAL14	1	NAL6	NAL3
NAL15	1	NAL6	NAL3

3.4 I have also taken account of the fact that there is water noise from the River Wye at those properties west of the river Wye when they are downwind of the turbines. However, properties on the east of the River Wye along the A470 will be upwind of the river when they are downwind of the turbines. This might have been an appropriate site for directional filtering of background noise but, with the turbines already operating it would probably have been difficult to get enough wind from the eastern half of the compass with turbines off. I have therefore taken the figures for NAL1 which are lower than NAL2 or NAL4.

#### **4 CONDITIONS**

4.1 With the noise limits I suggest, based on the background noise levels specified in Table 1, all properties comfortably meet the day time noise limits. ETSU-R-97 provides for the situation where day and night background noise is similar at a site, which is broadly the case here. In that case day and night limits can be the same. That seems to me to be an appropriate approach here. In any case, with standardised wind speeds day and night noise levels will be the same and the day time limits are comfortably met – by at least 7dB. Accordingly, I suggest that the night limit is the same as the day limit (I have not processed the day and night background noise levels together but used the day limits for both).

4.2 I am suggesting a new form of noise condition which will be published under the authorship of several wind farm acoustic consultants in the Acoustics Bulletin in the first week of November. It is attached as Appendix 2.

## **APPENDIX 1 – TURBINE NOISE**

As TNEI confirmed in their response, the turbine noise as in the manufacturers sound power specification is measure in accordance with the International Energy Agency document "4. *Acoustics: Measurement of Noise Emission from Wind Turbines: Edition 1988*". It is different from subsequent test methods because it relates noise levels to wind speed measured at 10m not measured at hub height and standardised to 10m which is the current accepted methodology. The difference between the two depends on the wind shear conditions at any particular time.

As a result of this anomaly the turbine noise levels at the various locations shown on the graphs in Appendix 1 of the TNEI Response are not related to standardised wind speed but the noise limits shown on the same graph are. That means that, strictly speaking, the two graphs on each sheet are not directly comparable. There is no easy way of plotting them in a comparable way. If the wind shear increases, as it usually does at night and in evenings some of the year, the turbine noise curve on these graphs shifts to the right so, in effect, the noise level at any particular wind speed reduces. (I should also be noted in passing that the background noise created by the wind is likely to reduce under these conditions because the low-level winds are less). In the opposite way, if wind shear reduces (which is likely to be less common) then the wind turbine noise increases slightly. The same anomaly occurs in Tables 6.2 and 6.3 of the original Appendix 9.1 in that the Predicted Wind Turbine Noise is related to 10m measured wind speed and the background noise to the 10m standardised wind speed.

A further point about the manufacturers test is that the turbine measured in the tests had "tip torpedoes". As I understand it, Bonus introduced these torpedoes in the 1990s specifically to reduce noise levels. Whether they were particularly effective or not we do not know.

In the original noise assessment, the total existing noise including turbine noise and background noise was also measured at each property when the property was downwind of the nearest turbines. An inspection of the figures indicates that there is nothing to suggest that actual turbine noise is significantly above that calculated.

Taking all these points into account and the large margin of turbine noise under the limits, I think that it is reasonable to treat the turbine noise shown in the graphs in the TNEI response as related to standardised wind speed and ignore the anomaly. I

want to emphasise that, under the circumstances of this case, the effect on the assessment is small. Nevertheless, I think it important to have addressed the matter so that it can be clearly see that is the case.

## **APPENDIX 2 – NOISE CONDITIONS**

### **Proposed planning conditions on noise for Bryn Titli Wind Farm**

The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty and amplitude modulation (AM) penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from Table 1 attached to these conditions and:

- A) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant and provide a written protocol to be approved by the Planning Authority. The protocol shall describe the procedure to assess the level and character of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out as far as possible the time or meteorological conditions to which the complaint relates and time or conditions relating to tonal noise or AM if applicable. Measurements to assess compliance with the noise limits shall be undertaken in accordance with the assessment protocol which shall be approved in writing by the Planning Authority.
- B) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the protocol within 2 months of the date of the approval of the protocol by the Local Authority unless otherwise agreed by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the Planning Authority. Certificates of calibration of the equipment shall be submitted to the Planning Authority with the report.
- C) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 5 of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's initial assessment unless otherwise agreed by the Planning Authority.



Table 1 – Rating Level Limits at all times.

	Wind speed Standardised at 10m.								
	4	5	6	7	8	9	10	11	12
Group 1	37	38	40	41	43	44	46	46	46
Group 2	39	40	41	43	43	43	43	43	43
Group 3	35	36	38	40	42	43	45	45	45

Group 1 properties are along the A470 namely Five or six properties at Neuadd-ddu (NAL2); Dolhelfa-ganol, Dolhelfa Uchaf and Ty Gwyn (NAL4). Two properties at Tyncoed (NAL13).

Group 2 properties are to the west of the River Wye namely: Dermol Old School and the two adjacent properties (NAL3), Dollech Bungalow, Ysgubor Dollech (NAL7), Croesty (NAL8) and Tan-y-Berth (NAL10). Ty-Mawr(NAL14) and Safn-y-coed (NAL15).

Group 3 is all other properties.

### Guidance Notes for Noise Condition

These notes are to be read with and form part of the planning condition on noise. The measured data is to be split into bins as described below. The rating level in each bin is the arithmetic sum of the wind farm noise level, any tonal penalty applied in accordance with Note 3 and any AM penalty applied in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI). IOAGPG is "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" or any update of that report current at the time of measurement. The IOA Metric is "A Method for Rating Amplitude Modulation in Wind Turbine Noise" dated 9<sup>th</sup> August 2016 or any update of that current at the time of measurement.

#### Note 1 – Data Collection

- a. Values of the LA90,10-minute noise index should be measured in accordance with the IOAGPG. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and to allow an AM penalty to be calculated for selected periods where a tonal or AM assessment is required.
- b. To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the Planning Authority. The wind speed at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using

a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which are correlated with the noise measurements determined as valid. The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle, arithmetic mean rotor RPM and whether each wind turbine is running normally during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Universal Time (UT).

### **Note 2 – Data Analysis**

- a. The independent consultant shall identify a sub-set of data having had regard to:-
- the conditions (including time of day and corresponding wind directions and speeds) at times in which complaints were recorded;
  - the nature/description recorded in the complaints if available;
  - information contained in the written request from the local planning authority;
  - likely propagation effects (downwind conditions or otherwise);
  - the results of the tonality/AM analysis where relevant.

In cases where it is possible to identify patterns of clearly different conditions in which complaints have arisen additional sub-sets may be considered provided this does not introduce unreasonable complexity in the analysis and can be justified by the independent consultant.

- b. Within each of the sub-set(s) of data identified, data shall be placed into separate 1 m/s wide wind speed bins.

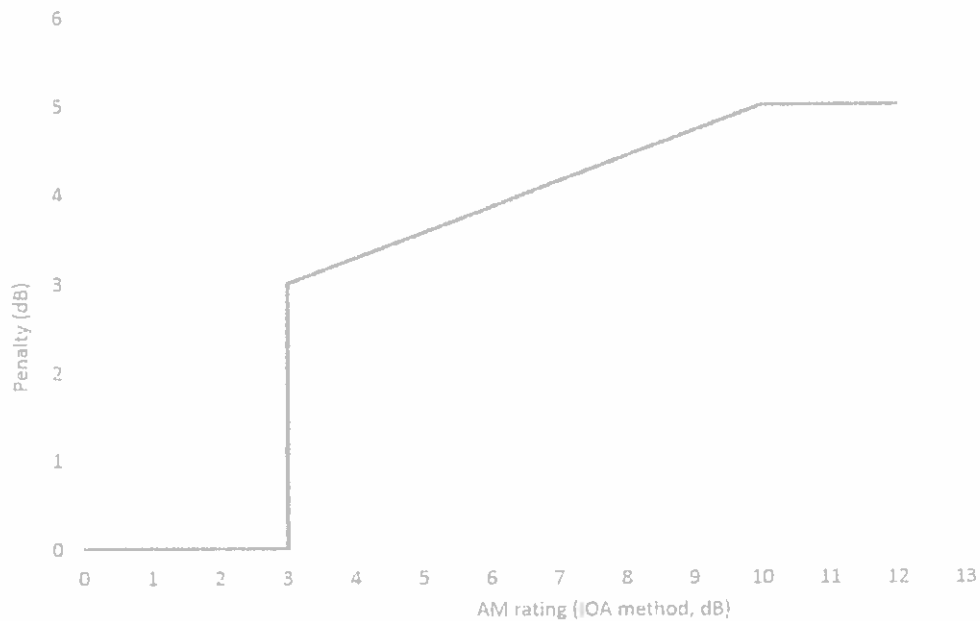
### **Note 3 – Tonal Penalty**

- a. Where, in accordance with the protocol, the noise contains or is likely to contain a tonal component, a tonal audibility shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute period for which a tonal assessment is required this shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure").
- c. For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted. Where data for a ten-minute period are corrupted, that period shall be removed from the tonal analysis.

- d. The tone level above audibility for each ten-minute period shall be placed in the appropriate data sub-set and wind speed bin.

**Note 4 – AM Penalty**

- a. Where, in accordance with the protocol, the noise contains or is likely to contain AM, an AM penalty shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute interval for which an AM assessment is required this shall be performed in accordance with The IOA Metric. The value of AM for each ten-minute period shall be converted to a penalty in decibels in accordance with the graph below and the penalty shall be placed in the appropriate data sub-set and wind speed bin. Where a penalty is zero it should be placed in the bin in the same way.



**Note 5 – Calculation of Rating Level**

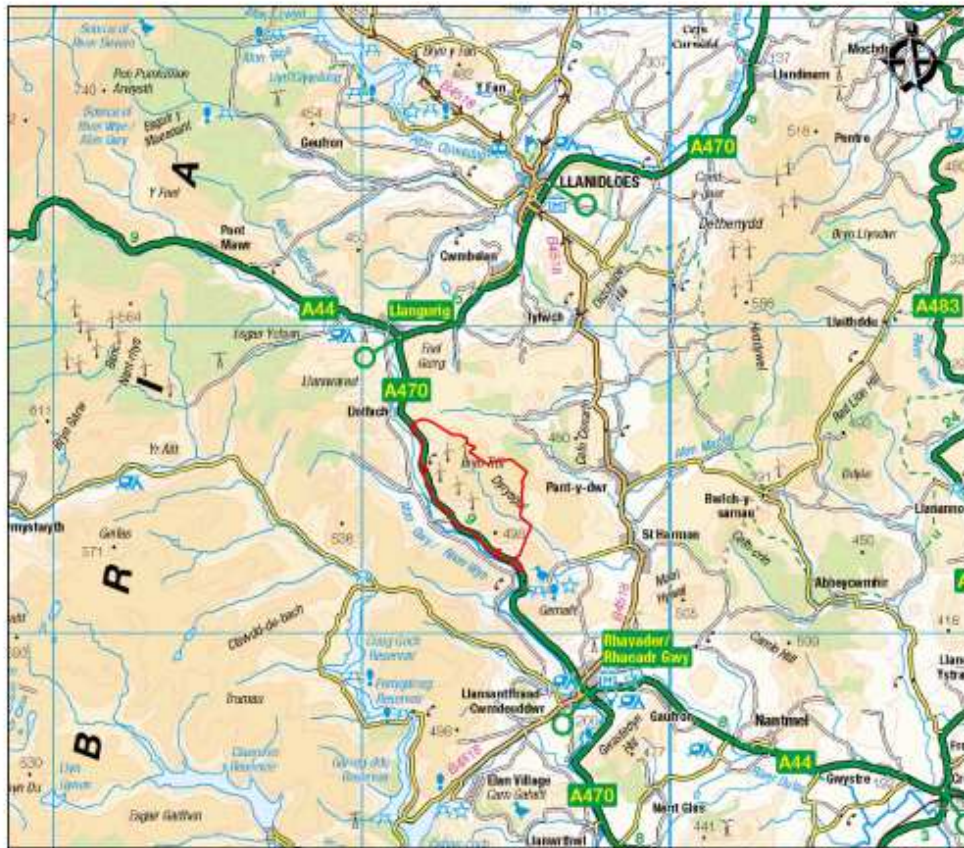
- a. The LA90 sound pressure level for each data sub-set and wind speed bin is the arithmetic mean of all the 10-minute sound pressure levels within that data sub-set and wind speed bin except where data has been excluded for reasons which should be clearly identified by the independent consultant. The tonal penalty for each bin is the arithmetic mean of the separate 10-minute tonal audibility levels in the bin converted to a penalty in accordance with Fig 17 on page 104 of ETSU-R-97. The AM penalty for each bin is the arithmetic mean of the AM penalties in the bin. The assessment level in each bin is normally the arithmetic sum of the bin LA90, the bin tonal penalty and the bin AM penalty

except where the AM penalty and the tonal penalty relate to the same characteristic (e.g. amplitude modulated tones) when the sum of both penalties may overly penalise the characteristics of the noise. Such cases should be identified and only the larger of the AM or tonal penalty should be applied.

- b. If the assessment level in every bin lies at or below the values set out in the Table(s) attached to the conditions then no further action is necessary. In the event that the assessment level is above the limit(s) set out in the Tables attached to the noise conditions in any bin, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only. Correction for background noise need only be undertaken for those wind speed bins where the assessment level is above the limit.
- c. The wind farm operator shall ensure that all the wind turbines in the development are turned off for such periods as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:-
  - i. Repeating the steps in Note 1, with the wind farm switched off, and determining the background noise ( $L_3$ ) in each bin as required in the protocol. At the discretion of the consultant and provided there is no reason to believe background noise would vary with wind direction, background noise in bins where there is insufficient data can be assumed to be the same as that in other bins at the same wind speed.
  - ii. The wind farm noise ( $L_1$ ) in each bin shall then be calculated as follows where  $L_2$  is the measured level with turbines running but without the addition of any tonal nor AM penalty:

$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$

- iii. The rating level shall be calculated by adding the tonal and AM penalties to the derived wind farm noise  $L_1$  in that bin.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal and AM penalties in every bin lies at or below the values set out in the Tables attached to the condition at all wind speeds then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table(s) attached to the condition then the development fails to comply with the planning condition in the circumstances represented by that bin.



<b>Legend</b>	
Site boundary	
<b>Bryn Tiddi Wind Farm Life Extension</b>	
<b>Figure 2.1: Site Location</b>	
Scale of original 1:100,000	Sheet size: A3
Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database rights 2017 Ordnance Survey	
Date: 20/09/2017	Created by: KO
Innogy Renewables UK Ltd Unit 22 Bagin Bays Innovation Centre Bagin Energy Park Central Avenue Port Talbot SA12 7AX T +44 (0)1830 818180 I www.innogy.com	
0 1,250 2,500 5,000 Meters	

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# 4.4

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

<b>Application No:</b>	P/2018/0103	<b>Grid Ref:</b>	291873.94 251225.81
<b>Community Council:</b>	Treflys	<b>Valid Date:</b>	<b>Officer:</b> 25/01/2018 Thomas Goodman
<b>Applicant:</b>	Mr G Walker, H & W Developments, 9 Broad St, Builth Wells, Powys, LD2 3DT		
<b>Location:</b>	Land Opp The Walk, Beulah, Llanwrtyd Wells, Powys		
<b>Proposal:</b>	Reserved matters in respect of approved planning permission P/2015/0039		
<b>Application Type:</b>	Application for Approval of Reserved Matters		

### The reason for Committee determination

Cllr Van-Rees has called the application in to be determined at Committee.

### Site Location and Description

The proposed development is not located within a defined settlement development boundary and therefore for the purposes of this application is considered as development within the open countryside as defined by the Powys Local Development Plan (2018).

To the north of the application site runs the A483 trunk road which also forms the site boundary to the west, to the east of the application site planning permission has been granted for residential development, which has not yet commenced and to the south of the application site is agricultural land.

The proposed development seeks approval for the reserved matters details which include access, appearance, landscaping and scale. The proposed development seeks consent for the erection of 21 residential dwellings which comprise of 4 three bedroom semi-detached dwellings, 12 three bedroom detached dwellings and 5 four bedroom detached dwellings.

The 21 proposed dwellings comprise of 10 altering designs:

Plots 1 and 22 (4 bed) with detached garage will measure approximately:

10.25 metres in length by 7.6 metres in width, 7.25 metres to ridge height and 4.65 metres to the eaves. The plots will be finished in render and brick under a slate roof.

Plot 2 (3 bed) will measure approximately:

10.1 metres in length by 8.85 metres in width, 7.1 metres to ridge height and 4.7 metres to the eaves. The plots will be finished in brick under a slate roof.

Plots 3 and 4 (3 bed) will measure approximately:

10.1 metres in length by 8.7 metres in width, 7.3 metres to ridge height and 4.75 metres to the eaves. The plots will be finished in brick under a slate roof.

Plots 5, 10, 11 and 18 (3 bed) will measure approximately:

10.1 metres in length by 8.85 metres in width, 7.3 metres to the ridge and 4.7 metres to the eaves. The plots will be finished in render and bricks under a slate roof.

Plots 6 and 24 (4 bed) will measure approximately:

13.8 metres in length by 9.2 metres in width, 7.65 metres to ridge height and 4.65m to the eaves. The plots will be finished in brick under a slate roof.

Plot 7 (3 bed) will measure approximately:

10.1 metres in length by 9.8 metres in width, 7.4 metres to ridge height and 4.75 metres to the eaves. The plots will be finished in brick under a slate roof.

Plots 8 and 9 (3 bed) will measure approximately:

10.1 metres in length by 8.65 metres in width, 8.05 metres to the ridge height and 4.7 metres to the eaves. The plots will be finished in brick under a slate roof.

Plots 15 and 19 (3 bed) will measure approximately:

10.1 metres in length by 9.75 metres in width, 7.3 metres to the ridge height and 4.8 metres to the eaves. The plots will be finished in render and brick under a slate roof.

Plots 16, 17, 20 and 21 (3 bed) will measure approximately:

10.1 metres in length by 8.85 metres in width, 8.05 metres to the ridge height and 4.7 metres to the eaves. The plots will be finished in brick under a slate roof.

Plot 23 (4 bed) will measure approximately:

16.35 metres in length by 7.15 metres in width, 7.25 metres to the ridge height and 4.7 metres to the eaves. The plots will be finished in render and brick under a slate roof.

## **Consultee Response**

### Treflys CC

No response received at the time of writing this report.

### PCC Highways

*Consultation response received 20/02/2018*



The County Council as Highway Authority

Wish the following recommendations/Observations be applied:

#### Recommendations/Observations

This site is served direct from the A483(T) trunk road which is under the jurisdiction of Welsh Government; the suitability of the proposed vehicular access with the A483 and the adequacy of the pedestrian links to and from the site are therefore a matter to be considered and determined by the Welsh Government.

Whilst the Internal site layout is generally in line with Powys County Council adoptable design parameters there are a number of matters that need to be addressed before the application is determined.

Notwithstanding the information submitted on the drawing supplied by JNM Engineering, it is considered that insufficient information has been supplied to date to demonstrate that appropriate internal access road gradients and a suitable surface water drainage scheme can be provided. The proposals do not include a longitudinal drawing detailing the internal access road vertical alignment or the longitudinal gradients and cover levels for the proposed surface water system. This information should be submitted at this stage. The applicant is also strongly recommended to consult with the adopting body (Welsh Water) over the suitability of the proposed drainage system.

Finally whilst the proposed level of parking offered is in line with CSS Wales Parking Standards, the proposed drive lengths fronting the garages will need to be lengthened to provide a clear 6mt length which will facilitate access to the building whilst ensuring cars are parked clear of the highway/footway.

I trust these matters will be addressed before this application is determined.

#### *Consultation response received 16/04/2018:*

I have reviewed the submitted information and am generally satisfied with the content. I would however point out that the drive lengths fronting the “adoptable” estate road are still not a minimum of 6m long. This will need to be revised before I am able to recommend appropriate conditions to the LPA.

#### *Consultation response received 18/04/2018:*

Having reviewed the additional information, I am now satisfied that an acceptable highway layout and surface water drainage scheme can be provided. This is of course subject to the submission of, and the agreement of, further engineering detail for Section 38 purposes.

Please ensure that the following conditions are attached to any consent granted.

- Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling as detailed on the approved drawing J01751/A1/001. The parking areas shall be retained for their designated use in perpetuity.

- The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
- No building shall be occupied before the estate road carriageway and one footway shall be constructed to 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.
- 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.
- The area of each private drive/parking space shall be a minimum of 6m long and shall 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.

### PCC Building Control

No response received at the time of writing this report.

### 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.

### 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.

### Sewerage

The principle of the onsite and offsite drainage proposals as indicated on drawing J01751/A1/001 are considered acceptable, on the basis surface water flows are discharged to a watercourse, and foul flows are discharged to the public foul only sewer located in the main road north of the development site. However, please note the applicant has not gained approval under Section 104 of the Water Industry Act 1991, and therefore amendments may be required through this process. The applicant will be responsible for notifying the Local Planning Authority of any amendments made through this adoption process.

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)

Please quote our reference number in all communications and correspondence.

### PCC Ecologist

*Consultation response received 16/03/2018:*

#### Sources of Information:

No ecological information has been submitted in support of this 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 approved under P/0005/0184 involve an outline application for housing development and trunk road access. The site appears to consist of an improved grassland field bounded by a fence and A483 to the north, a tree-lined boundary to the south and sparsely tree-lined fence to the east. This application is for Reserved Matters, which consist of technical drawings submitted in support of the proposal. My ecological observations below relate to the drawings involving the proposed site layout only (ref: 17/020/TCP01 and 04), rather than those pertaining to the architectural design of each dwelling.

#### Summary of historical species records:

Protected and Priority Species recorded within approximately 1km include Otter, Badger, Common Lizard, Hedgehog, Polecat, Atlantic Salmon, Brown/Sea Trout, Eel, Common Toad and various bat and bird species. There are no historical biodiversity records from the site itself.

#### Protected Species/Habitats:

The site proposed for development does not appear to have significant potential to support protected species, consisting of improved grassland, and no vegetation clearance would appear to be required. However, the tree-lined boundary to the south, which connects with a small broadleaved woodland to the south-east, could provide suitable resting and foraging habitat for various protected species including badger, hazel dormouse, bats and nesting birds.

Considering the close proximity of this boundary to the development and the potential for protected and priority species to be adversely affected by disturbance a Preliminary Ecological Appraisal will need to be undertaken to identify this habitat's potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys would need to be carried out prior to determination of the application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

Since the southern tree-lined boundary could provide suitable foraging habitat for bats and other nocturnal species, I recommend that a sensitive lighting plan including measures to avoid and/or minimise adverse impacts of new lighting on nocturnal species is submitted for the Local Planning Authority's approval prior to commencement of works.

#### Priority and LBAP Species/Habitats:

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.

The tree-lined boundary to the south appears to have potential to support various priority species, including hedgehog, polecat and nesting birds. The PEA discussed above should therefore also consider potential impacts upon priority species and habitats.

The Site Plan and Finishes drawing (ref: 17/020/TCP01) indicates at least three dwellings and a garage being located in close proximity and potentially within the root protection zone of trees within the boundary at the southern edge of the site. Given the proximity of development works to surrounding trees and hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. I recommend that these trees and their roots are protected during the works in accordance with BS5837:2012.

The Site Plan and Finishes drawing (ref: 17/020/TCP01) indicates the proposed locations of native species trees to be planted within the site. Such native species planting would be welcomed as a site biodiversity enhancement.

The same drawing also refers to proposals to manage, thin and lay existing hedges and plant new ones where gaps are evident, with a mix of locally-occurring species. Such measures would be welcomed as a biodiversity enhancement of a Section 7 habitat, particularly along the eastern boundary, although laying of the hedges would not appear to be appropriate at this location. New planting should consist of locally-occurring, native species. A landscaping and management plan should be provided to the local planning authority for approval prior to works commencing.

As a biodiversity enhancement measure I recommend that bat and bird boxes (such as Swift nest boxes and House Martin nest cups) are incorporated within the design of the proposed dwellings.

#### Non-native Invasive Species:

It is not possible to comment on whether non-native invasive species are present from the information provided. Based on the current Google Streetview images of the site this

appears unlikely considering the extent of improved grassland present, but this should be confirmed by the PEA discussed above.

#### Designated Sites for Nature Conservation:

The Afon Gwy SAC and Afon Irfon SSSI are located approximately 200m to the east along the Afon Cammarch. Considering the distance of these sites from the proposals, the presence of a field, houses and the A483 between the proposals and the sites there are not considered likely to be any adverse effects upon these sites as a result of the proposals.

The Llwyn-Cus SSSI is located approximately 680m to the south-east and therefore unlikely to be affected by the proposals.

#### Further information required prior to determination of application:

It is not possible to determine the potential impact on protected and priority species that may utilise the tree-lined boundary which connects to a small woodland to the south of the site. A Preliminary Ecological Appraisal will therefore need to be undertaken to identify this habitat's potential to support protected and priority species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys would need to be carried out prior to determination of the application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

#### Recommendations:

As a biodiversity enhancement measure I recommend that bat and bird boxes (such as Swift nest boxes and House Martin nest cups) are incorporated within the design of the proposed dwellings.

Subject to receipt of the PEA report and associated mitigation measures if required, I recommend that the observations provided above are secured by the following conditions.

#### Recommended Conditions:

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:

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.

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.

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.

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.

Reason: 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.

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 Environment (Wales) Act 2016.

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in

use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

*Consultation response received 22/03/2018:*

Sources of Information:

No ecological information has been submitted in support of this 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 approved under P/0005/0184 involve an outline application for housing development and trunk road access. The site appears to consist of an improved grassland field bounded by a fence and A483 to the north, a tree-lined boundary to the south and sparsely tree-lined fence to the east. This application is for Reserved Matters, which consist of technical drawings submitted in support of the proposal. My ecological observations relate to the drawings involving the proposed site layout only (ref: 17/020/TCP01 and 04), rather than those pertaining to the architectural design of each dwelling.

#### Summary of historical species records:

Protected and Priority Species recorded within approximately 1km include Otter, Badger, Common Lizard, Hedgehog, Polecat, Atlantic Salmon, Brown/Sea Trout, Eel, Common Toad and various bat and bird species. There are no historical biodiversity records from the site itself.

#### Protected Species/Habitats:

It is considered that matters relating to protected species and habitats would have been addressed at the outline application stage and I therefore have no further comment to make on this at the Reserved Matters stage.

#### Priority and LBAP Species/Habitats:

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.

The Site Plan and Finishes drawing (ref: 17/020/TCP01) indicates at least three dwellings and a garage being located in close proximity and potentially within the root protection zone of trees within the boundary at the southern edge of the site. Given the proximity of development works to surrounding trees and hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. I recommend that these trees and their roots are protected during the works in accordance with BS5837:2012.

The Site Plan and Finishes drawing (ref: 17/020/TCP01) indicates the proposed locations of native species trees to be planted within the site. Such native species planting would be welcomed as a site biodiversity enhancement. The same drawing also refers to proposals to manage, thin and lay existing hedges and plant new ones where gaps are evident, with a mix of locally-occurring species. Such measures would be welcomed as a biodiversity enhancement of a Section 7 habitat, particularly along the eastern boundary, although laying of the hedges would not appear to be appropriate at this location. New planting should consist of locally-occurring, native species. A landscaping and management plan should be provided to the local planning authority for approval prior to works commencing.

#### Non-native Invasive Species:

Based on the current Google Streetview images of the site this appears unlikely considering the extent of improved grassland present.



#### Designated Sites for Nature Conservation:

The Afon Gwy SAC and Afon Irfon SSSI are located approximately 200m to the east along the Afon Cammarch. Considering the distance of these sites from the proposals, the presence of a field, houses and the A483 between the proposals and the sites there are not considered likely to be any adverse effects upon these sites as a result of the proposals.

The Llwyn-Cus SSSI is located approximately 680m to the south-east and therefore unlikely to be affected by the proposals.

#### Further information required prior to determination of application:

None.

#### Recommendations:

As a biodiversity enhancement measure I recommend that bat and bird boxes (such as Swift nest boxes and House Martin nest cups) are incorporated within the design of the proposed dwellings.

#### Recommended Conditions:

Should you be minded to approve this application, I recommend the inclusion of the following conditions:

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.

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.

Reason: 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.

#### 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.

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- Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a bat is an

offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

### Welsh Government Transport

*Consultation response received 26/04/2018:*

I refer to your consultation of 5<sup>th</sup> April 2018 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;

The applicant must provide a detailed drawing of the access layout in line with the conditions imposed under application B/0005/0184.

*Consultation response received 04/05/2018:*

I refer to your consultation of 05/04/2018 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 new junction layout with the trunk road and visibility splay requirements shown on drawing J01751/A1/006, will be constructed in accordance with conditions 7 -9 of planning consent ref B/0005/0184.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

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)

### NRW

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.

Cllr T Van Rees

Calling In of Planning Application P/2018/0103

As Elected Member for Llanwrtyd Wells and District, I wish to call in the above Planning Application.

I give the following reasons for calling in this Planning Application at the request of a number of Members of Treflys Community Council.

1. The proposed development comprises of 3 and 4 bedroom houses. The demand for this sort of accommodation in the area is minimal.
2. Insufficient provision for low cost housing has been made.
3. The proposed layout is unacceptable.
4. The existing sewage and water facilities are inadequate.
5. Portions of the site have flooded in recent memory.
6. Number of houses proposed are disproportionate to the existing housing stock in Beulah.

### **Representations**

Following the display of a site notice and press advertisement, no public representations have been received at the time of writing this report.

### **Planning History**

B/05/0184 – Outline application for housing development and trunk road access. Conditional Consent 02/02/2010.

P/2015/0039 – Variation of Condition: Variation of condition 1 of planning approval B/05/0184 to allow time for submission of an application for approval of reserved matters. Conditional Consent. 12/08/2015

VAR/2017/0007 – Application to remove Section 106 legal obligation attached to planning permission B/05/0184 (occupancy restriction). Consent for discharge/modification of 106 Agreement – 16/05/2017.

Development site adjoining the proposed development to the east:

B/00/0099 – Outline application for residential development – 13/09/2000

B/04/0286 – Variation of Condition 1 of Outline Planning Permission for residential development and extend the consent for a further 5 years.

B/05/0144 – Erection of 10 (4-bed) houses and 5 (affordable needs) houses at Plot OS470, opposite P.O., Beulah, Powys.

P/2012/0317 - Variation of condition 2 of B/05/0144 to vary the time limit for submission of reserved matters to 07/01/2014 – Planning Permission granted subject to S106 – 14/08/2012

P/2017/0870 – Section 73 application to vary condition 3 of planning approval P/2012/0317 to extend the time limit for the commencement of development – Conditional Consent – 23/10/17

### **Principal Planning Constraints**

Flood Zone B

### **Principal Planning Policies**

#### National planning policy

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note (TAN) 2: Planning and Affordable Housing (2006)

Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)

Technical Advice Note (TAN) 12: Design (2016)

Technical Advice Note (TAN) 15: Development and Flood Risk (2004)

Technical Advice Note (TAN) 18: Transport (2007)

Technical Advice Note (TAN) 23: Economic Development (2014)

#### Local planning policies

Powys Local Development Plan (2018)

SP1 – Housing Growth

SP3 – Affordable Housing Growth

SP5 – Settlement Hierarchy

SP6 – Distribution of Growth across the Settlement Hierarchy

SP7 – Safeguarding of Strategic Resources and Assets

DM1 – Planning Obligations

DM2 – The Natural Environment

DM4 – Landscape

DM13 – Design and Resources

H1- Housing Development Proposals

H3 – Housing Delivery

H4 – Housing Density

H5 – Affordable Housing Contributions

Powys Residential Design Guide (October 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 principle of development as to whether residential development is appropriate in this location has already been considered and approved under the outline planning permissions B/05/0184 and P/2015/0039. This application seeks consent for the details reserved by the outline planning consent for the access, appearance, landscaping, layout and scale.

### Design, Landscape and Appearance

The Powys Local Development Plan policy H3 and DM13, TAN 2 and Planning Policy Wales (PPW) all refer to good design and how development proposals should be of a good design and have consideration to its surroundings. PPW refers to good design as having a relationship between all elements of the natural and built environment. Policy H3 states that housing development proposals must be of an appropriate scale and shall provide a suitable mix of housing types to meet the range of identified local housing needs and is supported by policy DM13 of the Powys Local Development Plan which states that proposals must demonstrate a good quality design and shall have regard to the qualities and amenity of the surrounding area.

In this instance the proposed development seeks consent for 21 dwellings with 10 differing designs. The mix of dwelling design is welcomed and broadly complies with policy H3 of the Powys LDP by providing a mix of housing designs and housing type, which includes 3 and 4 bedroom houses with some of the plots incorporating garages into the dwelling and others with detached garages.

Policy DM13 specifically states that proposals will only be permitted where development has been designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detailing. The development must also contribute towards the preservation of local distinctiveness and sense of place.

The site is located to the south of the A483 trunk road and to the west of an agricultural field that has had permission granted for 15 dwellings. The majority of the built environment that forms the small village of Beulah is to the north of the A483 trunk road. Beulah consists of a number of bungalows, terraced properties, semi-detached properties and detached properties of varying sizes that are constructed in render, brick and stone.

The proposed development site is located to the south of the A483 upon a relatively flat parcel of land. The proposed development will see the construction of 21 two storey dwellings which include 4 semi-detached properties. The dwellings will have a height range of approximately 7.1 metres in height to 8.05 metres in height. It is considered that given the topography of the land and the adjoining development scheme, the 2 storey dwellings will not be seen as out of place and will assimilate into the surrounding landscape. It is noted that the residential development will be set back from the A483 in order to provide the required visibility splays, as a result of this, there is approximately 25 metres from the A483 trunk road to the line of the external walls of the proposed dwellings. This provides a mirroring effect to the area to the north of the A483 where there is an area of open space between the properties and the trunk road. It is noted that the proposed layout includes the provision of 2 private courtyards which consist of block pavements. It is considered that the private driveways finished in block pavements provide an element of softness to the proposed development.

It is noted that a couple of the plots exceed 0.05 hectares per dwelling and is located within a designated small village. Plot sizes should be restricted to 0.05 hectares per dwelling in small villages, however, as the proposed development has already gained outline consent, exceeds 5 dwellings and is not considered as infill development it is considered that the proposed plot sizes broadly comply with planning policy. It is considered that the design and scale of the proposed dwellings are of a moderate size and provide a mix of dwelling types to complement the built environment. Furthermore the dwellings have been proposed to be finished in brick and render to complement the existing surrounding dwellings and integrate into the built environment. However, it is unclear as to the shading of the bricks and therefore an appropriately worded condition will be attached in order to ensure that an appropriate colour of brick is used. In light of the above and subject to the attachment of an appropriately worded condition, it is considered that the proposed development would not detrimentally impact upon the character of the surrounding area in terms of the dwellings appearance, scale, height and design detailing and complies with policy H3 and DM13 of the Powys LDP (2018).

Policy DM4 relates to development proposals and the impacts of them upon the Powys landscape. Policy DM4 only relates to proposals for new development outside of settlements, given that the proposed development is positioned on the edge of the small village of Beulah, consideration in this instance has been given to the impact the proposed development has on the Powys landscape. Given the location of the proposed development set back from the A483 trunk road providing an element of mirroring with the open space to the north and the topography of the land it is considered that the proposed development will naturally blend into the built environment. Furthermore additional landscaping which includes the planting of

hedgerows and trees including species such as hawthorn, hazel, holly, oak, cherry, rowan and guelder rose is to be planted along the boundaries to further aid in blending the proposed development into the surrounding landscape.

It is therefore considered that the proposed development would not have a detrimental impact upon Powys' landscape and complies with policy DM4 of the Powys LDP.

### Highway Safety

Policy DM13 part 11 states that development proposals should meet all highway access requirements (for transport users) and parking standards.

The proposed access forms onto the A483 trunk road and therefore as well as Powys County Council's Highway Authority the Welsh Government Trunk Road Agency (TRA) have been consulted. Powys' Highway Authority has been consulted to consider the internal road layout as well as the parking areas. The Officer initially stated that whilst the internal layout was generally acceptable and in line with adoptable design parameters there were a number of matters that needed to be addressed. The Officer stated that there was insufficient information to demonstrate that appropriate internal access road gradients and a suitable surface water drainage scheme could be provided. The proposal also did not contain longitudinal drawing details, the internal access road vertical alignment, longitudinal gradients, lengthening of driveways in front of garages to provide 6 metres in length and cover levels for the proposed surface water system all of which are required prior to determination.

Following the submission of additional detail, the Highway Officer was re-consulted and stated that they were now satisfied that an acceptable highway layout and surface water drainage scheme could be provided subject to the attachment of appropriately worded conditions which would ensure that the internal estate road and footpaths are constructed to an agreed standard as well as providing adequate levels of parking per dwelling.

The TRA were consulted regarding the proposed access onto the A483 trunk road. The TRA initially recommended that planning permission is not granted as there is insufficient information to determine the application. The TRA recommended that detailed drawings be submitted to demonstrate the access layout.

Following the submission of additional information, the TRA were re-consulted who confirmed that the additional information was adequate and recommended that should planning permission be granted that an appropriately worded condition be attached to any granting of consent. The conditions would ensure that the new junction layout and visibility splays are constructed to an appropriate standard.

In light of the above and the attachment of appropriately worded conditions it is considered that the proposed development would not have a detrimental impact upon highway users. The proposed development therefore complies with policy DM13 of the Powys Local Development Plan (2018).

### Amenities enjoyed by occupiers of neighbouring properties



In considering the amenities enjoyed by occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004).

Consideration must be given to the amenities enjoyed by the occupiers of neighbouring dwellings. The amenities enjoyed by occupiers of neighbouring properties was considered under the outline planning consent, however, given that the layout plan has now been submitted, consideration is given to this element again. The nearest neighbouring properties to the development site are located to the north and north west and are approximately 50 metres from the nearest dwelling proposed within the development site. Given the A483 trunk road and the area of open space located between these residential properties and those of the proposed development it is considered that the proposed development would not have a detrimental impact upon the amenities enjoyed by occupiers of neighbouring properties.

### The Natural Environment

Policy DM2 states that proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests. Proposals which would impact on natural environment assets will only be permitted where they do not unacceptably adversely affect those assets. This is further emphasised within Technical Advice Note (TAN) 5.

Powys County Council's Ecologist has been consulted on the proposed development as it has potential to impact upon a natural environment asset. It is noted that within 1km of the development site there are records of protected and priority species which include otter, badger, common lizard and Atlantic salmon, however, there are no historical records for the site itself. The Ecologist has stated that the site does not appear to have significant potential to support protected species which includes improved grassland, it is also noted that no vegetation clearance would be required. The Ecologist initially requested the submission of a Preliminary Ecological Appraisal due to the potential of the proposed development to effect the small broadleaved woodland to the south-east which could provide suitable resting and foraging habitats for various protected species. This, however, would have been considered when determining the outline consent and is not a consideration for the reserved matters. The native tree species and hedgerows to be planted within the site have been welcomed by the Ecologist and are seen as a biodiversity enhancement.

The Afon Gwy SAC and Afon Irfon SSSI are located approximately 200 metres to the east along the Afon Cammarch. The Ecologist has stated that given the distance of these sites from the proposal, the presence of a field, houses and the A483 trunk road between the sites it is considered not likely to adversely effect upon a designated site.

The Ecologist has noted the close proximity of 3 dwellings and a garage to the area of woodland and would potentially be within the root protection zone of trees. Given the proximity of development works to surrounding trees and hedgerows the Ecologist has stated that an appropriately worded condition will be attached to the granting of any consent to secure a tree and hedgerow protection plan. The trees and hedgerows to be planted are noted and it is recommended that a condition be attached to ensure that the trees and hedgerows are maintained in the future.

In light of the above and subject to the attachment of appropriately worded conditions it is considered that the proposed development would not have a detrimental impact upon a

natural environment asset and complies with policy DM2 of the Powys Local Development Plan (2018).

## **RECOMMENDATION**

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore one of conditional consent.

## **Conditions**

1. The development hereby granted approval of reserved matters shall be begun before the expiration of two years from the date of this approval, or before the expiration of five years from the date of the outline planning permission whichever is the longer.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XX/XX/XX (drawing no's: 17/020/TCP04 B, JO1751/A1/001, 17/020/TCP14, 17/020/TCP15, 17/020/TCP13, 17/020/TCP12, 17/020/TCP11, 17/020/TCP10, 17/020/TCP08, 17/020/TCP02, 17/020/TCP07, 17/020/TCP06, 17/020/TCP05, 17/020/TCP01, 17/020/TCP09A & 17/020/TCP03).
3. 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 dwelling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. 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.
5. 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 Local Planning Authority.
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 3 cars per dwelling as detailed on the approved drawing JO1751/A1/001. The parking areas shall be retained for their designated use in perpetuity.
7. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
8. No building shall be occupied before the estate road carriageway and one footway shall be constructed to 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.
9. 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.
10. The area of each private drive/parking space shall be a minimum of 6m long and shall 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. The access road shall be at right angles to the trunk road carriageway for a distance of at least 25 metres from the trunk road boundary, over which it shall not exceed a gradient of 2.5% (1 in 40).

12. The minimum visibility distances available for vehicles emerging from the proposed access/junction shall be 120 metres in each direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the carriageway of the trunk road. These visibility distances shall be available at a point 4.5 metres from the nearer running edge of the trunk road, measured along the centre line of the access road, and at all intervening points up to the running edge of the trunk road carriageway. The visibility splays so formed shall be free of any growth or obstruction which would interfere with the minimum visibility requirement.

13. The access road shall have a width of between 6.0 and 7.3 metres for the first 25 metres, with an entry and exit radii of 10.0 metres. The access shall be constructed to the requisite standards with either concrete or bituminous surfacing for at least the first 25 metres from the running edge of the trunk road carriageway.

## **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies DM13 of the Powys Local Development Plan and the Councils Residential Design Guide.
4. In the interest of the protection and preservation of biodiversity in accordance with policy DM2 of the Powys Local Development Plan.
5. In the interest of the protection and preservation of biodiversity in accordance with policy DM2 of the Powys Local Development Plan.
6. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
7. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy DM13.
9. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
10. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
11. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
12. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.
13. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13.

## **Informative Notes**

*Birds - Wildlife and Countryside Act 1981 (as amended)*

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

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

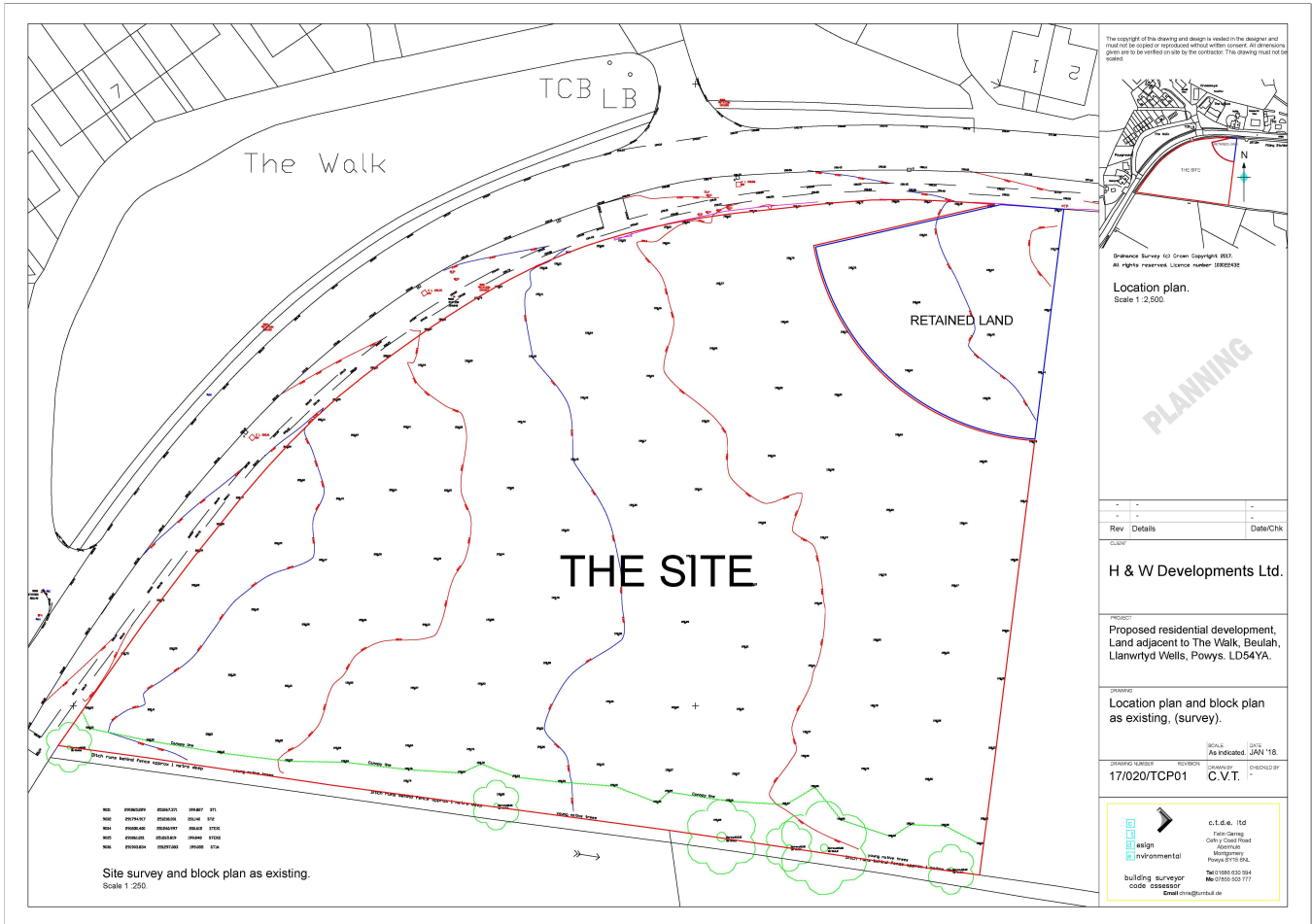
The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or buildings where that work involves the disturbance of a bat is an offence if a

licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

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Case Officer: Thomas Goodman- Planning Officer  
Tel: 01597 827655 E-mail:[thomas.goodman@powys.gov.uk](mailto:thomas.goodman@powys.gov.uk)

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# 4.5

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

<b>Application No:</b>	P/2018/0370	<b>Grid Ref:</b>	326056.73 320693.8
<b>Community Council:</b>	Carreghofa	<b>Valid Date:</b>	<b>Officer:</b> 05/04/2018 Sara Robinson
<b>Applicant:</b>	Powys County Council		
<b>Location:</b>	Carreghofa Primary School, Llanymynech, Powys, SY22 6PA		
<b>Proposal:</b>	Full: Erection of an extension, alterations and all associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The applicant is Powys County Council.

### Site Location and Description

The site concerns Carreghofa primary school. The site is accessed off the classified highway B4398. The immediate site concerns the north east of the school.

This application seeks full planning consent for alterations to the school to provide improved facilities. The alterations to the school building include an extension to provide staff room, head teachers office, lobby and office and access via a ramp. The existing head teacher's office and neighbouring office will form the staff room, and the other rooms will be formed in the extension. The area of the extension extends to approximately 38m<sup>2</sup>.

### Consultee Response

#### PCC - Building Control

Building Regulations application required.

#### PCC - Highways

The County Council as Highway Authority for the County Class II Highway, B4398

Does not wish to comment on the application.

#### Wales & West Utilities

No comments were received at the time of writing this report.

#### 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.

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.

#### Canal & Rivers Trust

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 application. 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 no comment to make.

#### PCC Ecology

Thank you for consulting me with regards to planning application P/2018/0370 which concerns an application for Erection of an extension, alterations and all associated works at Carreghofa Primary School, Llanymynech, Powys.

I have reviewed the proposed plans, site photographs, aerial images and local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 182 records of protected and priority species within 500m of the proposed development - no records were for the site itself. Species recorded within 500m of the proposed development floating water plantain, grass snake, common lizard, otter and a number of Schedule 1 Wildlife and Countryside Act 1981 (as amended) and Environment (Wales) Act Section 7 List bird species.

The site of the proposed development is not subject to any statutory or non-statutory designated sites.

The following statutory designated sites are present within 500m of the proposed development:

- Montgomery Canal SAC – Approximately 16m north of the proposed development
- Montgomery Canal SSSI – Approximately 16m north of the proposed development

The site of the proposed development is separated from the Montgomery Canal SAC/SSSI by the B4398. Having considered the locations and nature of the identified designated sites and taking into account the nature and distance of the proposed development from these sites as well as barriers between the proposed development and the designated sites is considered that there would be no likely direct or indirect impacts from the proposed development to these sites.

The proposed development will impact an existing building and areas of amenity planting and hardstanding. Consideration has been given to the potential for the building and the areas of the roof affected by the proposed development to support roosting bats. Having reviewed aerial photographs of the surrounding habitats as well as photographs of the areas of the building affected by the proposed extension taken during site visits it is considered that whilst habitats surrounding the site have potential to support foraging and commuting the bats, the area of the existing building impacted by the proposed extension has limited potential to provide opportunities for roosting bats, the roof and soffits in the areas of the proposed works appear to be in reasonable condition and appear to lack suitable features that would enable bats to gain access to the structure. Therefore it is considered unlikely that bats would be present or impacted by the proposed development and no further information is considered necessary with regards to protected species – including bats - to inform the application.

The amenity shrub planting and hardstanding areas affected by the proposed development are considered to be of low/negligible ecological value, habitats of moderate-high ecological value are present around the site however it has been identified that these features will not be impacted by the proposed development.

Therefore it is considered that the proposed development would not result in the loss of or negative impacts to features of biodiversity value and no further information is considered necessary with regards to biodiversity prior to determination of the application.

Whilst it is considered that the proposed development would not be likely to result in impacts to roosting bats in this instance I consider that it would be appropriate to include an informative advising the applicants of the legal status of bats and what actions to take in the

unlikely event a bat is encountered during the development works. Suitable wording for an informative covering these details is as follows:

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

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

## **Representations**

A site notice was erected on the school fence adjacent to the site of the proposed extension. The site notice was erected on the 27/04/2018 for the period of 21 days.

No third party responses were received at the time of writing this report.

## **Planning History**

04/56 - Siting of a mobile classroom – Conditional Consent

00/227 – Siting of a mobile classroom - Conditional Consent

97/2901 – Erection of an extension to provide hall, kitchen, offices and store - Conditional Consent

1088 – Alterations & extension - Conditional Consent

5652 – Alterations to school - Conditional Consent

## **Principal Planning Policies**

National planning policy

Planning Policy Wales (9<sup>th</sup> edition, November 2016)

Technical Advice Note 5 – Nature Conservation and Planning (2009)  
Technical Advice Note 12 – Design (2016)  
Technical Advice Note 16 – Sport Recreation and Open Space (2009)  
Technical Advice Note 18 - Transport (2007)

#### Local planning policies

SP5 – Settlement Hierarchy  
SP6 – Distribution of Growth across the Settlement Hierarchy  
DM1 – Planning Obligations  
DM2 – The Natural Environment  
DM11 – Protection of Existing Community Facilities and Services  
DM13 – Design and Resources  
T1 – Travel, Traffic and Transport Infrastructure  
TD3 – Montgomery Canal and Associated Development  
C1 – Community Facilities and Indoor Recreation Facilities

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 existing school is located within the settlement boundary of Llanymynech. Policy C1 confirms that development proposals for community or indoor recreation facilities will be permitted where;

1. Proposals are within or adjoining a settlement identified in the strategic settlement hierarchy;
2. No suitable facility exists nearby which could appropriately accommodate the proposed use; and

3. The appropriateness and feasibility of multi-use has been considered.

Policy SP5 sets out the hierarchy and the LDP Inset Maps confirm Llanymynech Large Village and therefore complies with the first criterion above. The extension would accommodate a staffroom, head teachers office, office, lobby and access ramp. The extension to the school is required to accommodate staff members. It is considered that these facilities would be required on site and that it would not be appropriate to have these facilities on another site as suggested in the second criterion. It is considered that the third criterion mentioned above would not be relevant in this instance.

The policy context is noted, however it is considered that the provision of these facilities are required to be on the existing site and is considered to be acceptable.

#### Highway Safety and Movement

LDP policy DM13 part 11 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 access will remain the same and no alterations are proposed to the parking provision. The Highways Authority have been consulted and have raised no objection in relation to the proposal.

In light of the comments received it is considered that the proposal is in accordance with planning policy, particularly LDP policy DM13 part 11 and TAN 18: Transport.

#### Impact upon neighbour amenities

LDP Policy DM13 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.

It is considered that the proposed extension will not impact the neighbouring dwelling known as The Maes located to the east of the site as the extension will be screened by the existing school building.

To the north beyond the canal is the dwelling known as no.9 Gwelfryn. The property is located approximately 38 metres to the north of the site. The proposal will not extend any further north than the existing dwelling. It is therefore considered that the proposed extension will not impact upon the amenities afforded to this property.

The nearest dwelling to the west of the site is known as Carreghofa Halt located approximately 102 metres away from the proposed extension. Due to the natural screening in the form of mature trees and the distance between the two it is considered that the proposal would not impact upon the amenities afforded to Carreghofa Halt.

It is considered that the proposed extension would not unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties in accordance with LDP Policy DM13 and the Council's Residential Design Guide.

## The Natural Environment

Policy DM2 seeks to protect, positively manage and enhance biodiversity and geodiversity interests. Development proposals which would impact on natural environment assets will only be permitted where they do not adversely affect these biodiversity interests. Policy DM13 seek to protect biodiversity and protected species and habitats from harmful development.

Following consultation with the Powys Ecologist no objection has been received to the proposed development as it is considered unlikely that bats would be present or impacted by the proposed development. They confirmed that no further information with regards to protected species would be required.

The application site is located within 500 metres of the Montgomery Canal SAC and SSSI. The Powys Ecologist has confirmed that considering the nature of the proposed development as well as barriers between the proposed development and the SSSI and SAC that there would be no likely direct or indirect impacts from the proposed development to these sites.

As such in light of the above comments it is considered that the proposed development would be in accordance with policies DM2, DM13 and SP7 of the Powys Local Development Plan and Technical Advice Note 5: Nature Conservation and Planning.

## Montgomery Canal

In considering the impact of the proposed development on the nearby canal reference is given to DM2. Policy TD3 – Montgomery Canal and Associated Development states that proposals for development that would adversely affect the canal's scientific and conservation designations or prejudice its sensitive restoration will be opposed.

The application site is within 12 metres of Montgomery Canal and, as such, the Canal & River Trust has been consulted.

The Canal & River Trust consider that they have no comments to make in principle of the proposed development.

The Powys Ecologist also confirms that there would be no negative effects from the development and as such would not adversely affect the canal's scientific or conservation designations.

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

## **RECOMMENDATION**

Based on the information submitted with the application, consultation response and existing policy context, it is considered that the proposals complies with planning policy. The recommendation is one of conditional consent.

## **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved (drawing no's: P6015/26/1, P6015/26/2, P6015/26/5, P6015/26/6).

## **Reasons**

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

## **Informative Notes**

### Building Control

A Building regulations application may be required for this development, please contact Building Regulations on 01874 612290.

### 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.

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).

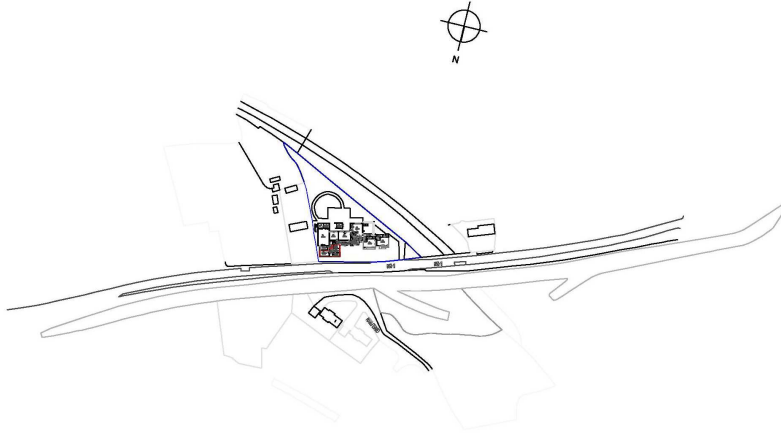
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Case Officer: Sara Robinson- Planning Officer  
Tel: 01597 827229 E-mail: [sara.robinson@powys.gov.uk](mailto:sara.robinson@powys.gov.uk)

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Do not scale from drawings, refer only to figured dimensions.  
Check all dimensions on site.  
Report any discrepancies to the Contract Administrator promptly.

Revisions:



Project  
**Carreghofa C in W  
School**  
Drawing Title  
**Site Location Plan**

Drawing Number:  
**P6015/26/2**

Drawn by:  
**AJS**

Scale:  
**1:2500**

Date:  
**March 18**

1 Ddole Road Industrial Estate  
Llandrindod Wells

Powys  
LD1 6DF

Tel: 07773076048



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# 4.6

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

<b>Application No:</b>	DIS/2018/0068	<b>Grid Ref:</b>	309310.69 306336.61
<b>Community Council:</b>	Llanfair Caereinion	<b>Valid Date:</b>	<b>Officer:</b> 05/04/2018 Sara Robinson
<b>Applicant:</b>	S M & G D Jones, Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU		
<b>Location:</b>	Land at Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU		
<b>Proposal:</b>	Discharge of conditions no's 5, 19 & 22 of planning consent P/2017/1071		
<b>Application Type:</b>	Application for Approval of Details Reserved by Condition.		

### The reason for Committee determination

The applicant is a County Councillor

### Site Location and Description

The application site is located within an area of open countryside, approximately 0.5 miles from the settlement of Llanfair Caereinion. The proposed unit would be located to the south-east of the existing buildings on the farm and is bound by agricultural land to the north, east, south and west.

This application is for the discharge of conditions 5, 19 & 22 of planning permission P/2017/1071 for the Erection of a poultry unit, silos, formation of vehicular access and roadway together with all associated works.

Condition 5 states;

*“Prior to any other works commencing on the development site, detailed engineering drawings for a widening and visibility improvement along the Class II B4385 and Class III C2130 and associated works as shown on drawing number RPP/GD-JOB40-03 Rev A, shall be submitted to and approved in writing by the Local Planning Authority.”*

Condition 19 states;

*“Prior to any works being commenced on the development site the applicant shall construct one passing bay, in a location to be agreed in writing by the Local Planning Authority. The passing bay shall be constructed up to adoptable standard prior to any works being commenced on the development site.”*

Condition 22 states;

*“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.”*

## **Consultee Response**

### PCC Highways

With the recent submission of the amended specification for the highway works, I can now confirm that the conditions can now be discharged.

### PCC Ecology

Thank you for consulting me with regards to application DIS/2018/0066 submitted to discharge condition no. 22 of planning approval P/2017/1071 in relation to the Erection of a poultry unit, silos, formation of vehicular access and roadway together with associated works Land at Rhiwhiriaeth Isal Llanfair Caereinion Welshpool.

Condition 22 requires that:

*Prior to the 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.*

I have reviewed the information the information submitted by the applicant to discharge these conditions which consists of:

- Planning Statement – Discharge of Conditions produced by Roger Parry & Partners LLP which provides details regarding tree and hedgerow protection in relation to the approved development.

Having reviewed the information submitted I consider that sufficient detail has been provided and the measures identified and the information submitted is appropriate and sufficient to comply with the requirements of condition 22.

I therefore consider that sufficient information has been submitted to enable discharge of condition no. 22 of planning consent P/2017/1071.

## **Planning History**

P/2017/1071 – Full: Erection of a poultry unit, silos, formation of vehicular access and roadway together with all associated works - Conditional Consent

## **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

## **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.

### PCC – Highways

The Local Highway Authority has been consulted regarding the application and noted the details submitted with this discharge of condition application are considered acceptable and meet with the Highway Authority specification and standards.

### PCC Ecology

The PCC Ecologist has been consulted regarding the discharge of condition 22 of planning permission P/2017/1071 and has reviewed the information submitted by the applicant to discharge the condition which consists of:

- Tree and Hedgerow Protection Plan

The Ecologist reviewed the information submitted and considered that sufficient detail has been provided and the measures identified and the information submitted is appropriate and sufficient to comply with the requirements of condition 22.

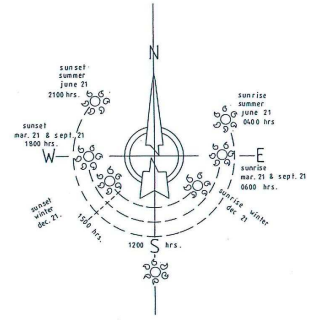
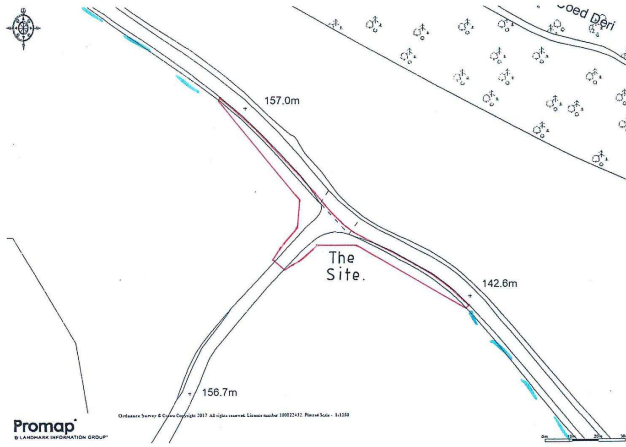
It is therefore considered that sufficient information has been submitted to enable the discharge of condition 22 of planning consent P/2017/1071.

## **RECOMMENDATION**

In light of the above, it is therefore considered that sufficient information has been submitted to enable the discharge of the relevant parts of condition 5, 19 & 22 of planning consent P/2017/1071.


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Promap  
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 Residential - Agricultural - Commercial	
Title	Existing Access Improvements for a proposed poultry unit.
Title	<b>Location Plan</b>
Location	Land at 'Rhwirhaeth Isaf', Llanfair Caereinion, Powys, SY21 0DU.
Client	S.M. & G.D. Jones
Scale	1:1250 (A3, size)
Charge No.	RPP/GD-J0840-01 Rev A
Drawn By	T.M.J. Date Oct. 2017
HORNTON HALL, MINTHBERLY SHREWSBURY, SHROPSHIRE SY5 5HZ Tel: 01743 791336 Fax: 01743 792770 email: info@rogueproperty.net Web address: www.rogueproperty.net	

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# 4.7

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

<b>Application No:</b>	AGRI/2018/0024	<b>Grid Ref:</b>	315527.3 246484.71
<b>Community Council:</b>	Painscastle	<b>Valid Date:</b>	<b>Officer:</b> 17/05/2018 Thomas Goodman
<b>Applicant:</b>	Powys County Council		
<b>Location:</b>	Fronhowey, Painscastle, Builth Wells, LD2 3JJ		
<b>Proposal:</b>	AGRI: Application for prior notification of proposed agricultural building		
<b>Application Type:</b>	Application for prior Notification of Agricultural or Forestry development		

### The reason for Committee determination

Powys County Council is the applicant.

### Site Location and Description

The proposed development is located within the open countryside as defined by the Powys Local Development Plan (2018). To the north and west of the application site is agricultural land and to the south and east are existing agricultural buildings.

Under class A (2) of part 6 of The Town and Country Planning (General Permitted Development) Order 1995, developers are required to submit a prior notification for various agricultural developments to enable the planning authority to determine whether the prior approval of the planning authority will be required for the siting, design and external appearance of the building. In addition, the planning authority is required to determine whether the proposal would not be permitted development and as such would require full planning permission.

This prior notification is sought for the erection of an agricultural building for the storage of farm implements and fodder. The building will measure approximately 18.3 metres in length by 12.2 metres in width, 6.4 metres to the ridge and 4.27 metres to the eaves. The building will be constructed in profiled steel cladding in juniper green.

### Planning History

None as per GIS

### Principal Planning Constraints

Open Countryside

### Principal Planning Policies

## National Policies

The Town and Country Planning (General Permitted Development) Order 1995 – Schedule 2, Part 6 Agricultural Buildings and Operations.

Planning Policy Wales (9th Edition, 2016)

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) 23: Economic Development (2014)

Technical Advice Note (TAN) 24: The Historic Environment (2017)

## Local Policies

Powys Local Development Plan (2018)

SP7 – Safeguarding of Strategic Resources and Assets

DM2 – The Natural Environment

DM4 – Landscape

DM13 – Design and Resources

E6 – Farm Diversification

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

Schedule 2 Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 allows works for the erection of an agricultural building for when that proposed building is to be used for agricultural purposes and the agricultural land unit is 5 hectares or more. This proposal falls under the permitted development rights of the agricultural holding and this prior notification notice informs the Local Planning Authority of the applicant's intentions.

The design of the proposal is considered suitable and the scale and height of the buildings are not overbearing on the nearest neighbouring dwelling (Lundy Cottage) which is approximately 276 metres to the east of the proposed development and screened by existing agricultural buildings. Materials to be used in the construction of the building are typical and practical for farming operations and complement existing agricultural buildings in the near vicinity.

The proposed agricultural shed covers a total floor space area less than 465 square metres (approximately 223.26sq. metres), it is not within close distance of an aerodrome and it is not within 25 metres (approximately 108 metres from a 'B' class road) of the metalled part of a trunk road or classified road.

For the above reasons it is considered that the proposed development will not have an adverse impact on the character and appearance of the area by reason of its siting or appearance.

## **RECOMMENDATION**

It is recommended that prior approval of the proposed extension to the agricultural building will not be required.

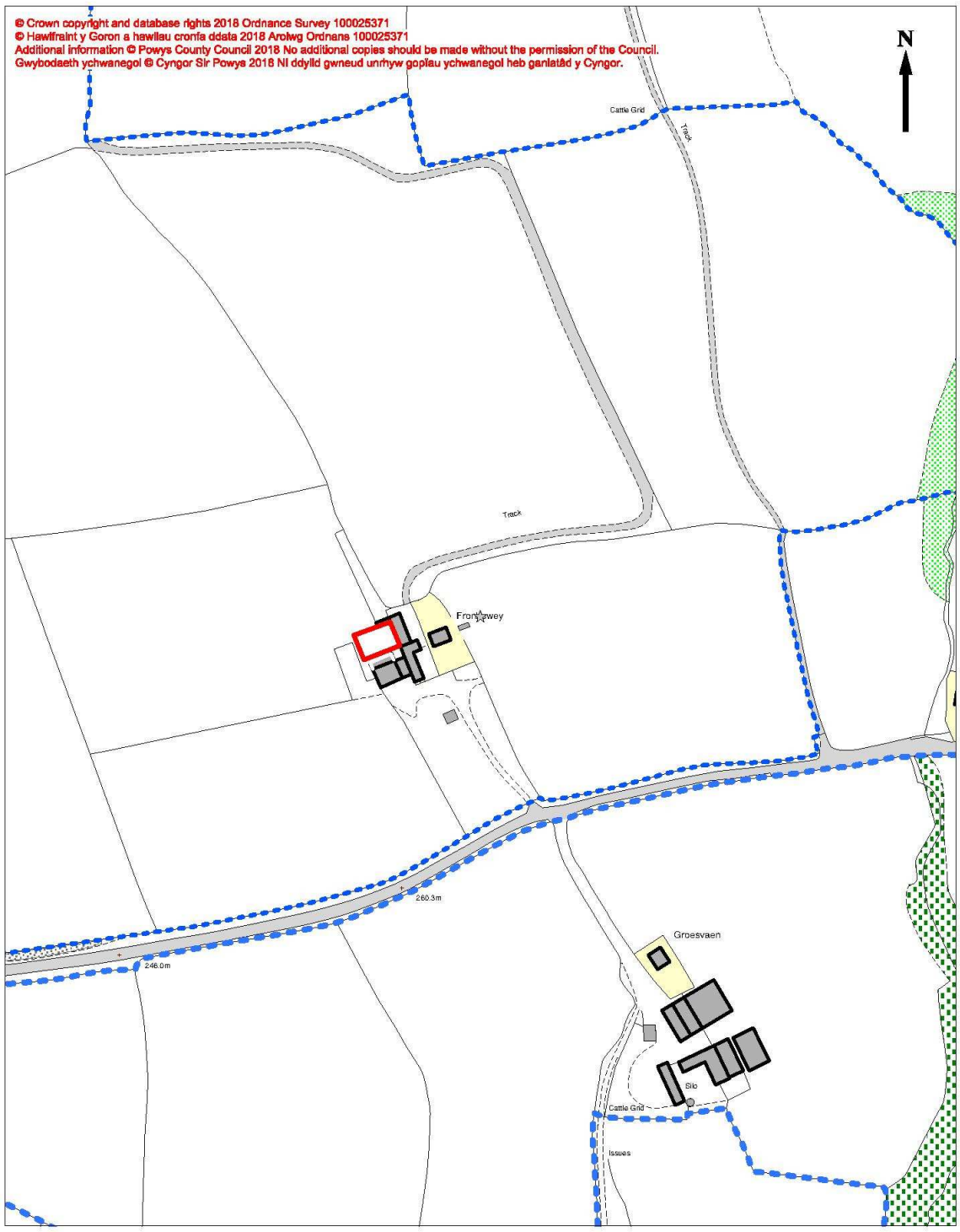
The building must be carried out in accordance with the notification submitted to Powys County Council within five years of the 17/05/2018.

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Case Officer: Thomas Goodman- Planning Officer  
Tel: 01597 827655 E-mail:thomas.goodman@powys.gov.uk

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## Delegated List

**16/05/2018****07/06/2018**

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/2018/0368 HOUS	10/04/2018	CONSENT	17/05/2018	Hous: Erection of a garage and workshop	Ysgol Gynradd Gymunedol Dolfor Newtown SY16 4BN
P/2018/0362 ADV	23/03/2018	CONSENT	18/05/2018	ADVERT: Consent to display three illuminated fascia signs	Hope Church Dolfor Road Newtown SY16 1JD

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0429 ADV	17/04/2018	CONSENT	18/05/2018	ADV: Application for consent to display 1 no. illuminated fascia sign	Bear Lanes Shopping Centre Unit 8 & 9 Broad Street Newtown  SY16 2QZ
P/2018/0288 CLA1	06/03/2018	REFUSE	21/05/2018	Section 191 application for lawful development certificate for the use of land as a caravan site, for the siting of a single caravan for staff accomodation purposes in connection with hotel	Llanelwedd Arms Hotel Llanelwedd Builth Wells  LD2 3SR
P/2018/0398 HOUS	06/04/2018	CONSENT	21/05/2018	Hous: Erection of an extension, external alterations and all associated works	Oakmere Boughrood Llyswen  LD3 0BQ
P/2018/0421 HOUS	17/04/2018	CONSENT	21/05/2018	Hous: Erection of an extension and removal of conservatory	Hollyoaks  24 Rhos-Y-Maen Isaf Llanidloes  SY18 6LB
P/2018/0426 FULL	10/04/2018	CONSENT	21/05/2018	Full: Engineering operations to regrade ground levels on approved building plots	Land off Rhos Y Maen Uchaf Llanidloes  SY18 6LD

<b>Application No.</b>	<b>Valid Date</b>	<b>Decision</b>	<b>Decision notice sentdate</b>	<b>Proposal</b>	<b>Location</b>
P/2017/0167 OUT	13/02/2017	CONSENT	22/05/2018	Outline: Erection of an agricultural workers dwelling and garage (all matters reserved)	Land at Pentrefawr Llanddewi Llandrindod Wells  LD1 6SD
P/2017/1033 OUT	18/09/2017	REFUSE	22/05/2018	Outline: Erection of up to three dwellings with detached garages and all associated works (some matters reserved)	Land forming part of the Tyn y Rho Llangadfan Welshpool  SY21 0PU
P/2018/0220 LBC	19/02/2018	CONSENT	22/05/2018	Listed building consent for internal alterations	17 Llanfair Road Newtown  SY16 2DQ
P/2018/0365 HOUS	04/04/2018	CONSENT	22/05/2018	Hous: Demolition of lean-to and erection of an extension	34 Hereford Street Presteigne  LD8 2AT
P/2018/0406 FULL	05/04/2018	CONSENT	22/05/2018	Full: Erection of a covered manure store and all associated works	Bryn Owen Trefeglwys Caersws  SY17 5QX

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0427 CLA2	11/04/2018	LAWFUL USE	22/05/2018	Certificate of lawfulness for a proposed use namely alterations to open coachhouse to form additional residential accommodation	Dolifor Llanwrthwl Llandrindod Wells LD1 6NU
P/2018/0431 FULL	17/04/2018	PP NOTNEEDED	22/05/2018	Full: Recolouring of external shopfront	Bear Lanes Shopping Centre Unit 8 & 9 Broad Street Newtown SY16 2QZ
P/2018/0174 FULL	05/02/2018	CONSENT	23/05/2018	Full: Erection of an agricultural building together with formation of vehicular access and all associated works	land formerly part of Corsydd Meifod SY22 6DT
P/2018/0188 FULL	07/02/2018	CONSENT	23/05/2018	Full: Construction of new vehicular access and associated works	Sarn Meadow Guilsfield Gwreiddyn Lane Welshpool SY21 9DN
P/2018/0295 FULL	07/03/2018	CONSENT	23/05/2018	Full: Erection of a building for community events.	Wents Meadow Knighton Road Presteigne LD8 2BW

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0410 FULL	16/04/2018	CONSENT	23/05/2018	Full: Conversion of ground floor from former shop to residential, external alterations and removal of lobby, rear stairs and store room	Penrhos 258 Brecon Road Ystradgynlais  SA9 1QX
P/2017/1174 FULL	18/10/2017	CONSENT	24/05/2018	FULL: Change of use of redundant farm building to holiday accommodation and installation of new septic tank	Penbryn  Llanbister Road Llandrindod Wells  LD1 6SP
P/2018/0291 HOUS	19/03/2018	CONSENT	24/05/2018	Householder: Erection of a loft conversion with dormer windows to the back of the property	54  Pendre Builth Wells  LD2 3DA
P/2018/0340 HOUS	19/03/2018	CONSENT	24/05/2018	Householder: Erection of a garage extension to the existing annexe	2 Cae Ceffyll  Tai Cae Mawr Llanwrtyd Wells  LD5 4RJ
P/2018/0364 HOUS	13/04/2018	CONSENT	24/05/2018	Hous: Creation of a balcony (retrospective)	Manchester House Llanfair Caereinion Broad Street Welshpool  SY21 0RJ

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0021 REM	10/01/2018	APPROVE	25/05/2018	Section 73 application to remove condition 3 of planning approval M6533 in regards to occupancy	Harpwoods Leighton Welshpool SY21 8JB
P/2018/0197 REM	21/02/2018	CONSENT	25/05/2018	Section 73 application to vary condition 2 of planning approval P/2016/0209 in respect of the approved plans	Y Maesydd Pool Quay Welshpool SY21 9LA
P/2018/0400 HOUS	12/04/2018	CONSENT	25/05/2018	Householder: Single storey extension with internal alterations	New House Farm Pool Quay Welshpool SY21 9LN
P/2017/1180 OUT	18/10/2017	REFUSE	30/05/2018	Outline: Erection of 1 no. detached dwelling (affordable) and garage, installation of septic tank and all associated works (some matters reserved)	Land adj Hendre View Penrhos Llanymynech SY22 6QE
P/2018/0304 FULL	19/03/2018	REFUSE	30/05/2018	Change of use: Application for change of use from a public house (A3) to residential (C3)	Seven Stars Aberedw Builth Wells LD2 3UW

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0422 OUT	16/04/2018	CONSENT	30/05/2018	OUTLINE: Erection of 1 no.dwelling and associated works	Infil Plot adjacent to Ael Y Bryn Bettws Cedewain  Newtown  SY16 3DS
P/2018/0447 HOUS	23/04/2018	CONSENT	30/05/2018	Householder: Proposed side extension with external finishes to match existing	Ystradgynlais 36 Ynyscedwyn Road  SA9 1BH
P/2018/0463 ADV	27/04/2018	CONSENT	30/05/2018	ADV: Application for consent to display advertisements of illuminated and non-illuminated signage consisting of 6 no. fascia signs, 1 no. hanging sign and 1 no. non-illuminated ATM tablet	23 High Street Newtown  SY16 2NP
P/2016/0782 FULL	27/07/2016	CONSENT	31/05/2018	Change of use of land to accommodate 20 holiday chalets, including formation of access track	Mid Wales Golf Centre  Caersws  SY17 5SB
P/2018/0222 LBC	07/03/2018	CONSENT	31/05/2018	LBC: Internal alterations to wall and doorway to create larger room	Commodore Hotel  Spa Road Llandrindod Wells  LD1 5ER

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0167 HOUS	13/02/2018	CONSENT	31/05/2018	Hous: Erection of an extension and reinstatement of windows	Liverpool House Meifod SY22 6BX
P/2018/0210 FULL	15/02/2018	CONSENT	31/05/2018	Full: Construction of a new agricultural building	Penygarreg Farm Elan Valley Rhayader LD6 5HS
P/2018/0303 FULL	08/03/2018	CONSENT	31/05/2018	Full: Change of use from workshop space to living accommodation. (Retrospective)	The Arches Union Street Newtown SY16 2HA
P/2018/0345 RES	20/03/2018	REFUSE	31/05/2018	Application for approval of reserved matters following outline approval P/2016/1174 for erection of dwelling, creation of new access and installation of a package treatment plant	Plot adj Penycoedcae Sarnau Brecon LD3 9PR
P/2018/0409 HOUS	10/04/2018	CONSENT	31/05/2018	Householder: Demolition of the existing lean to and garage & alterations and extensions, including creation of a first floor	1 The Fron Coedway Crew Green SY5 9AT



Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0435 CLA1	19/04/2018	APPROVE	31/05/2018	Section 191 application for a lawful development certificate for an existing use in breach of a planning condition attached to planning permission M7562 & M7987 (agricultural occupancy restriction)	Haul Fryn Carno Caersws SY17 5JY
P/2017/1429 FULL	07/12/2017	CONSENT	01/06/2018	Major - Erection of a free range poultry unit, associated feed bins, alterations to vehicular access and associated works	Rhosgrug Llanbister Road Landrindod Wells LD1 6UD
P/2018/0182 RES	14/02/2018	CONSENT	01/06/2018	Reserved matters application following the approval of application P/2014/0653 for the erection of 5 dwellings	Land Adj to Erw Haf Llanwrtyd Wells LD5 4RT
P/2018/0250 OUT	14/03/2018	CONSENT	01/06/2018	Application for reserved matters following the approval of P/2017/1217 for the erection of an affordable dwelling	Land adjacent Maes Hyfryd Llanfair Caereinion Welshpool SY21 0RY
P/2018/0415 HOUS	17/04/2018	CONSENT	01/06/2018	Householder: Erection of car port, shed, greenhouse, fence and decked area and all associated works.	Hen Gwaith Dwr Victoria Road Llanwrtyd Wells LD5 4SY

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0477 CLA1	30/04/2018	REFUSE	01/06/2018	Application for certificate of lawfulness for an existing use namely use of barn as a dwelling	Waen Farm Barn Llidiartywaen Llanidloes SY18 6JT
P/2017/0549 FULL	15/05/2017	CONSENT	04/06/2018	Full: Erection of a free range poultry unit (extension to existing unit), including feed silos and all associated works	Glangwden Trefeglwys Caersws SY17 5PX
P/2017/0904 HOUS	18/08/2017	CONSENT	05/06/2018	Householder: Erection of a single storey rear extension	The Old Post Office Meifod SY22 6BZ
P/2017/0906 LBC	08/09/2017	CONSENT	05/06/2018	Listed building consent: Erection of a single storey rear extension, removal of internal load-bearing partition, installation of support structure and replacement of windows	The Old Post Office Meifod SY22 6BZ
P/2017/1351 LBC	27/11/2017	CONSENT	05/06/2018	LBC: External works to detached stone outbuilding and installation of drains and services. Removal of lean to outbuilding and taking back to original house wall to include repair or replacement of down pipe and guttering. Removal of	Ty Mawr Meifod SY22 6BY

<b>Application No.</b>	<b>Valid Date</b>	<b>Decision</b>	<b>Decision notice sentdate</b>	<b>Proposal</b>	<b>Location</b>
P/2018/0114 FULL	26/01/2018	CONSENT	05/06/2018	Full: Change of use of land from A3 to sui generis for the sale of flowers	Sarn Inn Sarn Newtown  SY16 4EJ
P/2018/0134 CLA2	25/01/2018	APPROVE	05/06/2018	Section 91 application for a certificate of lawfulness for a proposed use - erection of a 2 storey extension	Rhayader Vicarage  Dark Lane  LD6 5DA
P/2018/0205 FULL	13/02/2018	CONSENT	05/06/2018	Full: Construction of a portal framed agricultural building to replace the existing damaged building	Brynhullef Penybont  Llandrindod Wells  LD1 6UT
P/2018/0208 FULL	09/03/2018	CONSENT	05/06/2018	Full: Upgrading of existing playground and installation of new play equipment	Llansilin Playing Fields Llansilin  Oswestry
P/2018/0251 RES	26/02/2018	CONSENT	05/06/2018	Reserved matters for details of access, appearance, landscaping, layout and scale in connection with proposed dwelling	Plot ar Rock Farm Llanllwchaiarn  Newtown  SY16 3BH

<b>Application No.</b>	<b>Valid Date</b>	<b>Decision</b>	<b>Decision notice sentdate</b>	<b>Proposal</b>	<b>Location</b>
P/2018/0499 CLA1	08/05/2018	APPROVE	05/06/2018	Section 191 application for lawful development certificate for the occupation of a dwelling without compliance of condition 4 of permission M98641	Bronhyfryd Llangurig  SY18 6RX
P/2017/1378 HOUS	05/12/2017	CONSENT	06/06/2018	Householder: Demolition of the existing garage and erection of a carport, conversion of the existing storage room to a utility room, internal alterations and replacement of windows and roof covering	Pen Y Bont Cemmaes Road Machynlleth SY20 8JY
P/2017/1415 LBC	05/12/2017	CONSENT	06/06/2018	LBC: Demolition of the existing garage and erection of a car port, conversion of the existing storage room to a utility, internal alterations and replacement of windows and roof covering	Pen Y Bont Cemmaes Road Machynlleth SY20 8JY
P/2018/0451 HOUS	19/04/2018	CONSENT	06/06/2018	Householder: Erection of a building to house a domestic swimming pool and associated works	Siloam Shalom Aberyscir  LD3 9NW

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/04/18

gan Declan Beggan BSc (Hons) DipTP  
DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18/05/2018

## Appeal Decision

Site visit made on 13/04/18

by Declan Beggan BSc (Hons) DipTP  
DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 18/05/2018

**Appeal Ref: APP/T6850/A/17/3191434**

**Site address: Land opposite South Bank, Middletown, SY21 8DF**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by JMG Holloway & SJ Beddoes against the decision of Powys County Council.
- The application Ref P/2017/0551, dated 15 May 2017, was refused by notice dated 29 November 2017.
- The development proposed is described as the 'Erection of 4 dwellings, formation of vehicular access and associated works'.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of the site address varies slightly between that stated on the submitted planning application form and that shown on the Council's refusal reason; the former is more accurate and it is on this basis that I have determined the appeal. In addition, the description of the proposed development varies between the submitted planning application form and that stated on the Council's refusal reason; the latter description is more concise and it is on this basis that I have determined the appeal.
3. The proposed development has been submitted in outline with all matters except for access reserved for later determination. The submitted details show the access to site will be off a minor road that leads to the centre of the settlement of Middletown. The submitted layout details give an indication of house types/plots and their respective positions within the site. In terms of those matters reserved for later approval I am satisfied sufficient information has been provided to deal with the appeal on this basis.
4. The Powys Local Development Plan 2011-2026 (LDP) has recently been adopted, superseding the earlier development plan document. The appeal must be determined in accordance with the development plan unless material considerations indicate

otherwise; in Wales the development plan is the local development plan adopted in relation to that area<sup>1</sup>. Both main parties were given the opportunity to make comment on the LDP in relation to the proposed development although neither provided further submissions, however based on my knowledge of the development plan's contents I have identified what I consider to be the relevant planning policies.

### Main Issue

5. The main issue is whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement boundaries

### Reasons

6. The appeal site which forms part of an agricultural field is located in open countryside close to but outside the defined development boundary for Middletown as identified in the LDP. The field is bounded by a minor road to the west, a dwelling to the north, and agricultural land to the south and east.

#### *Sustainable Development & Settlement Boundaries*

7. It is a long standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise unrestrained encroachment of the countryside would occur. However, other appropriate locations outside settlements cannot be discounted and these have to be weighed against national advice supporting sustainable development as detailed in Planning Policy Wales Edition 9 (PPW).
8. The LDP identifies it has sufficient land to meet its requirement for new dwellings over the plan period as referred to in Policy SP1 'Housing Growth' which sets out the housing requirement and supply figures over the plan period; the policy states the LDP will seek to maintain a 5 year supply of land for housing. The LDP indicates that the Council has sufficient land with which to meet its 5 year supply of land for housing otherwise the plan would not have been found to be sound. Whilst the appellant initially sought to justify development of the site based on the lack of a five year housing land supply, that was in the context of a different development plan and housing supply context, however with the adoption of the LDP, the housing land supply requirements of the county are now highly likely to be met over the plan period.
9. The LDP distributes residential development according to a sustainable hierarchy of settlements as identified in policy SP5 and which classes Middletown as a large village. Policy SP5 highlights that settlements such as Middletown are deemed to be able to accommodate housing growth in proportion to their size and facilities; the policy notes that whilst such settlements provide important local services to their own and surrounding communities, they do not possess the wide range of facilities and functions found in towns. Policy SP6 states that housing provision in larger villages will be through existing commitments and on new allocations on suitable sites *within* (my emphasis) the development boundary, with other sites potentially being developed on 'exception' sites which are solely to meet a proven local affordable need and which forms a logical extension to the settlement; policy H1 reiterates this stance.

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<sup>1</sup> Planning and Compulsory Purchase Act 2004 s.38 (4)

10. Overall, the LDP seeks to promote sustainable development through, amongst other policies, its strategic settlement hierarchy and to ensure the open countryside, as a finite resource is protected from uncontrolled and unsustainable development.
11. Policies SP5, SP6 and H1 reflect and are consistent with the stance taken in PPW, and advice as contained within Technical Advice Note 6: Planning for Sustainable Rural Communities, insofar as they relate to the control of new housing in the countryside in line with sustainability principles. The proposed development does not meet any of the above LDP policies, and would also not be justified for any other reason under national planning policy.
12. Furthermore PPW states the countryside, in line with sustainability principles, should be conserved and where possible enhanced for its own sake, and that new building in the open countryside that is away from existing settlements or areas allocated for development in development plans, must continue to be strictly controlled. The proposed development would neither conserve nor enhance the countryside, and to my mind has not been justified in its rural location; consequently it is in conflict with national planning policy.
13. I conclude that the proposal would not be a sustainable form of development in terms of the settlement strategy of the newly adopted LDP and the need to avoid unjustified development within the open countryside. The proposal would therefore be contrary to the provisions of the development plan and advice contained within PPW.
14. I appreciate Middletown is a sustainable settlement in terms of a number of services and this is recognised through the LDP. However, the extent of existing services is limited, and any future occupants of the site would rely heavily on other nearby settlements to meet their needs. Overall the sustainable growth and development of the settlement is controlled via the LDP settlement strategy and identified development boundaries. The proposed development is outside the development boundary and, as identified previously, is therefore contrary to the LDP. Therefore the benefit of access to the local services referred to by the appellants or other benefits such as the provision of a footpath leading to the centre of Middletown, either individually or combined with any other benefits associated with the proposal, would not outweigh the significant conflict with local and national planning policies.
15. Consequently the proposal is in conflict with local and national planning policies that in broad terms seek to control development in the interests of sustainability. PPW states that a plan led approach is the most effective way to secure sustainable development through the planning system. I have previously found that the LDP policies applicable to the proposed development reflect the stance taken in PPW insofar as they relate to the control of new housing in the countryside in line with sustainability principles. The presumption in favour of sustainable development as set out in PPW does not apply having regard to the key principles and key policy objectives of sustainable development<sup>2</sup>.
16. Overall, the proposed development would not provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement boundaries, and therefore the proposal would be contrary to local and national planning policies.

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<sup>2</sup> PPW paragraphs 4.2.2, 4.2.4, 4.2.5

*Other Matters*

17. In support of the proposal the appellants have raised a number of other similar developments in other large villages where the Council have granted planning permission, however those schemes were made in a very different development plan context and therefore are not directly comparable. In any event I have considered the appeal proposal on its own merits.
18. The appellants refer to the fact that a site in Middletown has recently been permitted outside of the development boundary despite the advanced stage of the LDP. This site was referred to in the planning committee report relating to the appeal proposal, insofar as the Council stated they were minded to grant planning permission subject to the signing of a Section 106 legal agreement. The Council were perfectly entitled to give weight to the development of this other site in their consideration of the appeal proposal bearing in mind that the site was being permitted subject to the signing of a legal agreement. The planning committee decision for that site was taken in 2017, a significant time prior to the LDP being adopted; the fact that the actual approval notice was issued in the weeks prior to the adoption of the LDP following the signing of the legal agreement would not justify permitting the proposal subject to this appeal.
19. Objectors to the development raised issues relating to the ability of local infrastructure to cope with the proposed development, however, there is no substantive evidence that such matters would be unduly affected by the proposed development had I been minded to allow the appeal.

**Conclusion**

20. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be dismissed.
21. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Declan Beggan*

INSPECTOR



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/04/18

gan Declan Beggan BSc (Hons) MSc  
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 25/05/2018

## Appeal Decision

Site visit made on 13/04/18

by Declan Beggan BSc (Hons) MSc DipTP  
DipMan MRTPI

an Inspector appointed by the Welsh Ministers

Date: 25/05/2018

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**Appeal Ref: APP/T6850/A/17/3192229**

**Site address: Land adjacent to Middletown, Welshpool, Powys**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Philip Hughes against the decision of Powys County Council.
  - The application Ref P/2017/0464, dated 20 April 2017, was refused by notice dated 29 November 2017.
  - The development proposed is for the 'Erection of five dwellings to include an affordable dwelling and construction of new vehicular access'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of the proposed development varies slightly between that stated on the planning application form and that on the Council's refusal notice; the latter is more concise and it is on this basis that I have determined the appeal.
3. The proposed development has been submitted in outline with all matters except for access reserved for later determination. The submitted details show the access to the site will be off a minor road that leads in a northerly direction to the centre of the settlement of Middletown. The submitted layout details give an indication of house types/plots and their respective positions within the site, in addition to the internal road configuration. In terms of those matters reserved for later approval I am satisfied sufficient information has been provided to deal with the appeal on this basis.
4. The Powys Local Development Plan 2011-2026 (LDP) has recently been adopted, superseding the earlier development plan document. The appeal must be determined in accordance with the development plan unless material considerations indicate otherwise; in Wales the development plan is the local development plan adopted in relation to that area<sup>1</sup>. Both main parties were given the opportunity to make comments on the LDP in relation to the proposed development; the appellant made

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<sup>1</sup> Planning and Compulsory Purchase Act 2004 s.38 (4)

further submissions in this regard and based on these submissions, and my knowledge of the development plan's contents, I have identified what I consider to be the relevant planning policies.

### Main Issue

5. The main issue is whether the proposed development would provide a suitable site for housing having regard to the principles of sustainable development and planning policies that seek to strictly control new development outside of settlement boundaries.

### Reasons

6. The appeal site which forms part of an agricultural field is located in open countryside close to the defined settlement limit for Middletown. The field is bounded by a minor road to the south, a dwelling to the east, hedgerows to the north, and grazing land to the south-west.
7. It is a long standing planning policy position that the countryside should be safeguarded from uncontrolled and sporadic development, with development primarily directed to existing settlements; otherwise unrestrained encroachment of the countryside would occur. However, other appropriate locations outside settlements cannot be discounted and these have to be weighed against national advice supporting sustainable development as detailed in Planning Policy Wales Edition 9 (PPW).
8. The LDP identifies it has sufficient land to meet its requirement for new dwellings over the plan period as referred to in Policy SP1 'Housing Growth' which sets out the housing requirement and supply figures over the plan period; the policy states the LDP will seek to maintain a 5 year supply of land for housing. The LDP indicates that the Council has sufficient land with which to meet its 5 year supply of land for housing. The appellant has initially sought to justify the development of the site based on the lack of a 5 year housing land supply, however that was in the context of a different development plan and housing land supply situation; with the adoption of the LDP, the housing land supply requirements of the county are now highly likely to be met over the plan period. The considerable weight attached to the need to increase housing land supply, as set out in Technical Advice Note 1: Joint Housing Land Availability Studies, does not therefore apply in this case.
9. The LDP distributes development according to a sustainable hierarchy of settlements as identified in policy SP5 and which classes Middletown as a large village; such settlements are deemed to be able accommodate housing growth in proportion to their size and facilities, and whilst they provide important local services to their own and surrounding communities, they do not possess the wide range of facilities and functions found in towns. SP5 establishes development limits for settlements such as Middletown by the designation of a development boundary. Policy SP6 states that housing provision in larger villages will be through existing commitments and on new allocations on suitable sites *within* (my emphasis) the development boundary, with other sites potentially being developed on 'exception' sites for affordable need and which form a logical extension to the settlement; policy H1 reiterates this stance. Policy H2 identifies land for the provision of dwellings on housing sites capable of providing 5 or more dwellings, and further land on small sites and windfall sites.
10. I appreciate policy SP6 refers to distribution of housing growth for large villages across the county as a percentage and not as an actual target, and the policy does not measure when sustainable growth for a settlement has been exceeded in terms of a threshold target, nonetheless, the overall approach of the LDP is to seek to promote

sustainable development through its strategic settlement hierarchy which identifies sustainable growth within settlement boundaries, and to ensure the open countryside, as a finite resource is protected from uncontrolled and unsustainable development. The previously cited LDP policies reflect and are consistent with the stance taken in PPW, and advice as contained within Technical Advice Note 6: Planning for Sustainable Rural Communities, insofar as they relate to the control of new housing in the countryside in line with sustainability principles.

11. The appellant refers to the appeal site being a logical extension of the settlement, whilst also providing an affordable dwelling. Policy H1 refers to permitting sites outside of development boundaries where they form a logical extension to the settlement and are solely to meet affordable needs; the proposed development would not achieve this requirement of the policy. To my mind the proposed development does not meet any of above LDP policies, and is not justified for any other reason under national planning policy.
12. Furthermore PPW states the countryside, in line with sustainability principles, should be conserved and where possible enhanced for its own sake, and that new building in the open countryside that is away from areas allocated for development in development plans must continue to be strictly controlled. The proposed development would neither conserve nor enhance the countryside, and to my mind has not been justified in its rural location, consequently it is in conflict with national planning policy.
13. The proposed development is in conflict with local and national planning policies that in broad terms seek to control development in the interests of sustainability. PPW states that a plan led approach is the most effective way to secure sustainable development through the planning system. The presumption in favour of sustainable development as set out in PPW does not apply in this instance having regard to the key principles and key policy objectives of sustainable development.
14. Drawing the threads of the above together, I conclude that the proposal would not be a sustainable form of development in terms of the settlement strategy of the newly adopted LDP and the need to avoid unjustified development within the open countryside. The proposal would therefore be contrary to the provisions of the development plan and advice as contained within PPW.

#### *Other Matters*

15. I appreciate Middletown is a sustainable settlement in terms of a number of services and this is recognised through the LDP. However, the extent of existing services is limited, and any future occupants of the site would rely heavily on other nearby settlements to meet their needs. Overall, the sustainable growth and development of the settlement is controlled via the LDP settlement strategy and identified development boundaries. The proposed development is outside the development boundary and as identified previously is therefore contrary to the LDP. Therefore the benefit of access to the local services referred to by the appellant or other benefits such as the provision of one affordable dwelling or a footpath leading to the centre of Middletown, either individually or combined with any other benefits associated with the proposal would not outweigh the significant conflict with local and national planning policies.
16. In support of the proposal, the appellant has raised a number of other similar developments in either Middletown or other large villages where the Council have been minded to grant planning permission outside of settlement boundaries, however those schemes were made in a very different development plan context and five year

housing land supply situation, and therefore are not directly comparable to the merits of this appeal. In any event I have considered the appeal proposal on its own merits.

17. Objectors to the development raised issues relating to highway safety and the ability of local infrastructure to cope with the proposed development, however there is no substantive evidence that such matters would be unduly affected by the proposed development had I been minded to allow the appeal. Other concerns state that land that would be subject to certain works related to the development are not within the control of the appellant, and that other rights of access may be compromised, however bearing in mind my findings on the main issue I do not intend to pursue these matters any further.

### **Conclusion**

18. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be dismissed.
19. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Declan Beggan*

INSPECTOR



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 22/05/18

gan Kay Sheffield BA(Hons) DipTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 04.06.2018

## Appeal Decision

Site visit made on 22/05/18

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 04.06.2018

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**Appeal Ref: APP/T6850/A/18/3197526**

**Site address: Ash Cottage, Bleddfa, Knighton, LD7 1PA**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Morgan against the decision of Powys County Council.
  - The application Ref P/2017/0458, dated 16/04/2017, was refused by notice dated 16/11/2017.
  - The development proposed is the erection of a local needs dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application was submitted in outline with all matters reserved for subsequent approval with the exception of access. I have determined the appeal on this basis.
3. In refusing planning permission the Council had regard to the Powys Unitary Development Plan (UDP) which was in force at that time. However, the UDP has been superseded by the Powys Local Development Plan (LDP), adopted April 2018. I have therefore had regard to the LDP and not the UDP in determining the appeal. The Council confirmed that Strategic Policies SP1, SP5 and SP6, and Policies H1 and H6 of the LDP are relevant to the appeal.

### Main Issue

4. The main issue is whether the proposal would satisfy local and national planning policies which seek to strictly control residential development in the open countryside.

### Reasons

5. The appeal site is located in open countryside approximately 1.1km west of the village of Bleddfa in an area known as Fishpools, a collection of approximately nine properties including Ash Cottage and the haulage business operated by the Appellant's family. The site lies on elevated ground to the north of Ash Cottage and west of a large timber building which is part of the business. A further property lies a short distance to the west of Ash Cottage. The proposed dwelling would be accessed via an existing track from the A488 to Ash Cottage and the business.

6. The proposed dwelling would enable the Appellant to have his own home separate from but adjoining his parents' house and the family business for which he works. Although the application was submitted in outline, from the submitted details the Council has confirmed that the proposal would meet its requirements in respect of affordable housing in terms of the size, curtilage area and affordability criteria.
7. According to Strategic Policy SP5 of the LDP the area of Fishpools is not within a designated rural settlement and the appeal site therefore lies in open countryside. Although the Appellant has questioned the Council's conclusion that Fishpools is not a designated rural settlement, this is a matter for the development plan process and not for me as part of the appeal.
8. Whilst Strategic Policy SP1 of the LDP recognises the potential of windfall sites for housing, Strategic Policy SP6 exercises strict control over new developments in the open countryside and only permits schemes which comply with national exceptions policies as set out in Planning Policy Wales (PPW) and Technical Advice Note (TAN) 6: Planning for Sustainable Communities. Restrictions on new dwellings in the open countryside are also imposed by Policy H1 of the LDP which only permits schemes where they relate to a need for housing which meets national policy on housing in the open countryside. Furthermore, affordable housing in the open countryside is not supported by Policy H6 of the LDP.
9. PPW states in paragraph 9.3.2 that whilst the infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, much will depend on the character of the surroundings. Although Fishpools has been described as a collection of nine properties, they are spread over quite a wide area. I do not consider that the appeal site constitutes an infilling of a small gap within a small group of houses or a minor extension to a group.
10. The Appellant has made reference to speculative permissions for new dwellings in the open countryside but in the absence of any substantive evidence I am unable to draw any direct comparison with the appeal before me which I have treated on its merits. It is acknowledged that at the time the Council made its decision on the application it was unable to demonstrate a five year supply of housing land. However, following the adoption of the LDP, this is no longer the case.
11. The circumstances of the Appellant and the benefits from him living on the site are acknowledged. However, he has confirmed that there is not a functional need for the dwelling in association with the haulage business. I have also noted the support for the development from the local community. Nevertheless, I am of the opinion that there are no material considerations sufficient to outweigh the harm to local and national policies which restrict housing development in the open countryside. The evidence therefore leads me to conclude that the proposed development fails to comply with Strategic Policies SP1, SP5 and SP6 and Policies H1 and H6 of the LDP.
12. For the reasons given above, and having had regard for all other matters raised, the appeal is dismissed. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Kay Sheffield*  
INSPECTOR



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 22/05/18

gan Kay Sheffield BA(Hons) DipTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 04.06.2018

## Appeal Decision

Site visit made on 22/05/18

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 04.06.2018

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**Appeal Ref: APP/T6850/A/18/3197585**

**Site address: Dyffryn, Breidden Way, Guilsfield, Welshpool, SY21 9PU**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Carl Hares against the decision of Powys County Council.
  - The application Ref P/2017/1279, dated 31/10/2017, was refused by notice dated 01/03/2018.
  - The development proposed is the erection of a dwelling and formation of a vehicular access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Whereas the application was made by Mr and Mrs Hares, the appeal has been lodged by Mr Hares. Mrs Hares has confirmed that she is in support of the appeal.
3. In refusing planning permission the Council had regard to the Powys Unitary Development Plan (UDP) which was in force at that time. However, the UDP has been superseded by the Powys Local Development Plan (LDP), adopted April 2018. I have therefore had regard to the LDP and not the UDP in determining the appeal. The Council has indicated that Strategic Policies SP1, SP5 and SP6 and Policy H1 of the LDP are relevant to the appeal.
4. The Appellant has raised concerns in his submissions regarding the Council's processing of the planning application. However it is the decision made by the Council and not the process which led to it which is before me. Reference has also been made to a neighbouring property having a private right of way across the site. This is a separate legal matter which has no bearing on the appeal.

### Main Issues

5. The main issues are the effect of the development on firstly, the living conditions of neighbouring residents and future occupants of the proposed dwelling with regard to privacy, light and outlook and secondly, the character and appearance of the area.

### Reasons

6. The appeal site lies in a residential area where there is a variety of properties in terms of their age, design and size. The site forms part of the garden to the existing
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property, Dyffryn, and the proposed dwelling would be sited between the existing property and the road. The proposed development also includes the creation of a new vehicular access off Breidden Way, close to the southern boundary of the site and the erection of a detached garage close to the northern and roadside boundaries.

7. Dyffryn is a two storey detached dwelling with a single storey section to the side. It is set back from the road, in line with the property to the south, Dolruddyn. The appearance of the property is deceiving as the elevation which has the character and appearance of a front elevation faces the rear garden. Notwithstanding this, the openings in the elevation facing the site include an entrance door and windows to a kitchen diner, stained glass window on the stairs and two windows to the upstairs bathroom. There is also a conservatory and a first floor balcony.
8. Whilst the glazed doors giving access to these features from inside the house are in situ externally, internally the openings have been blocked up. Although the Appellant has stated in his appeal submissions that the openings are to remain blocked and the balcony removed, this was not made clear in the planning application. I consider that the Council would be prejudiced if account was taken of these details in the determination of the appeal and I have therefore had no regard to them in reaching my decision.
9. The minimum separation distance between the facing elevations of the proposed dwelling and Dyffryn would be a minimum of approximately 8 metres. This is significantly less than the 20 metres minimum considered acceptable between directly facing habitable room windows in the Council's Residential Design Guide, unless it can be demonstrated that privacy can be maintained through design.
10. A fence has been erected on the proposed boundary between the two dwellings and whilst it would limit direct views between the windows of main habitable rooms in both dwellings I am concerned that there is the opportunity that the privacy of the occupants could be compromised. I also have concerns regarding views from the first floor balcony and bedroom opening. I therefore consider that the proposal would result in unacceptable harm to the privacy of the occupants of the proposed dwelling and Dyffryn.
11. In respect of daylight and sunlight the Residential Design Guide expects proposals to limit as far as possible any negative consequences on the windows of main habitable rooms in adjoining developments. I have no evidence as to whether the proposal would comply with the 25 degree test set out in the guidance. However, given the height and position of the proposed dwelling in relation to Dyffryn together with the separation distance I share the Council's concerns regarding the increased risk of overshadowing.
12. The outlook from Dyffryn would alter significantly as a result of the development. Given the limited separation and the position of the fence in relatively close proximity to windows to main habitable rooms, I consider that the proposal would have an overbearing impact on the outlook from Dyffryn. I have similar concerns with regard to the outlook from the proposed dwelling.
13. The evidence therefore leads me to conclude that the proposed development would have a detrimental effect on the living conditions of the occupiers of Dyffryn and on future occupants of the proposed dwelling with regard to privacy, light and outlook, contrary to Policy H1 of the LDP which seeks to ensure that housing development is appropriately located and suitable in scale and type to meet Strategic Policies SP1, SP5 and SP6, and the Residential Design Guide.



14. Dyffryn and its immediate neighbour, to the south, Dolruddyn, are set back from the road with large landscaped frontages and they share a common building line. The properties to either side, Argyll and 8 Marcella Close, are set nearer the road and it is acknowledged that the proposed dwelling would be in line with the latter. I also noted during my site visit that several properties have been built in the gardens of older properties. However, the examples I observed generally fronted different highways rather than being built one in front of the other off the same road frontage. There was also a detached garage which had been converted to living accommodation. However it was clearly an annex which visually was subsidiary to the main house and not a separate dwelling.
15. It is accepted that variation in the distances properties are set back from the road can add interest and variety to the street scene. Nonetheless, I consider that the position of the proposed dwelling immediately in front of Dyffryn, the limited separation between the dwellings and the confined nature of the plot with the garage directly adjacent to the roadside boundary would create a development which would be out of keeping with the character of the area and detrimental to its appearance, contrary to Policy H1 of the LDP which seeks to ensure that housing development is appropriately located and suitable in scale and type to meet Strategic Policies SP1, SP5 and SP6.
16. For the reasons given above, and having had regard for all other matters raised, the appeal is dismissed.
17. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Kay Sheffield*

INSPECTOR

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