

# Planning, Taxi Licensing & Rights of Way Committee

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Meeting Venue  
**Council Chamber - County Hall**

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Meeting Date  
**Thursday, 6 February 2020**

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Meeting Time  
**12.45 pm or on the later arrival of the Committee**

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County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

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

30 January, 2020

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Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod, a bydd gwasanaeth cyfieithu ar y pryd ar gael.  
You are welcome to speak Welsh or English in the meeting, and a simultaneous translation service will be provided.

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## AGENDA

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

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| <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 16 January, 2020 as a correct record.

(Pages 5 - 12)

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| <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.

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| <b>4.</b> | <b>PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE</b> |
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To consider the reports of the Head of Property, Planning and Public Protection and to make any necessary decisions thereon.

(Pages 13 - 16)

**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/2017/0754 Land at Penyborfa, Carno Road, Caersws, Powys, SY17 5JA**

(Pages 17 - 72)

**4.3. 19/1741/FUL Housing Development At Land Off Kilvert View, Kilverts View, Cleirwy, Hereford, Powys**

(Pages 73 - 116)

**4.4. 19/0494/OUT Land At Rhallt View And Tan Yr Allt View, Buttington, Welshpool, SY21 8SR**

(Pages 117 - 150)

**4.5. 19/1873/FUL Rhayader C in W School, Rhayader, LD6 5LT**

(Pages 151 - 168)

**4.6. 19/1955/FUL County Hall, Spa Road East, Llandrindod Wells, Powys, LD1 5LG**

(Pages 169 - 182)

**4.7. 19/2092/DIS Sites A, B & C, Nr. Riverside & Nr. Latham Park,**

## **Newtown, Powys**

(Pages 183 - 190)

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| <b>5.</b> | <b>DECISIONS OF THE HEAD OF PROPERTY, PLANNING AND PUBLIC PROTECTION ON DELEGATED APPLICATIONS</b> |
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To receive for information a list of decisions made by the Head of Property, Planning and Public Protection under delegated powers.

(Pages 191 - 204)

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

(Pages 205 - 212)

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**MINUTES OF A MEETING OF THE PLANNING, TAXI LICENSING & RIGHTS OF WAY COMMITTEE HELD AT COUNCIL CHAMBER - COUNTY HALL ON THURSDAY, 16 JANUARY 2020**

**PRESENT**

County Councillor K Lewis (Chair)

County Councillors E M Jones, L V Corfield, L George, G Jones, M J Jones, F H Jump, H Lewis, I McIntosh, D R Price, P C Pritchard, G Pugh, D Selby, K S Silk, E Vaughan, G I S Williams, D H Williams, J Williams and R Williams

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| <b>1. APOLOGIES</b> |
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Apologies for absence were received from County Councillor J Wilkinson.

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| <b>2. MINUTES OF THE PREVIOUS MEETING</b> |
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The Chair was authorised to sign as a correct record the minutes of the meeting held on 5 December, 2019.

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| <b>Taxi and other licensing</b> |
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| <b>3. DECLARATIONS OF INTEREST</b> |
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There were no declarations of interest in respect of the next agenda item.

County Councillors L. Corfield, M. J. Jones and J. Williams moved to the public seating area for the next item because they had not been at the last meeting where the item was discussed. County Councillor G Jones moved to the public seating area as he had not received taxi licensing training.

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| <b>4. TAXI LICENSING FEES</b> |
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The Committee received the update report which provided details of a comment received from the trade during the consultation. The Committee considered the comments and the officer's response.

| <b>RESOLVED</b>  | <b>Reason for decision</b>   |
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| <p><b>1. That the proposed taxi fees, as reported on 5th December 2019 to come into effect on 1st April 2020.</b></p> <p><b>2. A review of taxi fares be undertaken to assess the need for a new table of fares.</b></p> | <p><b>1. To enable a new compliant fee to be set for licences issued under The Local Government (Miscellaneous Provisions) Act 1976.</b></p> <p><b>2. To ensure the table of fares are deemed appropriate.</b></p> |

County Councillors G Jones and M. J. Jones resumed their seats in the Committee.

**Planning**

**5. DECLARATIONS OF INTEREST**

- (a) There were no declarations of interest.
- (b) County Councillor M. J. Jones requested that a record be made of his membership of Churchstoke Community Council where discussion had taken place of matters for the consideration of this Committee and that he had not taken part.
- (c) County Councillor G. Williams (who is a member of the Committee) declared that he was acting as 'local representative' in respect of application 19/0052/FUL.
- (d) The Committee noted that no Member (who is not a member of the Committee) would be speaking as the 'local representative' in respect of any application on the agenda.

**6. PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE**

The Committee considered the report of the Head of Property, Planning and Public Protection (copies filed with the signed minutes).

6.1 Updates

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

In respect of the following application County Councillors L Corfield, M.J. Jones and J Williams moved to the public seating area as they had not attended the previous meeting. County Councillor G. Williams moved to the public seating area as he had acted as the local representative for the application at the previous meeting.

6.2 19/0052 FUL Land at Maes Y Cae, Dissersh, Builth Wells, Powys

**Grid Ref:** E: 306058 N: 256061

**Valid Date:** 11/01/2019

**Community Council:** Dissersh and Trecoed Community Council

**Applicant:** Mr Stuart Bridgewater

**Location:** Land at Maes Y Cae, Dissersh, Builth Wells, Powys

**Proposal:** Erection of rural enterprise dwelling, installation of sewage treatment plant and all associated works.

**Application Type:** Full Application

The Committee received the update report, which contained the reasons for voting against the officer's recommendation submitted by the Members who had voted against refusal. The Solicitor explained that as the Committee voted against refusal at the last meeting a positive vote for or against the application was now required.

Comment was made that the officers had not provided any evidence against the reasons submitted by those members who had voted against refusal. In response, the Professional Lead reminded the Committee that regard must be taken of the Local Development Plan, relevant policies and TAN 6. Officers had considered the reasons submitted by the Members for voting against the officer's recommendation but they were still of the opinion that they had not received sufficient justification of the need for a dwelling at this site. Therefore, the officers confirmed their original recommendation for refusal still stood. The Solicitor advised that functional need was a material consideration but if the Committee voted for the application they would be "setting the bar very low".

It was noted that the agricultural building was used for storage and was not used for the fabrication business and as a result there was no need to live on site. Comment was made that the Committee needed to bear in mind, for all applications, how they related to the use of land and should not consider the desires of the individual applicants. The Committee had to stick to the rules that everyone can understand.

It was moved and duly seconded to approve the application and this was lost on the vote.

| <b>RESOLVED:</b>                        | <b>Reason for decision:</b>   |
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| <b>That the application be refused.</b> | <b>Insufficient information has been submitted to support the principle of a new rural enterprise dwelling in the open countryside and as such the proposal fails to comply with policies SP6 and H1 of the Powys Local Development Plan (2018), Technical Advice Note 6 - Planning for Sustainable Rural Communities (2006) and Planning Policy Wales (10th Edition, December 2018).</b> |

In response to a question, the Solicitor advised that the correct procedures had been followed. At the last meeting the Committee voted against the officer's recommendation of refusal. Voting against refusal does not constitute a positive vote of approval. The second stage, was to seek reasons for approval from those Members that voted against refusal and then the Committee had to vote for or against approval based on these reasons.

County Councillors L. Corfield, M. J. Jones, G. Williams and J. Williams resumed their seats in the Committee.

6.3 19/1734/FUL Land Adjacent to Waverleigh, Clyro, Hereford, Powys, HR3 5SE

**Grid Ref:** E: 321208 N: 243803

**Valid Date:** 31/10/2019

**Community Council:** Clyro Community Council

**Applicant:** Mr & Mrs Cooper-Lally

**Location:** Land Adjacent to Waverleigh, Clyro, Hereford, Powys, HR3 5SE

**Proposal:** Erection of a dwelling and all associated works (Resubmission of 18/0840/FUL

**Application Type:** Full Application

In response to questions, the Built Heritage Officer advised that in the previous application the dwelling was located in the middle of the site and did not reflect the vernacular of the village. She had considered the current design and location of the dwelling on the edge of the conservation area and did not object to the development subject to conditions.

It was moved and duly seconded to approve the application as recommended by the officer.

| <b>RESOLVED:</b>  | <b>Reason for decision:</b>   |
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| <b>that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes.</b> | <b>As officer's recommendation as set out in the report which is filed with the signed minutes.</b> |

County Councillor R. Williams arrived at the meeting.

6.4 19/1798/REM Development at Land Adjoining Fir House, Churchstoke, Montgomery, Powys,

**Grid Ref:** E: 327554 N: 293963

**Valid Date:** 30/10/2019

**Community Council:** Churchstoke Community Council

**Applicant:** Powys County Council

**Location:** Development at Land Adjoining Fir House, Churchstoke, Montgomery, Powys,

**Proposal:** Section 73 application to vary condition no. 2 attached to outline approval P/2016/0721 for up to 45 dwellings to allow extension of time for further 3 years to submit reserved matters application

**Application Type:** Removal or Variation of Condition

It was moved and duly seconded to approve the application as recommended by the officer.

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| <b>RESOLVED:</b><br>that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes. | <b>Reason for decision:</b><br>As officer's recommendation as set out in the report which is filed with the signed minutes. |
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6.5 19/1886/DIS Abermule Business Park, Abermule, Newtown, Powys, SY15 6NU

**Grid Ref:** E: 315775 N: 294250

**Valid Date:** 15/11/2019

**Community Council:** Abermule and Llandyssil Community Council

**Applicant:** Powys County Council

**Location:** Abermule Business Park, Abermule, Newtown, Powys, SY15 6NU

**Proposal:** Discharge of condition 9 from planning approval P/2018/0587 (Full) in respect of a remediation scheme

**Application Type:** Discharge of Condition

In response to questions, the Senior Contaminated Land Officer advised that if the contractor found any issues on site they would need to report these to the Council. The Principal Planning Officer advised that if there are concerns about the site they should be raised with officers.

It was moved and duly seconded to approve the application as recommended by the officer.

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| <b>RESOLVED:</b><br>that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes. | <b>Reason for decision:</b><br>As officer's recommendation as set out in the report which is filed with the signed minutes. |
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6.6 19/1943/TRE Rock Park, Llandrindod Wells, Powys, LD1 6AE.

**Grid Ref:** E: 305578 N: 260937

**Valid Date:** 26/11/2019

**Community Council:** Llandrindod Wells Town Council

**Applicant:** Powys County Council

**Location:** Rock Park, Llandrindod Wells, Powys, LD1 6AE

**Proposal:** Application to fell three oak trees within a conservation area

**Application Type:** Works to trees in Conservation Area

In response to a question, the Planning Officer advised that a condition could only be added to any approval if there was a Tree Protection Order on the trees. The Professional Lead Development Management advised that if the Committee was minded to approve the application an advisory note requesting the planting of replacement trees could be added to the approval.

It was moved and duly seconded to approve the application as recommended by the officer.

| <b>RESOLVED:</b>   | <b>Reason for decision:</b>   |
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| <b>that the application be granted consent, subject to the conditions set out in the report which is filed with the signed minutes with an advisory note requesting the planting of replacement trees.</b> | <b>As officer's recommendation as set out in the report which is filed with the signed minutes.</b> |

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| <b>7.</b> | <b>DECISIONS OF THE HEAD OF PROPERTY, PLANNING AND PUBLIC PROTECTION ON DELEGATED APPLICATIONS</b> |
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The Committee received for information a list of decisions made by the Head of Property, Planning and Public Protection during the period between 27 November, 2019 and 7 January 2020. The Committee noted that a number of applications which had been considered by the Committee were included on the list. The Professional Lead Development Management advised that these would be checked and amended to show them correctly.

The Professional Lead Development Management left the room due to a prejudicial interest in the first appeal decision.

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| <b>8. APPEAL DECISIONS</b> |
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The Committee received a copy of the Planning Inspectorate's letters regarding the following appeals:

Application 19/0427/AGR - The Slangs, Cascob, Presteigne LD8 2NT. The Committee noted that the Inspector had upheld the appeal. The Committee noted that the Inspector had refused an application for costs in respect of this appeal.

Concerns were raised in that the Inspector had included a condition that a suitably qualified archaeological contractor be present when groundwork was being undertaken and yet the site had already been cleared. The Principal Planning Officer had raised this issue with the Inspector and would also contact CPAT for an update.

The Professional Lead Development Management returned to the meeting.

Application 19/0236/FUL - Camp Farm, C2052 from fork at Pullpidwr to fork near Ael-Y-Bryn, Llandyssil, Montgomery SY15 6LU. The Committee noted that the Inspector had dismissed the appeal.

The Professional Lead Development Management advised that a site visit would be made at the next meeting.

**County Councillor K Lewis (Chair)**

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**Planning, Taxi Licensing and Rights of Way Committee**  
**6<sup>th</sup> February 2020**

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:**

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

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| <p><b>P/2017/0754</b></p> <p>Caersws Community</p> <p>E: 302533 N: 292267</p> <p>01.12.2017</p> | <p>Outline: Proposed housing development for 41 residential units, sheltered housing proposal and construction of a bus layby</p> <p>Land at Penyborfa, Carno Road, Caersws, Powys, SY17 5JA</p> <p>Messrs G &amp; A Jarman</p> <p><b>Recommendation:</b><br/>Conditional Consent – subject to a S106 agreement</p> |
| <p><b>19/1741/FUL</b></p> <p>E: 321435 N: 243742</p> <p>25.10.2019</p>                          | <p>Full: Application for residential development and associated works</p> <p>Land off Kilvert View, Cleirwy, Hereford, Powys</p> <p>Powys County Council</p> <p><b>Recommendation:</b><br/>Conditional Consent</p>  |

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| <p><b>19/0494/OUT</b></p> <p>Welshpool Community</p> <p>E: 324280 N: 308965</p> <p>26.03.2019</p> | <p>Outline Application (with all matters reserved): Erection of a restaurant (class A3 use), formation of vehicular access roadway, parking area and all associated works together with demolition of 1 dwelling and associated buildings</p> <p>Land at Rhallt View and Tan yr Allt View, Buttington, Welshpool, SY21 8SR</p> <p>Delves &amp; Co</p> <p><b>Recommendation:</b><br/>Conditional Consent</p> |
| <p><b>19/1873/FUL</b></p> <p>Rhayader Community</p> <p>E: 296918 N: 268791</p> <p>05.12.2019</p>  | <p>Full: Construction of new mobile classrooms to provide 3+ Early years facility</p> <p>Rhayader C in W School, Rhayader, Powys, LD6 5LT</p> <p>Powys County Council</p> <p><b>Recommendation:</b><br/>Conditional Consent</p>   |
| <p><b>19/1955/FUL</b></p> <p>Llandrindod Wells Community</p> <p>18.12.2019</p>                    | <p>Full: Erection of a single storey front extension to create a new reception hall and all associated works</p> <p>County Hall, Spa Road East, Llandrindod Wells, Powys LD1 5LG</p> <p>Welsh Government</p> <p><b>Recommendation:</b><br/>Conditional Consent</p>  |

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| <p><b>19/2092/DIS</b></p> <p>Newtown and Llanllwchaiarn<br/>Community</p> <p>E: 310380 N: 291385</p> <p>20.12.2019</p> | <p>Discharge Of Condition: Application to discharge conditions 17, 18 and 22 of planning approval P/2017/1274</p> <p>Sites A, B and C, Nr Riverside &amp; Nr. Latham Park, Newtown, Powys</p> <p>Mr Stuart Owen</p> <p><b>Recommendation:</b><br/>Conditions are discharged</p> |
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# 4.2

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

**Application Number:** P/2017/0754 **Grid Ref:** E: 302533  
N: 292267  
**Community Council:** Caersws Community **Valid Date:** 01.12.2017

**Applicant:** Messrs G & A Jarman

**Location:** Land at Penyborfa, Carno Road, Caersws, Powys, SY17 5JA.

**Proposal:** Outline: Proposed housing development for 41 residential units, sheltered housing proposal and construction of a bus layby

**Application Type:** Outline planning

### The reason for Committee determination

#### Consultee Responses

| Consultee | Received |
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| Natural Resources Wales (North) DPAS | 10th January 2018 |
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Given the extensive history of dialogue between NRW, its predecessors and the developer's consultant, David Floyd, we request that the following are addressed by the applicant before we can provide a detailed response to the content of the FCA and whether it is an accurate assessment of the risks and consequences of flooding.

There has been no submission of modelling files to support the application. Please bear in mind that since the application is based on existing ground levels, we will only consider a model for the "Existing" scenario. We will not make comments on the "Future" scenario The developer should confirm the FEH and HEC-RAS zip files submitted to NRW's Dave Tarrant via email on the 23rd May 2017 at 15:55 are the correct files to support this application and FCA. These files will only be reviewed, subject to receipt of the developer's confirmation. The developer should confirm his intention as to whether the Additional checklist responses submitted to NRW on the 2nd May 2017 at 19:20 (to Dave Tarrant via email) should be reviewed to support this application. Your local planning authority may require that this information is submitted formally, as part of the planning application process The developer should confirm the FCA dated May 2017, version 4.1, is the most up to date version that contains all the relevant text to support the modelling and hydrology calculations In the May 2017 submission, there was no inclusion of mapped GIS outlines. The developer's agent

should send us their mapped outlines in GIS format for at least the 1 in 100 year, 1 in 100 plus CC and 1 in 1000 year events, other scenarios are welcomed. We acknowledge the application is using the NRW Flood Zones, however, the HEC-RAS mapped outlines need to be included to support the 1D modelled information. Two additional figures should be created, showing the Proposed Development Layout, with the HEC-RAS mapped outlines for the 1 in 100 year and 1 in 1000 year scenarios. These can be submitted as image files, or as a picture within a document. We acknowledge the modelling submission is to support the application only and is not a Flood Map Challenge. As such, part of the site will remain within C2 of the DAM associated with TAN15. As discussed over the phone last week, we would therefore, welcome your authority's view with reference to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The developer should be made aware our internal hydrology guidance has been updated in December 2017 (attached). We are providing this for information. The developer's hydrology estimates will be sent to our internal Hydrology team for review. We acknowledge the flow estimates are precautionary. The review is purely for completeness, following the updated guidance. We will formalise a response on all relevant constraints identified by NRW for this consultation once clarifications and additional information is received.

*Additional Correspondence received 22nd January 2018*

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 20 December 2017 and also for your confirmation on 22 January, that you will be following advice as set out within TAN15. Please consider this correspondence as our formal response to the planning application. We have significant concerns with the proposed development as submitted. The application site lies partially within Zone C2, as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the site to be partially within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability combined fluvial flood outlines of the River Carno and Manthrig Brook. The developer is not intending to demonstrate that part of the site to be developed is outside of Zone C2. As such, and in view of your confirmation that you will be following advice as set out within TAN15, and Welsh Government Policy, we expect that the application will be refused. Notwithstanding any refusal on Policy grounds (para 6.2 of TAN15), the applicant has submitted insufficient information to demonstrate that the site could be developed in accordance with the acceptability criteria within TAN15 (A1.14 and A1.15). Only if your authority would be minded to consider the application would we advise the applicant to submit further information, as detailed in the following requirement, we would object if the scheme does not meet this requirement: Requirement: The applicant submits further information, clarification and confirmation in order to demonstrate that the site can be developed in accordance with TAN15 criteria. Flood Risk We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone

C2 (paragraph 6.2 of TAN15). A Flood Consequences Assessment (FCA) (Ref Report 20117 Rev 4.1, dated May 2017, compiled by David Floyd (Consultant)) has been submitted with the planning application, and this has been informed by hydraulic modelling work. Due to the complex nature of the risk and consequences of flooding associated with the location, nature and scale of the development proposed as part of this planning application, we wish to undertake a more detailed review of the hydraulic modelling information. Prior to undertaking this detailed review (and contrary to Para. 7 of the Pre-Application Consultation Report "C Wozencraft AGENT Messrs A +G Jarman Nov 2017)

we cannot confirm that the submitted FCA is acceptable. Provisionally, we advise that 9 dwellings, 5 flats (part in dry island) and possibly a service building are within the 0.1% annual probability flood outline - Zone C2 of the DAM referred to in TAN15. The developer has provided information with the intention merely to demonstrate that the site can be developed in accordance with TAN 15 criteria. The developer is not intending to demonstrate that part of the site to be developed is outside of Zone C2. The following requirement should only be considered by the applicant if your authority is minded to approve the application contrary Welsh Government Policy. Requirement: The applicant submits further information, clarification and confirmation in order to demonstrate that the site can be developed in accordance with TAN15 criteria The following must be read in conjunction with our letter to David Floyd (CAS-13378- N2K6 dated 8 July 2016) in response to his e-mail of 29 June 2016 (both attached), as options discussed in that letter are broadly similar to options discussed in the current submitted FCA. Given the extensive history of dialogue between NRW, its predecessors and the developer's consultant, David Floyd, we request that the following are addressed before we can provide a detailed response to the content of the FCA and whether it is an accurate assessment of the risks and consequences of flooding. Numerous versions of the FCA/model have been submitted. To avoid confusion, we would ask that the developer uploads the latest version of the FCA/model to our Sharefile system at <https://naturalresourceswales.sharefile.eu/r-rf03b4990d22406ba>. This will need to include the following: In the May 2017 submission, there was no inclusion of mapped GIS outlines. The developer's agent should send us their mapped outlines in GIS format for at least the 1 in 100 year, 1 in 100 plus CC and 1 in 1000 year events, other scenarios are welcomed. We acknowledge the application is using the NRW Flood Zones, however, the HEC-RAS mapped outlines need to be included to support the 1D modelled information. Two additional figures should be created, showing the Proposed Development Layout, with the HEC-RAS mapped outlines for the 1 in 100 year and 1 in 1000 year scenarios. These can be submitted as image files, or as a picture within a document. We acknowledge the modelling submission is to support the application only, and is not a Flood Map Challenge. As such, part of the site will remain within C2 of the DAM associated with TAN15. As the submission would not remove the area from C2 then this may also have implications for the sale of the dwellings and the ability of future home- owners obtaining insurance (TAN15 2.7 - 2.9).

Informative The developer should be made aware our internal hydrology guidance has been updated in December 2017 (attached). We are providing this for information and

no action is required on this aspect. Surface Water Please be aware of the following in respect of NRW's involvement with Surface Water advice. The Welsh Government letter of 9 January 2014 to Chief Planning Officers confirms that the Local Planning Authority should "consult internally with colleagues fulfilling the role of Lead Local Flood Authority (LLFA) to determine whether surface water flood risk is an issue when considering allocations in local development plans or determining individual planning applications". In line with this letter and Section 8 of TAN15, where relevant, the LLFA, Highways Authority and/or Sewerage Undertaker should be consulted on the suitability of drainage proposals to ensure that development does not increase the risk of flooding elsewhere by loss of flood storage or flood flow route, or increase the problem of surface water run off (paragraph 13.2 Planning Policy Wales). In view of the concerns from local residents on the planning portal in respect of flooding and inadequate drainage, (including photographic evidence), your colleagues may be aware of existing drainage difficulties, which may be exacerbated, particularly given the scale of the proposals. Unless the development is situated within an Internal Drainage District (IDD), NRW will not advise developers and local authorities on; Surface water drainage from the site (discharging into a main river or an ordinary watercourse). For new outfall structures to main rivers a Flood Risk Activity Permit (FRAP) may be required from NRW. Pluvial flood risk where no watercourse is involved e.g. run off from the land, artificial drainage systems and ponding. The following comments should only be considered if the above Requirement in respect of flood risk has been met. Protected Species NRW holds several records of bat and otter within a 2 km radius of the proposal. The Preliminary Ecological Appraisal report (Protected Species Ecology Ltd) dated October 2014 submitted in support of the above application has identified some potential for bat and otter use of the linear boundary features of the site. NRW have no significant concerns with reference to bats and otters subject to the imposition of a suitably worded condition regarding the submission and implementation of an otter and bat Reasonable Avoidance Measure Scheme (RAMS), within any permission that the LPA is minded to grant. RAMS will address all potential issues of the development including associated works and following their implementation the proposals will not be detrimental to the maintenance of the favourable conservation status of any otter and bat populations using the site. We would expect RAMS to include, but not be limited to, the following: A site lighting plan. Security lighting must be installed in a way that minimise/avoid light spill in areas that could potentially be used by foraging and commuting bats (all tree lines and hedgerows surrounding the site) and otters (river corridor). Low level and low wattage, as well as low pressure sodium or high pressure sodium lamps, should be preferred to mercury or metal halide lamps. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers/otters from being trapped in open excavations and / or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include a) creation of sloping ramps to allow badgers to exit excavations; b) open pipework greater than 150mm outside diameter, being blocked off at the end of each working day. Construction works to be carried out during daylight hours only. Creation of a fenced off buffer area (roost protection area) separating the hedgerows and stream / ditch from the development site. No machinery or works to be carried out within the buffer zone. Foul Drainage On the understanding that connection of foul drainage is to be made to the public foul



drainage system, we have no comment to make on this aspect of the proposals. Waste Any waste excavation material or building waste generated during the course of the development must be disposed of satisfactorily and in accordance with Section 33 and 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes. All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-andreplacement-series/guidance-for-pollution-prevention-gpps-full-list/> The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under Environmental Permitting Regulations 2017. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site. If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes. Please do not hesitate to contact me if you require clarification on 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-anddevelopment/?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.

*Additional Correspondence received 28<sup>th</sup> March 2019*

Thank you for re-consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with amended site plans about the above, which was received on 06/12/2018.

Further to our previous letter referenced CAS-50394 dated 22nd January 2018, we have the following advice to provide.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet either of the following requirements. We would object if the scheme does not meet either of these requirements.

Requirement 1 - Amendment of site layout plan to show the dwellings to be out of the flood risk area

Following the revision of the site layout, we would require an amended FCA to demonstrate the proposal can comply with TAN15 over the lifetime of the development.  
Requirement 2 - Amendment of Flood Consequences Assessment

## Flood Risk

We have reviewed the amended site plans:

- o Amended red line boundary, unreferenced (received from the Planning Officer on 06/03/2019 by email)
- o Amended site layout plan titled 'Proposed Housing Development', undated, unreferenced (received from the Planning Officer on 06/03/2019 by email).

The amended plans show the proposal site to be partially within the C2 flood zone, as defined by the Development Advice Map referred to under TAN15 Development and Flood Risk (July 2004).

We note from discussions with the Planning Officer that the revised site layout plans have been drawn based on incorrect flood map data.

Requirement 1 - Amendment of site layout plan to show the dwellings to be out of the flood risk area

The applicants may provide a revised site layout plan showing the proposed site layout plan to be located out of the flood risk area. The amended site plan should consider future climate change projections at 25% for flood extent on the proposal site.

Based on the current submitted plans (referenced above), planning application proposes highly vulnerable development (residential). Our Flood Risk Map, which is updated on a quarterly basis, confirms the site to be partially within Zone C2 of the Development Advice Map (DAM) in TAN15 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability of fluvial flooding of the Afon Carno River.

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9 January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15). The justification tests in paragraph 6.2 of TAN15 do not apply to highly vulnerable development in Zone C2.

Notwithstanding this policy position, we have reviewed the Flood Consequences Assessment (FCA) (titled 'Carno Road, Caersws, Powys Flood Consequences Assessment' report 20115 dated November 2015 by David Floyd) has failed to demonstrate that the risks and consequences of flooding can be managed to an acceptable level in line with TAN15.

## Requirement 2 - Amendment of Flood Consequences Assessment

Following the revision of the site layout, we would require an amended FCA to demonstrate the proposal can comply with TAN15 over the lifetime of the development. The FCA needs to be revised to:

- 1) Provide a copy of the most recent flood modelling work for this site, which will require verification by our Flood Mapping & Data Management team. The modelling needs to employ improved 1D/2D modelling techniques to examine the effects of any works in the floodplain including mitigation. Please find a non-technical advice note provided by NRW's Flood Risk team attached to the same email as this letter. This is for informal advice only. We would welcome the opportunity to explain the flood risk constraints in more detail.
- 2) Include mapped outlines in GIS format for the 1 in 100 year, 1 in 100 year plus climate change and 1 in 1000 year events, and other scenarios are welcomed.
- 3) Two additional figures should be created showing the Proposed Development Layout, with the HEC-RAS mapped outlines for the 1 in 100 year and 1 in 1000 year scenarios. These can be submitted as image files, or as a picture within a document.
- 4) Consider ways of mitigating any adverse flooding impacts and flood risk improvement (reduction) works for the area, potentially by using natural flood risk management options.
- 5) Consider anecdotal information on historic flooding at the site.

The revised FCA would be evidence to demonstrate the amended site plan shows the proposed development to be out of the flood zone.

Should the amended FCA fail to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then we would object to this application. Guidance is available which contains technical advice and recommendations on preparing an FCA.

Please find a non-technical advice note provided by NRW's Flood Risk team attached to the same email as this letter.

### Surface Water

Please be aware of the following in respect of NRW's involvement with Surface Water advice.

The Welsh Government letter of 9 January 2014 to Chief Planning Officers confirms that the Local Planning Authority should "consult internally with colleagues fulfilling the role of Lead Local Flood Authority (LLFA) to determine whether surface water flood risk is an issue when considering allocations in local development plans or determining individual planning applications".

In line with this letter and Section 8 of TAN15, where relevant, the LLFA, Highways Authority and/or Sewerage Undertaker should be consulted on the suitability of drainage proposals to ensure that development does not increase the risk of flooding elsewhere by loss of flood storage or flood flow route, or increase the problem of surface water run off (paragraph 13.2 Planning Policy Wales).

In view of the concerns from residents on the planning portal in respect of flooding and inadequate drainage, (including photographic evidence), your colleagues may be aware of existing drainage difficulties, which may be exacerbated, particularly given the scale of the proposals.

Unless the development is situated within an Internal Drainage District (IDD), NRW will not advise developers and local authorities on;

- Surface water drainage from the site (discharging into a main river or an ordinary watercourse). For new outfall structures to main rivers a Flood Risk Activity Permit (FRAP) may be required from NRW.

- Pluvial flood risk where no watercourse is involved e.g. run off from the land, artificial drainage systems and ponding.

The following comments should only be considered if the requirements above on flood risk are addressed.

#### Protected Species

NRW holds several records of bat and otter within a 2 km radius of the proposal. The Preliminary Ecological Appraisal report (Protected Species Ecology Ltd) dated October 2014 submitted in support of the above application has identified some potential for bat and otter use of the linear boundary features of the site.

NRW have no significant concerns with reference to bats and otters subject to the imposition of a suitably worded condition regarding the submission and implementation of an otter and bat Reasonable Avoidance Measure Scheme (RAMS), within any permission that the LPA is minded to grant.

RAMS will address all potential issues of the development including associated works and following their implementation the proposals will not be detrimental to the maintenance of the favourable conservation status of any otter and bat populations using the site.

We would expect RAMS to include, but not be limited to, the following:

- o A site lighting plan. Security lighting must be installed in a way that minimise/avoid light spill in areas that could potentially be used by foraging and commuting bats (all tree lines and hedgerows surrounding the site) and otters (river

corridor). Low level and low wattage, as well as low pressure sodium or high pressure sodium lamps, should be preferred to mercury or metal halide lamps.

- o No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers/otters from being trapped in open excavations and / or pipe and culvers are submitted to and approved in writing by the local planning authority. The measures may include a) creation of sloping ramps to allow badgers to exit excavations; b) open pipework greater than 150mm outside diameter, being blocked off at the end of each working day.

- o Construction works to be carried out during daylight hours only.

- o Creation of a fenced off buffer area (roost protection area) separating the hedgerows and stream / ditch from the development site. No machinery or works to be carried out within the buffer zone.

### Foul Drainage

On the understanding that connection of foul drainage is to be made to the public foul drainage system, we have no comment to make on this aspect of the proposals. Please do not hesitate to contact us if you require further information or clarification of any of the above.

Our comments above only relate specifically to matters that are included on our consultation topics list (September 2018) which is published on our website: (<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). 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.

Advice for the Developer:

### Pollution Prevention

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>  
Waste

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under Environmental Permitting Regulations 2017. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated during the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

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.

*Additional Correspondence received 22<sup>nd</sup> November 2019*

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 17/09/2019, and for allowing more time to respond.

Further to our previous letter referenced SO09/GB/CAS-73511-G0R1 dated 28th March 2019, we have the following advice to provide.

We continue to have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met. Otherwise, we would object to this planning application.

Requirement 1: An updated Flood Consequences Assessment to be submitted to include all sources of flooding.

We are in receipt of a revised indicative layout (CW 6081.03 B1 dated September 2019) and revised Flooding Consequences Assessment (FCA) (Report 20119 Revision 1.2 dated September 2019).

In addition, local residents have submitted new photographic evidence of flooding on the proposed development site from March 2010, video footage and an eye witness account of the flooding event which affected the area on the 26th October 2019.

The photographs show a large proportion of the north east corner of the proposed development site being affected while the video footage shows elevated levels in Ditch C on the eastern boundary of the development site (as referred to in FCA), overland flows to the rear of Maesnant and Pendinas and flooding to and around properties across Carno Road.

To address this information, we advise the applicant amends the FCA to include an assessment of the flood risk from other sources (i.e. to include but not limited to, the areas shown in the photos and video referenced above). This will provide assurance

that the proposed development will remain safe during extreme flood events and that third parties will not be affected further.

We also advise that the Lead local Flood Authority (LLFA) is consulted to report on the perceived nature of flooding affecting The Meadows and Erw Hir and how this flooding may have affected the proposed development site, in particular the proposed eastern boundary development extent and the proposed Services Building (marked '3' on drawing CW 6081.03 B1). We advise that you liaise with Graham Astley.

In view of the above a meeting should be arranged between the LLFA, NRW and the Applicant, to be arranged by your Authority, to fully understand what the risks are to both the residents and the proposed development site, from all sources of flooding.

Other Matters Our comments above only relate specifically to matters included on our consultation topic list, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other environmental interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

*Additional Correspondence received 16<sup>th</sup> December 2019*

Thank you for re-consulting Cyfoeth Naturiol Cymru / Natural Resources Wales following a site visit on 04/12/2019 about the above.

Further to our previous advice letter referenced CAS-101334-W5Y7 dated 22/11/2019, we have the following advice to provide.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following conditions to the permission. Otherwise, we would object to this planning application.

Condition 1: There must be no built development, ground raising or recontouring of land and no structures erected within the recognised flood risk areas i.e. the areas shown as DAM C2 on drawing CW 6081.03 B1. This is to protect future occupiers from flooding and ensure that there is no increase in flood risk elsewhere to third parties.

Condition 2: Finished floor levels to be set 300mm above adjacent ground level, to provide an additional safeguard against flooding for future occupiers.

Condition 3: Details of a 'buffer zone' between the built development and the boundary of the area shown as DAM C2 on drawing CW 6081.03 B1 to be agreed in writing with the LPA. The buffer zone is intended to provide an additional safeguard against

flooding for future occupiers and to account for modelling 'uncertainty' by adopting a precautionary approach to the final layout of the built development.

Flood Risk 'We have been re-consulted on a revised indicative layout (CW 6081.03 B1 dated September 2019) and revised Flooding Consequences Assessment (Report 20119 Revision 1.2 dated September 2019).

Local residents have submitted new photographic evidence of flooding on the proposed development site from March 2019 (reportedly after removal of a gate / blockage from the channel of the Manthrig Brook). These photographs show a proportion of the north east corner of the site being affected (Referenced as 1 on the indicative layout plan).

Section 3.3.1 of the FCA has considered the risk of flooding to different parts of the proposed site and attempted to explain the primary causes. Whilst the presence of a stock gate in-channel may have contributed to depths of flooding, the recent submissions from residents, provides uncertainty on when this gate may have been removed.

We have considered the submitted photographs. It is unclear what magnitude of this flood event was and what the likely flood depths were.

We remain satisfied that the HEC-RAS hydraulic model compiled by David Floyd (Consultant Hydrologist) in support of the planning application has produced conservative outputs. As such, we are satisfied the outputs of the model are appropriate to inform the planning decision making process. However, as with all modelling studies, it is important to understand the level of "uncertainty" associated with the outputs, including, for example, the potential impact of the presence of in-stream blockages such as stock gates. Therefore, a suitably precautionary approach should be adopted where uncertainty exists.

We refer to our advice letter dated 22 November 2019 which referred to video footage and an eye witness account of the flooding event which affected the area on the 26th October 2019. We advised that a revised FCA should consider flood risk from other sources to provide assurance that the proposed development will remain safe during extreme flood events and that third parties will not be affected further.

We also advised that a site meeting would be beneficial to discuss the October 2019 event and how it affected Ditch C on the eastern boundary of the development site (as referred to in FCA). Such a meeting took place on 4th December 2019 between representatives from NRW, Lead Local Flood Authority, applicant, agent and consultant.

Following our site visit, it was concluded that a revised FCA would not be necessary in this instance, subject to reassurances by way of suitably worded condition and detailed drainage design to help ensure the long term functioning (water storage and conveyancing) of Ditch C to safeguard against increased risk to both development site and third parties. Opportunity should be taken to provide betterment by way of



increased capacity and ground lowering of the adjacent proposed path, i.e. a terraced channel.

It is our understanding that the Lead Local Flood Authority have already initiated further investigation into the October flood 2019 event. We also understand the flooding did not affect the application site and have committed to further liaison with affected properties and adjacent landowners regarding flood protection measures.

In consideration of the above, with reference to our letter SO09/GB/CAS-73511 - G0R1, dated 28th March 2019 and 22 November 2019, we advise as follows.

We can confirm that the highly vulnerable built development shown on the revised indicative layout is outside Zone C2 of the Development Advice Map (DAM). It should be noted, the blue line labelled as 'DAM C2' on drawing CW 6081.03 B1 is not actually Zone C2 but represents a more precautionary, composite flood extent of the published C2 outline, combined with the HEC-RAS model extreme outlines.

During the site meeting on 4th December 2019, David Floyd (consultant) sought clarification on the published flood map. We confirm that a formal flood map challenge has not been made and so, the published flood map will remain until a time that the new Wales Flood Map (circa Spring 2020) is published.

Consistent with our advice in July 2019, we advised that any future Flood Map alterations could affect the development proposals, although we acknowledge that the agreed flood extent on drawing CW 6081.03 B1 is precautionary.

We advise that if the Planning Authority is minded to grant permission for these proposals, they should secure, by means of formal planning conditions measures to protect the use and function of the floodplain areas for the lifetime of development. The conditions should ensure that: no built development or ground reprofiling takes place and no structures e.g. boundary fences and walls are constructed in the area shown to be at risk of flooding; and as additional safeguards, the finished floor levels of the dwellings are raised above the adjacent ground level and a 'buffer zone' is provided between the built development and the flood risk area.

#### Other Matters

Our comments above only relate specifically to matters included on our consultation topic list, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other environmental interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Access / Egress Safe access/egress is expected onto the Carno Road A470, although the published flood map indicates that the road could be affected during extreme events.

We are not the appropriate body to comment upon the operational effectiveness of such routes. It is for the LPA, in consultation with other appropriate bodies, to satisfy themselves that escape / evacuation is feasible and consistent with existing contingency incident measures in Caersws.

Surface Water The FCA includes reference to a surface water drainage strategy (Section 5.6.1). We are aware that Powys County Council, in its duty as the SuDS Approving Body (SAB) and Lead Local Flood Authority (LLFA), has been re-consulted in order to advise on the suitability of the drainage design, including techniques available to calculate surface water rates of discharge and to ensure that off-site risks are not increased due to this development proposal, as well as in relation to recent legislative changes requiring developers to obtain drainage approval from the SuDS Approving Body (SAB). NRW does not provide advice in this regard.

<https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

Historic and recent photos of flood events indicate that there are disconnected non-fluvial areas of water evident on the proposed development site. It is expected that the SAB will ensure all elements of surface and groundwater flooding are controlled on site.

During the site meeting of 4th December 2019, Graham Astley (Powys Lead Local Flood Authority) confirmed that Powys Highways have committed to investigate further the mechanism of flooding on 26th October 2019 and advise as to whether highway drainage maintenance/improvements are necessary or possible.

Graham Astley has also confirmed that he will make a more detailed response regarding surface water drainage and control measures to the Planning Authority.'

*Additional Correspondence received 16<sup>th</sup> December 2019*

Further to our previous advice letter referenced CAS-101334-W5Y7 dated 22/11/2019, we have the following advice to provide.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following conditions to the permission. Otherwise, we would object to this planning application.

Condition 1: There must be no built development, ground raising or recontouring of land and no structures erected within the recognised flood risk areas i.e. the areas shown as DAM C2 on drawing CW 6081.03 B1. This is to protect future occupiers from flooding and ensure that there is no increase in flood risk elsewhere to third parties.

Condition 2: Finished floor levels to be set 300mm above adjacent ground level, to provide an additional safeguard against flooding for future occupiers.

Condition 3: Details of a 'buffer zone' between the built development and the boundary of the area shown as DAM C2 on drawing CW 6081.03 B1 to be agreed in writing with the LPA. The buffer zone is intended to provide an additional safeguard against flooding for future occupiers and to account for modelling 'uncertainty' by adopting a precautionary approach to the final layout of the built development.

Flood Risk 'We have been re-consulted on a revised indicative layout (CW 6081.03 B1 dated September 2019) and revised Flooding Consequences Assessment (Report 20119 Revision 1.2 dated September 2019).

Local residents have submitted new photographic evidence of flooding on the proposed development site from March 2019 (reportedly after removal of a gate / blockage from the channel of the Manthrig Brook). These photographs show a proportion of the north east corner of the site being affected (Referenced as 1 on the indicative layout plan).

Section 3.3.1 of the FCA has considered the risk of flooding to different parts of the proposed site and attempted to explain the primary causes. Whilst the presence of a stock gate in-channel may have contributed to depths of flooding, the recent submissions from residents, provides uncertainty on when this gate may have been removed.

We have considered the submitted photographs. It is unclear what magnitude of this flood event was and what the likely flood depths were.

We remain satisfied that the HEC-RAS hydraulic model compiled by David Floyd (Consultant Hydrologist) in support of the planning application has produced conservative outputs. As such, we are satisfied the outputs of the model are appropriate to inform the planning decision making process. However, as with all modelling studies, it is important to understand the level of "uncertainty" associated with the outputs, including, for example, the potential impact of the presence of in-stream blockages such as stock gates. Therefore, a suitably precautionary approach should be adopted where uncertainty exists.

We refer to our advice letter dated 22 November 2019 which referred to video footage and an eye witness account of the flooding event which affected the area on the 26th October 2019. We advised that a revised FCA should consider flood risk from other sources to provide assurance that the proposed development will remain safe during extreme flood events and that third parties will not be affected further.

We also advised that a site meeting would be beneficial to discuss the October 2019 event and how it affected Ditch C on the eastern boundary of the development site (as

referred to in FCA). Such a meeting took place on 4th December 2019 between representatives from NRW, Lead Local Flood Authority, applicant, agent and consultant.

Following our site visit, it was concluded that a revised FCA would not be necessary in this instance, subject to reassurances by way of suitably worded condition and detailed drainage design to help ensure the long term functioning (water storage and conveyancing) of Ditch C to safeguard against increased risk to both development site and third parties. Opportunity should be taken to provide betterment by way of increased capacity and ground lowering of the adjacent proposed path, i.e. a terraced channel.

It is our understanding that the Lead Local Flood Authority have already initiated further investigation into the October flood 2019 event. We also understand the flooding did not affect the application site and have committed to further liaison with affected properties and adjacent landowners regarding flood protection measures.

In consideration of the above, with reference to our letter SO09/GB/CAS-73511 - G0R1, dated 28th March 2019 and 22 November 2019, we advise as follows.

We can confirm that the highly vulnerable built development shown on the revised indicative layout is outside Zone C2 of the Development Advice Map (DAM). It should be noted, the blue line labelled as 'DAM C2' on drawing CW 6081.03 B1 is not actually Zone C2 but represents a more precautionary, composite flood extent of the published C2 outline, combined with the HEC-RAS model extreme outlines.

During the site meeting on 4th December 2019, David Floyd (consultant) sought clarification on the published flood map. We confirm that a formal flood map challenge has not been made and so, the published flood map will remain until a time that the new Wales Flood Map (circa Spring 2020) is published.

Consistent with our advice in July 2019, we advised that any future Flood Map alterations could affect the development proposals, although we acknowledge that the agreed flood extent on drawing CW 6081.03 B1 is precautionary.

We advise that if the Planning Authority is minded to grant permission for these proposals, they should secure, by means of formal planning conditions measures to protect the use and function of the floodplain areas for the lifetime of development. The conditions should ensure that: no built development or ground reprofiling takes place and no structures e.g. boundary fences and walls are constructed in the area shown to be at risk of flooding; and as additional safeguards, the finished floor levels of the dwellings are raised above the adjacent ground level and a 'buffer zone' is provided between the built development and the flood risk area.

Other Matters

Our comments above only relate specifically to matters included on our consultation topic list, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other environmental interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Access / Egress Safe access/egress is expected onto the Carno Road A470, although the published flood map indicates that the road could be affected during extreme events.

We are not the appropriate body to comment upon the operational effectiveness of such routes. It is for the LPA, in consultation with other appropriate bodies, to satisfy themselves that escape / evacuation is feasible and consistent with existing contingency incident measures in Caersws.

Surface Water The FCA includes reference to a surface water drainage strategy (Section 5.6.1). We are aware that Powys County Council, in its duty as the SuDS Approving Body (SAB) and Lead Local Flood Authority (LLFA), has been re-consulted in order to advise on the suitability of the drainage design, including techniques available to calculate surface water rates of discharge and to ensure that off-site risks are not increased due to this development proposal, as well as in relation to recent legislative changes requiring developers to obtain drainage approval from the SuDS Approving Body (SAB). NRW does not provide advice in this regard.

<https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

Historic and recent photos of flood events indicate that there are disconnected non-fluvial areas of water evident on the proposed development site. It is expected that the SAB will ensure all elements of surface and groundwater flooding are controlled on site.

During the site meeting of 4th December 2019, Graham Astley (Powys Lead Local Flood Authority) confirmed that Powys Highways have committed to investigate further the mechanism of flooding on 26th October 2019 and advise as to whether highway drainage maintenance/improvements are necessary or possible.

Graham Astley has also confirmed that he will make a more detailed response regarding surface water drainage and control measures to the Planning Authority.'

*Additional Correspondence received 15<sup>th</sup> January 2020*

Just as clarification, the 'buffer zone' referred to in our letter is the area of land already designated on the proposed site plans (plans referenced CW6081.03 amendment B1

dated Sept. 2019 by Wozencraft Design Services) for recreational purposes. We have assumed the buffer zone to be the land to the north of the blue line marked on the plan. Our letter seeks to ensure this land is kept as functional floodplain. Designating this land for recreation purposes would ensure this. I hope this clarifies matters.

Environmental Health

21st December 2017

Thank you for your consultation in respect of this application. I can that Environmental Protection have no objection to this application.

*Additional Correspondence received 11<sup>th</sup> December 2018*

Thank you for the additional information, we have no further comment to make on this application

PCC-(N) Land Drainage

28th Jan 2019

10th May 2018

Thanks for consulting the Lead Local Flood Authority (LLFA). In response to your enquiry regarding the above mentioned application, the LLFA would make the following comments/recommendation.

Firstly, the LLFA would like to clarify that it has had no or negligible input to date in respect to this development proposal, particularly with reference to the progression of the three Flood Consequence Assessments (FCA) and the surface water drainage proposals. I would also add that where it is mentioned within the FCA and, the Design & Assess Statement, to the County Council's Drainage Officers involvement to previous discussions taking place, this was a one-off meeting held several years ago with the Applicant's Agent (at which Powys CC's Highway Officer was present), the discussions of which were limited to the general use of sustainable drainage systems and the good practise arrangements that would help manage surface water run-off from the proposed development site.

The LLFA notes that Natural Resources Wales (NRW) has responded to the Local Planning Authority (LPA) in respect to the flood risk issues and importantly the assessment of the FCA.

The following therefore focuses on surface water drainage but comment is made in respect to Land Drainage / Local Flood Risk, where the LLFA thinks it would be appropriate to do so.

#### Land Drainage / Local Flood Risk

Historic Ordnance Survey maps show a watercourse along eastern boundary of the site. As far as the LLFA can ascertain, this watercourse system has not been accounted for within the current FCA.

The minimum requirement for this site would be to allow for a 5 metre maintenance strip adjacent to any ordinary watercourse which would also allow for any overland flows. No buildings, structures, fences, planting or changing of contours shall take place within 5 metres of the top of the bank of any watercourse, which would also allow for overland flows, without prior permission of the LPA.

The LLFA is aware of local flood risk issues at Manthrig Lane, Caersws. It is extremely important that any new or re-development proposal within the Manthrig Brook catchment does not exacerbate or create a flood nuisance to any existing properties at Manthrig Lane or elsewhere.

The LLFA would recommend the LPA to follow the advice given by NRW.

Advisory: Any proposed alterations, interference or erection of any structure that affects an ordinary watercourse will require prior consent from Powys CC (as Lead Local Flood Authority), in accordance with Section 23 of the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010). Further information can be sought at: <http://www.powys.gov.uk/en/roads-transport-and-parking/ordinary-watercourses-applying-for-consent-for-works/>

#### Surface Water Drainage

Reference is made to surface water drainage under Item 13 - Assessment of Flood Risk on the Planning Application form, where it states surface water runoff is to be disposed through the use of Sustainable Drainage Systems and Soakaways. Further reference to the disposal of surface water drainage is mentioned within the Design & Access Statement (ref: CW 6081 OPA) prepared by Wozencraft Design Services (dated September 2017), over the use sustainable drainage systems to manage surface water run-off (clause 8.06).

The Executive Summary within FCA Report 20117 dated May 2017, states that all surface water from the future development will be managed within the site by appropriate SuDS measures. The FCA Report 20117 also states (clause 2.4) that the site is reported to be well drained and there were no signs of waterlogging away from the immediate confines of Manthrig Brook and surrounding ditched during site visits. However, from the various photographs the LLFA has recently received from local neighbours, it would seem that areas within the site do suffer surface water ponding (pluvial flooding). Displacement of this floodwater through the development of these areas can, if appropriate mitigation measures are not put in place, lead to greater flood risk elsewhere.

With regard to the earlier percolation tests carried out on the site, the LLFA would firstly point out that the test procedure undertaken is that for determining the design and installation of drainage fields for the use in wastewater treatment (BS 6297:2007+A1:2008) and not that for determining surface water soakaway designs, which generally follow BRE Digest 365 procedures or other good practice sustainable drainage guidance. However, the results do provide a reasonable indication of the sub-soil conditions across the site to assess whether or not soakaways or like sustainable drainage systems could be an effective means to dispose surface water run-off. From the evidence provided, it is apparent that not all areas within the site would allow successful use of soakaways or other sustainable drainage systems, particularly at test hole B where no porosity was found. The Report also indicates lower infiltration rates at test holes C and D, which are located in the north-east corner of the site and where it is proposed a surface water detention /attenuation basin could potentially be provided. The success of such a sustainable drainage feature in this location to manage surface water run-off would therefore be limited due not only to the poor good conditions but also due to the fact that this area forms part of the flood storage area of the Manthrig Brook catchment and as such the effectiveness of a soakaway or other forms of sustainable drainage features will be ineffective or compromised when inundation takes place. The generally requirement of TAN15 is to manage surface run-off on site and not increase flood risk elsewhere.

For areas in the vicinity of test holes A and E, better infiltration opportunities are apparent and therefore such locations would be more conducive to the use of soakaways and other such sustainable drainage features.

No surface water drainage details/drawings have been submitted and it is therefore difficult to envisage how or where the various sustainable drainage features could be sited within the current layout arrangement, taking into account their proximity to any new building or road.



The site is classed as Greenfield. Any proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 - Development and Flood Risk and good practice drainage design such as Welsh Government "Recommended non-statutory standards for sustainable drainage (SuDS) in Wales - designing, constructing, operating and maintaining surface water drainage systems" dated January 2017 (<http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>).

The general soil type for the site location is described as being 'loamy and clayey floodplain soils with naturally high groundwater' and are described as naturally wet. Soakage in this type of soil structure will be difficult to achieve and therefore winter waterlogging will more than likely result in very wet ground conditions across the site.

The use of sustainable drainage techniques and or soakaways is recommended, however, it will be extremely challenging to find a suitable SuDS solution, particularly in those areas where there is no porosity and where the site will flood. The LLFA does not recommend any off-site surface water disposal due to flooding downstream, unless it can be demonstrate that there will be no detrimental effect.

The LLFA has significant concerns with the proposed development as submitted. Insufficient information has been submitted and unless the applicant can demonstrate that surface water run-off can be managed within the constraints of the site and, importantly, not exacerbate or create a flood nuisance on site or elsewhere, then the LLFA would recommend that the applicant withdraws the application or the LPA refuse the application until such time these matters can be overcome.

*Additional Correspondence received 25<sup>th</sup> January 2019*

I refer to the above mentioned Planning Application and, in particular, the surface water drainage strategy (v2) prepared by Sumner Consultancy Ltd.

Having examined the submitted proposals in detail, the drainage proposals are considered acceptable. They demonstrate that surface water run-off can be managed on this proposed development site and follow relevant best practices. This is in align with Powys LDP (2011 - 2016) requirements on the use of sustainable drainage systems.

The submission also indicates there is further opportunity at detailed design stage to introduce permeable paving for the adopted roadways, which will not only lessen then need for attenuated storage but also improve water quality objectives.

Matters regarding protecting/enhancement of the watercourse located along the eastern boundary will need to be addressed prior to commencement on site and therefore this matter will need to be approved at detailed design stage.

Issues regarding development and floodplains has been addressed by others (Natural Resources Wales) at an earlier stage.

*Additional Correspondence received on 17<sup>th</sup> December 2019*

Apologies for the delay in getting back to you.

As indicated in our earlier response dated 25.01.2019, the LLFA consider the drainage principles put forward in the drainage strategy (version 2) prepared by Sumner Consultancy Ltd, are deemed acceptable for this site.

The strategy demonstrates that surface water run-off can be managed on this proposed development site and follow relevant best practices. This is in align with Powys LDP requirements on the use of sustainable drainage systems.

The submission also indicates there is further opportunity at detailed design stage to introduce permeable paving for the adopted roadways, which will not only lessen then need for attenuated storage but also improve water quality objectives.

Matters regarding protecting/enhancement of the watercourse/ditch located along the eastern boundary will need to be addressed at detailed design stage.

I would point out that as the outstanding matters for this planning application are being dealt with on or after the 7<sup>th</sup> January 2020, the surface drainage proposals for this development will need to conform with the National Standards and approved by the SAB. I would be grateful if you could remind the Applicant of these requirements.

Community Council

*Response received 6th January 2018*

Caersws Community Council called for an extraordinary meeting on Friday 5th January 2018 in order to discuss the above development and welcomed input and opinions from local residents, many of whom also attended the meeting. The community council were unanimous in their decision to object to the above planning application on the basis of the

points listed below.

## Flooding

The main objection that Caersws Community Council has over this application relates to the issue of flooding. The Flood Assessment could be stated as not fit for purpose. Paragraph 2.4 for example states that there is "no sign of water logging" when in reality local residents and Community Councillors have historical and recent experiences of the standing water in fields in that area and flooding from the Manthrig Brook. It is well known locally that the Manthrig Brook cannot empty into the River Severn due to it already being at capacity at the point the brook reaches it. The River Severn therefore cannot alleviate the Manthrig Brook of excess water resulting in flooding.

The percolation tests do not give any information on when they were performed or the prevailing conditions at the time. The Sustainable Urban Drainage System (SuDS) relies on these tests to suggest that soakaways are viable on the site and propose the use of rainwater butts and individual soakaways on individual properties. The consensus is that this would not be sufficient. Also, who would be responsible for the maintenance of these soakaways and water butts? The plan also relies on riparian owners to clear culverts and ditches which is not suitable for this level of development and there are already existing problems with this involving Manthrig Brook.

The thrust of the report seems to be on protecting the new properties but fails to reassure up and down stream residents over either runoff or the impacts on foul drainage and sewage. The new houses are shown to be built above road level alleviating the risk of flooding to the new properties but what will be done to alleviate the flooding to current residents in the area who will inevitably see an increase to current flooding problems due to the extra run off from 50 properties. Caersws Community Council would challenge the assertion that the development will have no impact on other properties and would emphasise that both the Community Councillors and local residents' local knowledge regarding this issue backs this up. Property owners in the immediate vicinity of the development and downstream on the Manthrig Brook running into the centre of Caersws village are increasingly worried about the extra flood risk created and the risk status imposed on them by their insurers if this development takes place.

The Community Council would demand that additional details should be added to the plan stating there would be regular and on-going monitoring of the development into the future with regard to its impact on other properties, and that the developer takes on future liability for this monitoring and for any impacts on neighbouring properties.

## Carno Road/A470

The entrance/exit for the site onto the main trunk road has two issues, disputed ownership of the strip of land, including entrance and bus stop, and safety for road users and pedestrians. The residents of The Firs have stated that the ground where the entrance and bus stop are located on the plans are owned by them, also that no communication has been received by them from the developers relating to this.

Given the history of speeding and accidents on the Carno Road (A470) any development without extension of speed limits (30mph) out beyond the site, additional white lining and traffic calming measures would be totally unacceptable as a risk to the community. Siting of the bus bay on the opposite side of the A470 is also high risk for users of the services and is particularly dangerous as it seems the single bay is expected to serve buses in both directions. Turning buses in and out of the site would still be a road traffic risk but would arguably be safer for pedestrians, notably, school children and the elderly, using the service.

## Density of Development and Concerns over Infrastructure

Although in favour, in principle, of a development in Caersws, the Community Council would query whether 50 homes in this area is too high density both for the area allocated and for Caersws as a whole. There are already well documented parking issues within Caersws and the worry would be that these would be further aggravated along with a potentially negative impact on the local amenities. There is also no opportunity for any offsite parking near to the development.

Caersws Community Council would also query whether the current sewerage system in the village has the capacity to take this size of development.

Concerns have also been raised as to whether the density of housing is appropriate for the character of this side of the village, concerns are that the number of properties suggested are not in keeping with the current character of this part of the village and the point that a different site nearer the school end of the village would be a more appropriate area.

In light of the fact that there are empty flats in other areas of the village such as Plas Maldwyn, questions have been asked as to whether the flats included in this scheme are necessary and therefore how appropriate this development is for local needs.

## Landscape

Caersws Community Council require further information for proposals for landscaping and biodiversity mitigation. Given the potential flooding issues the Community Council would

expect to see the proposals for SuDS rigorously enforced.

### Community Infrastructure

Wider infrastructure improvements should also be added to this proposal in order to alleviate any issues that may arise with such a large development. With the current absence of a Community Infrastructure Levy, the Community Council anticipate that these would occur through a Section 106 agreement. Speed limit reductions and traffic calming measures should be put in place before development work begins to mitigate against increased road risks associated with construction traffic on such a busy and dangerous stretch of road.

These infrastructure improvements should include:

lower speed limits (previously mentioned), extending the 30mph zone beyond the new development and installing automatic speed awareness signage;

improved pedestrian access to the village of Caersws, extending and upgrading the pavement from the development into the village;

ensure the proposed lay-bys are suitable for use by public buses;

secure an agreement with the Council and local bus service provider to reinstate the loop from Caersws to Llanwnog and back to Caersws, using the new lay-by;

a financial contribution of £100k to the renovation of the existing play facilities in Caersws and local green infrastructure improvements, this funding to be allocated to Caersws Community Council via Powys County Council.

### Initial Comments to the Planning Proposal

Referring back to the initial proposal stage of this development; Caersws Community Council sent the following comments after being sent the basic proposal:

"The overwhelming feeling from the Council is that this is a good proposal for more homes in Caersws which is a good thing for the community. One query was that the Councillors would like to know what the highlighted piece of land on the opposite side of the road to everything else is?"

The above is the only communication sent regarding the proposal, however, the Design and Access Statement states the following:

"In view of the foregoing it is not surprising that the local County and Community Councillors, through their Planning Officers have expressed their disappointment at the lack of new housing provision in Caersws and are particularly anxious to see this site

developed."

The above comment made in the Design and Access Statement is at best a stretch from the comments actually made and at worst a fabrication.

The Community Council believes that a development would be good for Caersws; however, it must be the 'right' development in the 'right' location. The area of Llys Maldwyn would be an ideal siting for such a development as it is close to the school, road safety would be better in this area and the flood risk is not present. The Community Councillors would like to request that this site be revisited as a potential development site as they feel that this is a prime location for such a development without the grave concerns that the above application holds? Caersws Community Council asks that Powys County Council look into this and responds to the Community Council directly on this point.

Notice

There is an issue of whether proper notice of this application was given. Should a development of this size not have been notified in the press? It seems that residents living very close to this planned site were not notified directly. The submission and response dates also need to be challenged as they did not allow proper time for consultation and representation, especially given the Christmas and New Year holiday period. A further issue here seems to be that the initial submission was made on 1st December to PCC Planning Dept., why in that case was the Community Council only informed on 21st December?

Correspondence has been forwarded to me by a local resident between himself and you from 2nd January 2018 which states that you have not yet had chance to erect a site notice and once this is done a further 21 days consultation period will be undertaken. Could you please clarify the situation here and confirm exactly when the end of the consultation will be?

In addition a statement is made within the planning documentation that local residents were consulted over a period of years in relation to this application. However, local residents who have contacted the Community Council have stated that this is not the case, that they have received no information and no details of the proposed development has shown on searches for those who have bought properties situated very close to the development. The Community Council requests details of when these consultations took place, in what form and who they were sent to.

In conclusion Caersws Community Council strongly objects to this planning application as they believe it is the wrong type of development in a flood risk area and would certainly be classed as a 'Ribbon' development. Through the concerns of many local residents it

has been suggested that a public enquiry should be called to answer some of the anomalies brought about by this surprising application.

*Additional Correspondence received 27th December 2018*

Caersws Community Council called for an extraordinary meeting on Wednesday 19th December 2018 in order to discuss the above development in light of the recent amended documentation added to the planning application. The Community Council also welcomed input and opinions from local residents, many of whom also attended the meeting.

The Community Council first wish to confirm its disappointment that Powys County Council Planning Department did not confirm the additional documentation added to the application as has been requested and have asked why this was not sent out for consultation as it is a large development which many are concerned about.

It has been acknowledged by both Councillors and residents that yet again information for this development has been submitted to Powys County Council over the Christmas period possibly in the hope that the information will not be picked up by those who may object.

At the meeting this evening the community councillors unanimously agreed that the previous objection to this planning application, see attached letter originally sent on 6th January 2018, still stands as the new information provided still does not reassure that this development would not threaten the local areas of the doctors surgery, the highways and the village of Caersws with further flooding which they already suffer from on a regular basis. There is also a query as to whether SuDs are effective for an area which floods on a regular basis.

It was previously suggested that a public enquiry should be called to answer some of the anomalies brought about by this application. Powys County Council have not responded to this request to date. Local residents have also requested a site meeting which has not been arranged.

Caersws Community Council and local residents do not feel that Powys County Council are involving them enough through the stages of developments such as this and the timescales offered for responding to applications and any additional documentation are far too short. The Community Council would ask for the Planning Department to involve and up date those who are affected by planning applications in a more positive way and offer more time for them to digest and respond effectively to any applications going forward to Planning Committee.

In conclusion Caersws Community Council strongly objects to this planning application as they believe it is the wrong type of development in a flood risk area and the amended details do not rectify the inherent problems with a development of this size on this site.

*Additional Correspondence received 14<sup>th</sup> October 2019*

Caersws Community Council called for an extraordinary meeting on Tuesday 8th October 2019 in order to discuss the above development, following its resubmission with amended documentation. The Community Council also welcomed input and opinions from local residents, many of whom also attended the meeting.

At the meeting this evening the community councillors unanimously agreed that the previous objections to this planning application sent on 6<sup>th</sup> January 2018 and again on 19<sup>th</sup> December 2018, still stand as the new information provided still does not reassure that this development would not threaten the village of Caersws with further flooding.

Local residents and the Community Council have requested a site meeting which has been promised to them but not yet happened. Caersws Community Council would urge Powys County Council to honour this promise and make a site visit for this development a priority so that the Committee can see first-hand the issues that Caersws faces on a regular basis. In the mean-time the Community Council would ask for a response from Powys County Council as to the reason why this has not yet happened.

The above proposed housing development has raised serious concerns among local residents on the scale, density and location of this scheme. Officers appraisal for Committee previously placed much reliance on the inclusion for housing within the LDP which followed an application to PCC Cabinet some years ago to amend an earlier draft. It is contended that at the date of this amendment planning officers lacked knowledge of the extent of the flooding issues, had little regard to the C2 flood zone on the development site which has since been extended, had received no representations on the impact of flooding in Caersws village caused by the stream on the perimeter of the site and no knowledge of poor ground porosity for site drainage. Additionally, the site lies outside the village on a fast section of trunk

road, a classic example of ill-judged sporadic development. Officers have failed to address the serious concerns of residents and are now heavily influenced by its earlier designation for housing, a decision based on inadequate information and ill-informed members of Cabinet. At the date of the earlier amendment to include this site for housing, no opportunity was given to local residents to raise representations due to either inadequate or non-existent public notice and as a consequence officers were not in possession of all facts which would clearly now condemn this site as unsuitable for



development.

### Flood Zone

The site lies within a C2 flood zone and suffers flooding from the watercourse on the north east corner known as the Manthrig Brook. The stream lies within the wetland valley basin just north of Caersws village and collects ground drainage, surface water and feeder ditches from an extensive catchment of some 1500 acres (600ha), facts unlikely to have been brought to the attention of Planning Officers as witnessed by the need for recent modifications to the site layout plan to avoid the

now extended flood zone. It is noted also that a local resident living close to the proposed development site has been advised by Powys Planning Department not to submit an application to convert a building from a cow bay to a residential dwelling as it is in the flood plain.

### Poultry units

Unknown to Officers and members at the date of the LDP amendment, four large poultry units have been granted planning consent within the catchment area all discharging roof and site drainage efficiently to ditches feeding into the Manthrig Brook. Until these units are all constructed the full effect on flooding cannot be properly assessed.

### Ground Conditions

In regard to the site itself local residents are well aware of the poor ground conditions for drainage. An FCA report in 2017 describing the site as well drained with no signs of waterlogging brings into question the validity of this report commissioned by the applicants. This ground is incapable of absorbing not just

extreme rainfall with flash flooding but regular seasonal rainfall. This is naturally a wet field. The Manthrig Brook on the north east corner provides the only natural outlet for all surface water from hard surfaces, internal service roads and roof drainage if the scheme were to proceed. This site is quite unsuitable for development.

### Flooding in Caersws

Flooding in Caersws village from the Manthrig Brook is a longstanding problem and development of this site if permitted would discharge surface and stormwater through efficient site drainage directly to this watercourse with serious implications for residents downstream. Photographic evidence of the most recent flooding incident in Manthrig Lane at Caersws has been made available to the planning department. There is little prospect that the site P09 HA1 would have been seriously considered or approved by members on the LDP amendment if provided with this evidence. The Manthrig Brook passes close to

housing in the heart of the village and is channelled through a culvert beneath Main Street, which regularly fails to cope with the volume of water during periods of heavy and persistent rain. It is unlikely that investigations were carried out on the downstream effect from such a development

and this is evident from the later inclusion of attenuation systems into the development plans. Such systems in any event are unlikely to contain the volumes and force of water in full flood conditions. Hydrology reports commissioned and paid for by the applicants cannot be regarded as independent and in the absence of long-term studies and a degree of local knowledge they must be viewed with suspicion.

The current measures put in place within this plan are not sufficient and rendered useless for this site. It must be recognised that tree planting, SuDS schemes and holding ponds are only of use when the water is below ground level and not of any use when the water table is above ground level which is when the most severe problems occur at this site. It should be noted also that the Doctors surgery has expressed concern over the risk of increased flooding that this development poses as there are many infirm, elderly and vulnerable people who could be put at risk or not be able to get to the doctor when the flooding occurs which is already on a frequent basis.

It will be too late for Caersws residents if this scheme is approved and flooding intensifies as a consequence. If at that stage remedial works to the culvert become a necessity to alleviate flooding there will be a significant cost implication to the Highways budget. Have the Highways Department been consulted on this or is a replacement culvert the responsibility of the developer for which a specification of works is to be incorporated into the planning conditions?

#### House Insurance Issues

Insurance issues are a real and genuine problem as it affects housing and residents particularly in the Manthrig Lane and Main Street areas of Caersws. It is unlikely that the Planning Department was aware of the problems already experienced by local residents in the form of flood exclusive clauses, increased premiums and insurance refusals. It is of serious concern to home owners who would be further affected by the prospect of reduced house values and resale difficulties, quite apart from living with the worry of ongoing seasonal flooding. Once again this is directly relevant information unlikely to have been brought to the attention of members at the date of LDP amendment.

#### Trunk Road location

The site layout shows access onto the A470 trunk road, a route linking Cardiff in the south to Conwy in north Wales and is a busy main transport route now carrying increased traffic following the opening of the Newtown bypass. A percentage of drivers previously

looked for alternative routes to avoid long term congestion at Newtown. Site layout plans indicate an access, around half a mile from the village centre

directly onto the trunk road some distance outside the 30-mph restricted area and just outside the 40-mph sign. Beyond this zone for a distance of one mile a speed restriction of 50 mph has recently been introduced. It is understood that the Welsh Government Highways Directorate historically had a policy of advising or directing refusals on new accesses to trunk roads outside 30mph or other restricted zones on the grounds of safety. For the application site with 43 proposed dwellings with vehicles entering into and exiting from a fast-flowing straight section of the trunk road, where speed limits are rarely observed, must be regarded as a serious danger to drivers and pedestrians. Even with upgraded visibility splays this is clearly a safety hazard and additional measures such as filter lanes and traffic calming are

unlikely to be adopted for a trunk road. The danger for drivers entering and exiting this stretch of road is a great concern.

#### Planning Policy

From a planning view point scattered development on land lying outside the natural settlement boundary contradicts longstanding principles of good planning. Urban sprawl perhaps is too strong a definition in the context of a village community but the principles are the same and continues to be an undesirable practice, to be avoided wherever possible, even for sites not affected by flooding issues and trunk

road locations. Alternative site for Housing Prior to the current LDP the previous Unitary Development Plan identified housing land at the north east end of the village ideally situated on higher ground free from flooding away from the trunk road and the whole block formed a natural extension to existing housing areas. The site is shown cross hatched on the attached plan extracted from the County Council's earlier local plan and much of this land is in County Council ownership. The site is described as 'capable of providing a wide range of dwelling types including significant element of affordable housing for local people'. The locality is described as being within walking distance of the local school. Furthermore, the Council's written submission of which a copy is attached hereto describes "areas unsuitable for development because of flooding and drainage problems lying to the north and south of the village have been excluded from the development boundary". No works have been carried out to alleviate flooding to the north of the village and to most observers it is difficult to find reasoning for the removal a well suited block of land from the LDP and replace it with a difficult main road site outside of village on low lying ground which will inevitably add to flooding in Caersws. These are essential questions for which the planning department must provide answers.

## Conclusion

The Community Council submit this objection and information to Powys County Councils' portfolio holder for planning, to direct the Local Planning Authority to carry out a review of the Local Development Plan under Section 68A of the Planning and Compulsory Purchase Act 2004 and submit a Review Report in accordance with Section 69 of the Act to remove the application site P09 HA1 from the Local Development Plan.

An extraordinary meeting with Community Council was called for by the residents of Caersws so that these serious anomalous points and statements could be collated and a further investigation be made so as to determine whether or not any maladministration has taken place.

## Attached

Appendix 1 – Map – Manthrig Brook Catchment Area

Appendix 2 – Map – Adopted Local Development Plan

Appendix 3 – Map – Montgomeryshire Local Plan

Appendix 4 – Council's Local Plan Statement, Consultation Draft 1993

Appendix 5 – Map and Report showing the area in and around the flood basin

Caersws Community Council insists that Powys County Council make a site visit a priority for this development site and give due consideration to the objections of the Community Council along with the local residents who have provided detailed objections to this application.

## PCC-(N) Highways

9th February 2018

The County Council as Highway Authority

Wish the following recommendations/Observations be applied

Recommendations/Observations

This application should be Refused/Deferred.

## Reasons for Refusal/Deferral

This application although Outline includes 'Access' and 'Layout' as being determined at this stage. However, pertinent highway details have not been submitted for consideration, as follows.

No widths have been submitted for the proposed roads and/or footways.

No measurements have been submitted for the proposed turning heads, nor have any swept path drawings been submitted to evidence safe manoeuvres of a Refuse Vehicle.

No service strips have been proposed.

No details of gradients for the proposed footways and roads.

Clear forward visibility has not been indicated across the internal road layout.

The submitted drawing fails to show the proposed parking arrangements.

The application does not provide evidence of compliance with the Active Travel (Wales) Act 2013.

The number of parking bays for the Retirement/Sheltered Housing development needs to be justified in relation to the number of available beds, staff, visitors and deliveries.

The surface water drainage for the proposed carriageways along with the proposed outfall needs to be shown on plan.

No details have been submitted regarding the proposed traffic calming measures, raised tables or street lighting.

The Highway Authority request that revised drawing are submitted, which address the above points.

Additional Correspondence received 17th April 2018

The County Council as Highway Authority

Wish the following recommendations/Observations be applied  
Recommendations/Observations

It is noted that the applicant has changed the application to remove 'site layout' as a matter to be considered at this time, the Highway Authority (Powys County Council) therefore would like to add the following comments.

The site layout, demonstrates that the potential development is likely to be of a scale that will require an internal access road to be built to adoptable standards. It is therefore considered appropriate to advise the applicant at this stage that any future reserved matters application would need to include an appropriate highway layout and drainage strategy to meet those standards. The applicant is further advised that Advanced Payment Code Notices in line with legislation within the Highways Act 1980, will be served as and when building regulation approval is granted on any of the proposed dwellings.

*Additional Correspondence received 19<sup>th</sup> November 2019*

The County Council as Highway Authority

Wish the following recommendations/Observations be applied

Recommendations/Observations

The Highway Authority object to this application for the following reasons;

The Highway Authority (HA) understands that the applicant wishes for Layout to be determined at this stage and has therefore submitted drawing number CW6081.03 Rev B to show the layout.

It is noted that this drawing states "indicative layout only", however, as layout is being considered, the HA have assessed the submitted layout and make reiterate our previous concerns.

- No widths have been submitted for the proposed roads and/or footways.
- No measurements have been submitted for the proposed turning heads, nor have any swept path drawings been submitted to evidence safe manoeuvres of a Refuse Vehicle.
- No service strips have been proposed.
- No details of gradients for the proposed footways and roads.
- Clear forward visibility has not been indicated across the internal road layout.

- The submitted drawing fails to show the adequate parking arrangements.
- The application does not provide evidence of compliance with the Active Travel (Wales) Act 2013.
- The number of parking bays for the Retirement/Sheltered Housing development needs to be justified in relation to the number of available beds, staff, visitors and deliveries.
- The surface water drainage for the proposed carriageways along with the proposed outfall needs to be shown on plan.
- No details have been submitted regarding the proposed traffic calming measures, raised tables or street lighting.

The Highway Authority request that revised drawing are submitted, which address the above points.

PCC-Affordable Housing Officer

22nd December 2017

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

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

WG - Highways Directorate

*Correspondence received 9th January 2018*

I refer to your consultation of 20th December 2017 regarding the above application, and advice that the Welsh Government as highway authority for the A470 trunk road direct 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 Design and Access Statement refers to drawing number T16190-106D, the Applicant must supply a copy of the drawing as part of the planning application.

*Additional Correspondence received 23<sup>rd</sup> April 2019*

I refer to your consultation of 20/12/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A489 trunk road directs that any permission granted by your authority shall include the following conditions:

1)The proposed access and improvements to the A489 are to be undertaken in accordance with approved drawings 318-18-05 & 318-18-10

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

*Additional Correspondence received 16<sup>th</sup> October 2019*

Our response of 23 April 2019 remains unchanged for planning application P/2017/0754.

Cadw - SAM

10th January 2018

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monument MG001 Caersws Roman Site. Our assessment of the application is given below.



## Our Role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an EIA 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), 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 elaborated by explaining that 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.

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 the proposed development on a registered park or garden or its setting should be a material consideration in determination of a planning application.

## Assessment

Cadw received a statutory pre-application consultation on this application and responded on the 17th November 2017 (inside the consultation period) but this response has not been included in the Pre-application consultation report. In our response we noted that

the proposed development is located some 166m northwest of scheduled monument MG001 Caersws Roman Site. However, intervening buildings and hedges will provide heavy screening in any views between them. Consequently, it was concluded that the proposed development will cause no damage to the setting of scheduled monument MG001. We are unaware of any new information that will alter the previous advice.

*Additional Correspondence received 7<sup>th</sup> October 2019*

Thank you for your letter of 17 September 2019 inviting our comments on the consultation submitted for the above mentioned proposal. We have no change to our previous advice given on 9 January 2018.

#### PCC-Schools Service

As there is surplus capacity in the catchment schools, the Schools Service would not wish to submit a bid for S106 monies in respect of this development.

#### Wales and West Utilities

According to our mains records Wales and 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 diggings 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.

#### Severn Trent Water

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

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

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

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and

- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

#### Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

#### Clwyd Powys Archaeological Trust (CPAT)

Thank you for the consultation on this application.

The indicative layout of the intended development makes no provision for the avoidance of the well preserved Roman road remains which run parallel with the southern hedge boundary and extend into the development site by approx. 6 metres (see attached plan and Fig.13 of the archaeological report). The road was fully revealed and partly excavated in 2010 and at that time we recommended that the road is preserved in situ by design. The road area would need to be left as a grass plot on the frontage and could be adapted as part of the green space for the development. This would have the advantage of pushing the buildings back from the frontage so that they do not receive as much noise from traffic on the road and thus making those plots more attractive for potential buyers.

I would be grateful if the applicant/agent could confirm in writing they can accommodate the preservation of the Roman road within the development layout and provide evidence of this with a new indicative layout that excludes the area I have shaded in red.

#### **Representations**

130 letters of public representation have been received at the time of writing this report. Whilst a letter of support has been received welcoming the additional housing it will bring to the locality a number of concerns have been raised which can be addressed as follows:

- Increased flood risk on neighbouring properties (Manthrig Brook)
- Highway safety concerns
- Properties out of character with surrounding area
- Need for street lighting
- Insufficient infrastructure
- No need for additional housing
- Inadequate pavement
- Ownership of Land

## Planning History

| App Ref | Description | Decision | Date |
|---------|-------------|----------|------|
| None    |             |          |      |

## Principal Planning Constraints

Flood Zone  
Historic Landscapes

## Principal Planning Policies

| Policy | Policy Description                                | Year | Local Plan                       |
|--------|---|------|----------------------------------|
| PPW    | Planning Policy Wales (Edition 10, December 2018) |      | National Policy                  |
| TAN1   | Joint Housing Land Availability Studies           |      | National Policy                  |
| TAN2   | Planning and Affordable Housing                   |      | National Policy                  |
| TAN5   | Nature Conservation and Planning                  |      | National Policy                  |
| SP5    | Settlement Hierarchy                              |      | Local Development Plan 2011-2026 |
| TAN15  | Development and Flood Risk                        |      | National Policy                  |
| TAN11  | Noise   |      | National Policy                  |
| TAN12  | Design  |      | National Policy                  |
| TAN13  | Tourism   |      | National Policy                  |
| TAN15  | Development and Flood Risk                        |      | National Policy                  |
| TAN18  | Transport   |      | National Policy                  |

|       |  |                                  |
|-------|--|----------------------------------|
| TAN20 | Planning and the Welsh Language                        | National Policy                  |
| TAN23 | Economic Development                                   | National Policy                  |
| TAN24 | The Historic Environment                               | National Policy                  |
| SP1   | Housing Growth   | Local Development Plan 2011-2026 |
| SP3   | Affordable Housing Target                              | Local Development Plan 2011-2026 |
| SP5   | Settlement Hierarchy                                   | Local Development Plan 2011-2026 |
| SP6   | Distribution of Growth across the Settlement Hierarchy | Local Development Plan 2011-2026 |
| SP7   | Safeguarding of Strategic Resources and Assets         | Local Development Plan 2011-2026 |
| DM1   | Planning Obligations                                   | Local Development Plan 2011-2026 |
| DM2   | The Natural Environment                                | Local Development Plan 2011-2026 |
| DM3   | Public Open Space                                      | Local Development Plan 2011-2026 |
| DM4   | Landscape  | Local Development Plan 2011-2026 |
| DM5   | Development and Flood Risk                             | Local Development Plan 2011-2026 |
| DM6   | Flood Prevention Measures and Land Drainage            | Local Development Plan 2011-2026 |
| DM7   | Dark Skies and External Lighting                       | Local Development Plan 2011-2026 |

|        |  |                                  |
|--------|--|----------------------------------|
| DM13   | Design and Resources                         | Local Development Plan 2011-2026 |
| H1     | Housing Development Proposals                | Local Development Plan 2011-2026 |
| H2     | Housing Sites                                | Local Development Plan 2011-2026 |
| H3     | Housing Delivery                             | Local Development Plan 2011-2026 |
| H4     | Housing Density                              | Local Development Plan 2011-2026 |
| H5     | Affordable Housing Contributions             | Local Development Plan 2011-2026 |
| T1     | Travel, Traffic and Transport Infrastructure | Local Development Plan 2011-2026 |
| SPGAH  | Affordable Housing SPG (2018)                | Local Development Plan 2011-2026 |
| SPGBIO | Biodiversity and Geodiversity SPG (2018)     | Local Development Plan 2011-2026 |
| SPGOBS | Planning Obligations SPG (2018)              | Local Development Plan 2011-2026 |

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

#### Site Location and Description

The application site is located within the settlement development limits and within allocated housing site P09 HA1 for Caersws. The site is located directly adjoining the

A470 trunk road which runs to the south of the application site. To the north is agricultural land whilst to the east and west are neighbouring residential properties which front onto the highway.

Consent is sought in outline with all matters reserved for proposed residential development for 41 dwellings.

### Background

Members will be aware that at a previous planning committee in February 2019 it was voted to defer the above application due to insufficient information being received from the Welsh Government Trunk Road Authority. In addition, further clarification was sought from Natural Resources Wales in respect to the flooding concerns raised from Local Residents.

Further discussions have been held and therefore this application comes back before Members for determination.

### Principle of Development

Policy H1 of the Local Development Plan 2018 (LDP) seeks to ensure that housing development is appropriately located and suitable in scale and type. The application site is located within the Large Village of Caersws. The application site under policy H2 is allocated for residential development (P09 HA1- Land to north of Carno Road) which is an allocated area of 1.6 ha for 43 dwellings.

Further to the last report forwarded to Members, amended plans have been received from the applicant amending the proposed layout for the application site following discussions with Natural Resources Wales (NRW). The amended layout reduces the area of land to be developed and has therefore reduced the level of housing proposed to 41 units as opposed to the 43 previously proposed.

As previously identified, the application site is located within an LDP housing site allocation and therefore it is considered that the principle of residential development within this location complies with relevant planning policy subject to the following considerations.

### Housing Density

Policy H4 of the LDP states that all housing development proposals should seek to make the most sustainable and efficient use of land. It is therefore identified that the density of any proposed housing development should be in accordance with the recommended guide ranges.

It is identified that for Large Villages there should be 27+ units per ha. Under policy H2 it has been identified that the housing allocation extends to 1.6ha in area and therefore a recommended contribution of 43 units has been proposed.

As identified above however due to the flood risk concerns raised by NRW the site area has been reduced to include a 'buffer zone' between the C2 DAM extent and any built development. As a result the scheme has therefore now been reduced to proposed 41 residential units.

An indicative layout has been provided to this effect and in light of the proposal put before us it is considered that the development seeks to make the most sustainable and efficient use of the land available and suitable for development.

### Design and Layout

Development proposals must be able to demonstrate a good quality design and shall have regard to the qualities and amenity of the surrounding area, local infrastructure and resources. In line with policy DM13 development proposals should therefore be designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing, and design detailing.

Whilst design and layout are reserved matters and will be dealt with at a later point in time, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The indicative layout resembles a modern residential layout which is broadly comparable to those as seen in the settlement. More importantly it shows that up to 41 dwellings could be accommodated on the site.

Whilst public representations have raised concerns over the character of the development on the surrounding area, Officers acknowledge that all matters relating to this application have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating 41 dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties. The proposed development is therefore considered to comply with relevant planning policies.

### Landscape and Visual Impact

Planning policy seeks to ensure that development proposals are 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.

The application site is located within the Registered Historic Landscape known as the Caersws Basin. The Historic Landscapes Register describes the Caersws basin as "*a striking natural arena in the centre of Mid Wales. Visual prospects out of the basin are confined in almost every direction by the surrounding, seemingly unbroken, rim of low hills and ridges between about 300m and 400m above OD. The apparently enclosed but*



*wide basin floor is essentially flat, rising only 20m in 5km, from 115m to 135m above OD, east-west. This remarkable, albeit shallow, natural arena has made the basin an area of exceptional strategic and historical importance in Wales, while the confluence of the Rivers Carno and Trannon with the Severn has also made Caersws in the centre of the basin a natural focus for communications.”*

The LDP Supplementary Planning Guidance (SPG) for Landscape states that where the development impacts on a Registered Historic Landscape there may also be a need to include an Assessment of the Impact of Development on Historic Landscapes” (ASIDOHL). The need for an ASIDOHL assessment for such developments will be determined by Cadw in consultation with the Clwyd Powys Archaeological Trust, NRW and the Council.

It is noted that Cadw and CPAT have been consulted and have confirmed that subject to conditions they have no objections to the proposed development. In addition it is noted that the site occupies an edge of settlement location. In terms of landscaping the indicative layout plan indicates that there will be existing hedgerows retained within the site. It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage.

Whilst the proposal would result in a visual change in comparison to the current use, taking into account the location on the edge of settlement, it is considered that the proposal subject to appropriate consideration of design at reserved matters stage is acceptable and therefore in accordance with relevant planning policy.

#### Affordable Housing

Under policy H5 the target contributions required to be made by development proposals with regards to affordable housing contributions for the ‘north’ sub-market region is set as a 10% contribution.

The applicant has confirmed that 10% of the units provided will be affordable and this will therefore be secured appropriately via condition.

Subject to the above it is therefore considered that the proposed development complies with relevant planning policy.

#### Open Space Contribution

Policy DM3 of the Local Development Plan seeks to ensure that provision for new Open Space will, subject to viability, be sought from all housing developments of 10 or more dwellings.

The type and nature of the provision will be determined by the deficiencies identified in the Open Space Assessment for the locality and, depending on the individual circumstances, may be provided on or off site.

The application site proposes an open space located within the application site in line with relevant planning policy, subject to a Section 106 agreement being signed to ensure the open space is managed and provided to an acceptable level it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

### Flood Risk

Technical Advice Note 15: Development and Flood Risk (TAN15), Policies DM5 and DM6 of the Powys Local Development Plan (LDP), Planning Policy Wales (PPW) aim to minimise and manage environmental risks and pollution and contain relevant policies on flood risk.

Paragraph 6.6.22 of TAN15 states that “Flooding as a hazard involves the consideration of the potential consequences of flooding, as well as the likelihood of an event occurring. Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers.”

It is acknowledged that significant concerns have been raised from public representations in respect to the flooding concerns raised within the Caersws area. Evidence by way of photographs and videos have been provided to NRW, Land Drainage and the Local Planning Authority which provide evidence of the Manthrig Brook being in flood numerous times during the determination of this application.

The Manthrig Brook in connection with this proposed site runs directly to the north of the application site and adjoins the application site.

The applicant has undertaken a Flood Consequences Assessment (FCA) in consultation with Natural Resources Wales (NRW).

Previously, Members may re-call that concerns were raised from NRW as the application site was partially to be located within the C2 flood zone for consideration. Amended plans were then received to remove all of the residential development from the C2 flood zone.

Since the previous Planning Committee numerous discussions and meetings have been held with NRW and the Land Drainage department within Powys County Council which has resulted in a further amended scheme reducing the number of dwellings to 41 units so that a ‘buffer zone’ could also be accommodated within the application site. This buffer zone effectively provides an additional safeguard against flooding for future occupiers and to account also for modelling uncertainty and therefore adopting a precautionary approach to the final layout of the built development. NRW have confirmed that the ‘buffer zone’ as indicated on drawing no. CW 6081.03.B1 appropriately highlights this to ensure the protection of any future occupiers of the site.

NRW have therefore confirmed that they *“remain satisfied that the HEC-RAS hydraulic model compiled by David Floyd (Consultant Hydrologist) in support of the planning application has produced conservative outputs. As such, we are satisfied the outputs of the model are appropriate to inform the planning decision making process.”*

Whilst NRW previously advised that a revised FCA should consider flood risk from other sources to provide assurance that the proposed development will remain safe during extreme flood events and that third parties will not be affected further, following a site visit, it was concluded that a revised FCA would not be necessary, subject to reassurances by way of suitably worded conditions and a detailed drainage design to help ensure the long term functioning (water storage and conveyancing) to safeguard against increased risk to both development site and third parties.

NRW therefore have confirmed that highly vulnerable built development as shown on the revised plans lies entirely outside of Zone C2 of the Development Advice Map (DAM). In line with Technical Advice Note 15 it is therefore considered that the proposed development has been suitably directed away from zone C and takes a precautionary approach providing a further buffer zone of any development in connection with the floodzone boundary.

Concerns were additionally raised regarding the potential for any development on this area of land to have potential increase of flooding downstream. NRW have confirmed that there must be no built development, ground raising or recontouring of land and no structures erected within the recognised flood risk areas i.e. the areas shown as DAM C2 on drawing CW 6081.03 B1. NRW have therefore requested an appropriately worded condition be attached to any grant of consent to this effect. Subject to an appropriately worded condition, NRW are satisfied that this will protect future occupiers from flooding and ensure that there is no increase in flood risk elsewhere to third parties.

Therefore, whilst NRW acknowledge the October 2019 flood event they note that the Lead Local Flood Authority have already initiated further investigation into the event. However, NRW have confirmed and are satisfied that flooding did not affect this application site.

It is noted that parts of the A470 is partially located within a C2 floodzone. Whilst the site is not located itself consideration has to be given to a safe access/egress to be provided. It is considered that levels of flooding along the A470 trunk road are considered to be low with alternative routes available. Due to the nature of this highway being a trunk road it is therefore not considered any further information is required in this instance.

In light of the above whilst the concerns from third party representations have been noted and investigated, it has been confirmed that the development as proposed and subject to appropriately worded conditions would not result in highly vulnerable

development being located in a C2 floodzone nor increase flood risk elsewhere to third parties.

### Surface Water Drainage

The Land Drainage Officer for Powys has been consulted on the proposed development and reviewed the additional information received in respect of the drainage strategy prepared in support of the application.

It is noted that foul sewerage is being discharged to the mains and therefore NRW and Environmental Health have confirmed that they have no comment to make with respect to foul sewerage disposal.

In relation to surface water drainage whilst it is noted that the application site for residential housing is located outside of a flood zone, concerns have been expressed over the potential impact surface water drainage and additional discharge into the brook may have on the existing levels of water and potentially increasing risk in flooding down the stream.

A Surface Water Drainage Strategy has been submitted in support of the application. The proposal proposes to install an attenuated drainage system designed to store water up to a 1 in 100-year rainfall event (plus a 35% allowance for climate change) fitted with a passive control device (sometimes referred to as a 'hydro-brake') that regulates peak flow of run-off to the 'greenfield' run-off rate. It is noted that permeable paving has also been mentioned, which will also provide further benefits not only in managing surface water run-off but also water quality benefits.

The Local Lead Land Drainage Officer has been consulted on the proposed development and has confirmed that the applicant has been able to demonstrate that suitable sustainable drainage arrangements can be achieved on this site which meet the requirements set out in the Powys LDP and other planning policy documents.

Matters regarding protecting/enhancement of the watercourse/ditch located along the eastern boundary will need to be addressed at detailed design stage.

It is also noted that the surface drainage proposals for this development will need to conform with the national Standards and approved by the Sustainable Drainage Approval Body (SAB). This is a statutory function delivered by the local authority to ensure that drainage proposals for all new developments of more than 1 house or where the construction area is 100m<sup>2</sup> are designed and built in accordance with the national standards for sustainable drainage published by Welsh Ministers.

Therefore, whilst concerns have been raised about potential drainage from the development site and also future poultry unit development not yet constructed up stream it is confirmed that they would first be required to go through the SAB approval.

In light of the above it is therefore considered that the proposed surface water drainage scheme is considered to be acceptable and therefore fundamentally complies with relevant planning policy.

### Highways

A safe access, parking and visibility splays are a fundamental requirement of any development (LDP: DM13, Part 10), LDP: T1 and Technical Advice Note 18.

Concerns have been raised by public representations over the footpath provision, highway speeds to the application site and the safety of this site in relation to the A470 trunk road.

The application site seeks consent for a new access off the A470 Trunk Road. The Welsh Government Highway Authority have been consulted and have confirmed that subject to an appropriately worded condition ensuring works are completed in full accordance with the details as approved that they would have no objection to the proposed development. The proposal will include footpath provision, road signage and bus stop signage of which final detailed plans will be considered under any reserved matters application.

In relation to the internal layout of the site, clarification has since been provided to the Highway Officer confirming that layout is a reserved matter. It is therefore confirmed that an adoptable internal layout will be therefore be required to be demonstrated at the time of submission of reserved matters application. The Highway Authority have therefore no objection to the proposed development.

Concerns have been raised regarding layout and bus stop provisions, it is noted that this application is submitted in outline with all matters reserved and therefore detailed information will be provided at reserved matters stage. However, it is considered that currently sufficient information has been provided to confirm that the proposed development can fundamentally comply with relevant planning policy.

### Biodiversity

Policy DM2 states that proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests. Proposals which would impact on natural environment assets will only be permitted where they do not unacceptably adversely affect those assets. Technical Advice Note (TAN) 5 seeks to maintain biodiversity and safeguard protected important sites.

A preliminary Ecological Appraisal report was completed by Protected Species Ecology Ltd and was submitted in support of the application. NRW and the Powys Ecologist were consulted. Whilst no response has been received from the Powys Ecologist, NRW have confirmed that they hold several records of bat and otter within a 2 km radius of

the proposal. The report also submitted in support of the above application identified some potential for bat and otter use of the linear boundary features of the site.

NRW confirm that they have no significant concerns with reference to bats and otters subject to the imposition of a suitably worded condition regarding the submission and implementation of an otter and bat Reasonable Avoidance Measure Scheme (RAMS), within any permission.

Therefore, subject to the recommended conditions by NRW it is considered that the proposed development would not be seen as having an unacceptable impact on the conservation of protected species and the proposed development therefore is seen to comply with relevant planning policy.

### Scheduled Ancient Monuments

Policy SP7 seeks to safeguard strategic resources and assets in the County. Therefore, development proposals must not have an unacceptable adverse impact on the resource or asset and its operation.

The application site is located approximately 166 metres north-west of the Scheduled Ancient Monument MG001 Caersws Roman Site. Cadw have been consulted and have confirmed that due to the intervening buildings and hedges which will provide heavy screening in any views between both sites that consequently it was concluded that the proposed development will cause no damage to the setting of scheduled monument MG001.

In addition, CPAT have identified that there is a well-preserved Roman road remains which run parallel with the southern hedge boundary and extend into the development site. The road was fully revealed and partly excavated in 2010 and at that time we recommended that the road is preserved in situ by design.

It is noted that layout is still a reserved matter and therefore subject to a condition ensuring that the remains are considered and excluded from development during the submission of the reserved matters application.

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

### Facilities

Concerns have been raised over the impact the increase number of residential units in Caersws may have on existing facilities; namely schools. Powys County Councils Education department have been consulted and have confirmed that there is a surplus capacity in the catchment schools and therefore no contribution is required to be agreed in respect to this development.

In addition, under the LDP it is noted that Caersws has been allocated as a Large Village. Large Villages under the LDP are identified as being able to accommodate housing growth in proportion to their size and facilities. As the application has been restricted within the guidelines of the allocated housing site and number of recommended houses to be contributed for the allocation it is considered that the proposed development would not be seen as having an unacceptable impact or strain on local facilities.

### Public Representations

It is considered that the majority of the concerns raised have been addressed above previously within the report. However, the outstanding matter can be addressed as follows:

#### - Land Ownership

Concerns have been raised by a neighbouring property who own a portion of land which fronts the application site and in which works will be required. The owner has been made aware of the development and provided their concerns directly. However, it is considered that land ownership is a civil matter and not to be considered at this planning stage. Therefore, whilst the comments have been noted it is for either party to resolve directly.

### **RECOMMENDATION**

In light of the above, whilst the concerns raised have been noted it is considered that the development can be managed to an acceptable level and therefore would not be seen as having an unacceptable adverse impact on the character and appearance of the surrounding area.

Therefore, subject to the signing of a Section 106 agreement to secure the provision and management of the proposed open space it is considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore one of conditional consent.

### **Conditions**

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

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

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

4 The development shall be carried out in accordance with the following approved plans and documents CW 6081.03 B1, 318-18-05 & 318-18-10.

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

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 10% of housing units/bed spaces;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

6 Development shall be completed in full accordance with the Surface Water Drainage Strategy (v2) report prepared by Sumner Consultancy Ltd which shall thereafter be implemented in full prior to the first use of any residential unit.

7 Prior to the commencement of development an Otter and Bat Reasonable Avoidance Measure Scheme (RAMS) shall be submitted to and approved in writing by the Local Planning Authority. The RAMS shall include (but not limited to): A site lighting plan and no works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers/otters from being trapped in open excavations and / or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include a) creation of sloping ramps to allow badgers to exit excavations; b) open pipework greater than 150mm outside diameter, being blocked off at the end of each working day. Development thereafter shall be completed in full accordance with the details as approved.

8 Prior to the commencement of development details of a fenced off buffer area (root protection area) separating the hedgerows and stream/ditch from the development site shall be submitted to and approved in writing by the Local Planning Authority. No machinery works shall be permitted within the buffer zone as approved and shall remain as approved for the perpetuity of the construction works.



9 Demolition or construction works shall not take place outside the hours of 07.30 to 18.00 Mondays to Fridays and 07.30 to 13.00 on Saturdays and at no time on Sundays or Public Holidays.

10 The Affordable Housing hereby approved and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no development under Schedule 2, Part 1, Classes A to E other than that hereby permitted shall be carried out without the written permission of the Local Planning Authority.

11 At the time of the submission of any reserved matters application the proposed layout shall accommodate the preservation of the Roman Road remains which runs parallel with the southern hedge boundary of the application site.

## **Reasons**

1 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

3 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

4 In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

5 To ensure that the dwellings remain affordable in perpetuity in line with policy H5 of the Local Development Plan, SPG Affordable Housing and Planning Policy Wales (2018).

6 To ensure a satisfactory development in accordance with policies DM5 and DM6 of the Local Development Plan (2018) and Planning Policy Wales (2018).

7 To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

8 To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

9 To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and policy DM13 in relation to amenity and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act and Technical Advice Note 11 (Noise) 1997.

10 In order to control further development which has the potential to have adverse effects on privacy and/or amenity in contradiction to policy DM13 and to secure the scale of the affordable housing approved in accordance with policy H5 of the Powys Local Development Plan and Planning Policy Wales (2018).

11 To ensure an appropriate layout safeguarding the strategic asset as identified in accordance with policy SP7 of the Local Development Plan, Technical Advice Note 24 The Historic Environment and Planning Policy Wales (2018).

## Informative Notes

### 1 Waste

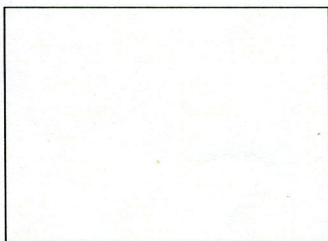
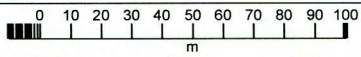
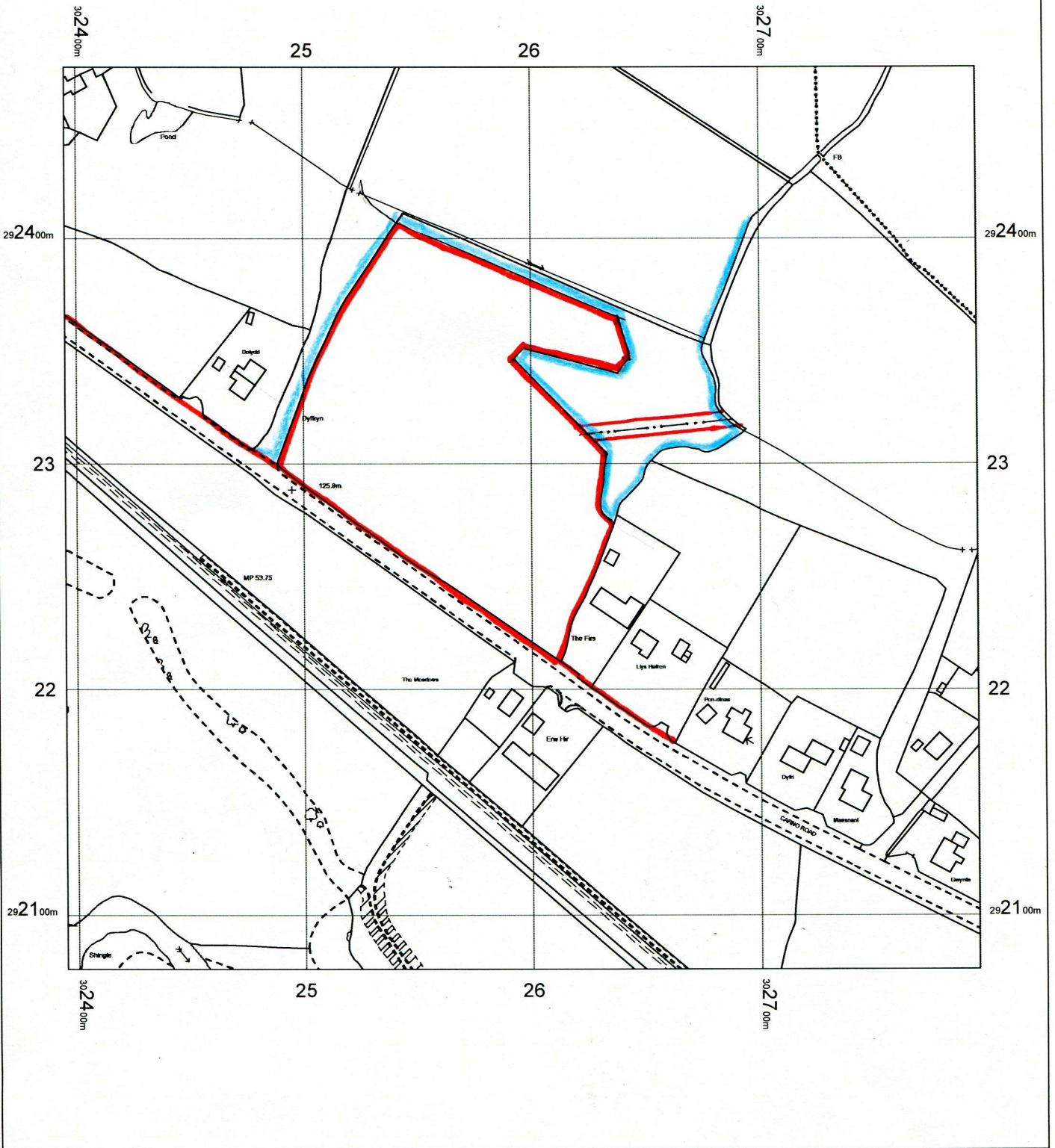
Any waste excavation material or building waste generated during the course of the development must be disposed of satisfactorily and in accordance with Section 33 and 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-pgpsand-replacement-series/guidance-for-pollution-prevention-gpps-full-list/> The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under Environmental Permitting Regulations 2017. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site. If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

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Case Officer: Gemma Bufton, Principal Planning Officer  
Tel: 01587 827505 E-mail: [gemma.bufton1@powys.gov.uk](mailto:gemma.bufton1@powys.gov.uk)



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# 4.3

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

**Application Number:** 19/1741/FUL

**Grid Ref:** E: 321435  
N: 243742

**Community Council:**

**Valid Date:** 25.10.2019

**Applicant:** Powys Housing

**Location:** Housing Development At Land Off Kilvert View, Kilverts View, Cleirwy, Hereford, Powys

**Proposal:** Full planning application for residential development and associated works

**Application Type:** Full Application

### The reason for Committee determination

The application is submitted on behalf of Powys County Council and therefore in accordance with the Council's constitution is required to be determined by the Planning, Taxi Licensing and Rights of Way Committee.

### Consultee Responses

| <b>Consultee</b> | <b>Received</b> |
|------------------|-----------------|
|------------------|-----------------|

|                   |               |
|-------------------|---------------|
| Community Council | 12th Nov 2019 |
|-------------------|---------------|

The Community Council has discussed this development and has no objections.

|                  |              |
|------------------|--------------|
| Building Control | 4th Nov 2019 |
|------------------|--------------|

Just to inform you and the applicant that this scheme will require a building regulation application to be submitted prior to commencement on site.

|                   |               |
|-------------------|---------------|
| Highway Authority | 13th Nov 2019 |
|-------------------|---------------|

Thank you for consulting the Highway Authority on this matter.

## Existing and Proposed Trip Generation & Existing Road Network

This proposal is supported by the submission of a Transport Statement which considers the existing highway network characteristics in the vicinity of the site, including provision for cyclists, pedestrians and public transport, and the potential impacts on the network post-development. The projected vehicular movements generated by this proposal, the distribution of that traffic and the effects of such on the existing network is projected to have a "marginal impact" on the existing network during the more critical peak hour periods. The Highway Authority is satisfied that the conclusions contained within the Transport Statement are robust and that the potential impacts the site may have on the surrounding highway infrastructure is likely to be marginal. As such it raises no concerns in this regard.

### Site Access

The site is currently accessed via two entry points, along its western and eastern boundaries. From the west, along the A438, vehicular access can be achieved via an agricultural gate and a narrow wooden gate provides access for pedestrians. From the east, there is an existing vehicular and pedestrian access into the site off the existing residential estate of Kilvert View, which in turn links with Castle View estate. The existing estates are served from a traditional estate road which offers satisfactory road widths and pedestrian provision which connects with the B4351 county highway to the south.

The proposed internal layout for the development includes a proposal for vehicular access to the site to be achieved off Kilvert View only. The proposal is considered acceptable to Highway Authority subject to the inclusion of a suitably worded condition which requires for the existing junction onto the B4351 to be improved so that a 2.4m by 43m visibility splay is achieved, which in line with recommendations set out in Manual for streets.

In addition a condition shall be added that requires the existing vehicular access to the site off the A438, to be formally stopped up to motorised vehicles.

The alterations to existing highway in front of 1-4 Kilvert View will create a 600mm service margin.

### Active Travel

The layout includes footpath provision providing pedestrian access between the site and the A438, thus retaining the access currently provided by the aforementioned existing wooden pedestrian gate.

In addition, the Highway Authority welcomes the inclusion of the internal 1.8m wide footway to create a pedestrian link between the application site and the existing footway provision at Kilvert View.

#### Internal layout

The application is accompanied by a layout plan for 13no. units comprising the following mix:

- o 4 No. Walk up 1 Bed flats
- o 4No. 2 Bed Houses
- o 3 No. Bungalows
- o 2No. 4 Bed House

The submitted site plan demonstrates that the proposed development incorporates suitable highway width and turning provision.

#### Car Parking Arrangements

The submitted information shows a total of 31 parking bays which is in excess of the requirements under the CSS Wales parking standards.

#### Recommendation

It is recommended the following highway conditions be included within the decision notice should this application be approved.

- o The development shall be carried out in accordance with the following approved highway plans and documents SK08 F.
- o Prior to any works commencing on the development site, detailed engineering drawings for the offsite highway junction visibility improvement works at the junction of the U1999 with the B4351 and associated works, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed shall be constructed to adoptable standard prior to any works being commenced on the development site.
- o No development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. The parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or

sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

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

o Notwithstanding the submitted details, within 10 days from the commencement of the development' detailed highway engineering drawings covering the highway works within the site, shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

o Prior to the occupation of each of the dwellings hereby approved, provision shall be made within the corresponding plot for the parking of vehicles as detailed on the approved highways plan number SK08 F. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

o No dwelling hereby approved shall be occupied before the estate road carriageway and footways are 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 dwelling and to the junction with the existing county highway.

o No dwelling hereby approved shall be occupied until the vehicular access finished in a 40mm bituminous surface course material for a distance of 10 metres from the edge of the adjoining carriageway. The area will be maintained to this standard for as long as the development remains in existence.

o 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.

o 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.



- o Each private drive shall be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained as such for as long as the development remains in existence.
- o Within 10 days from the commencement of the development the existing means of vehicular access from the A438 county highway shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.

Welsh Water

18th Nov 2019

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

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. Surface Water Drainage As of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems - designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with the Local Authority, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our

maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

## ASSET PROTECTION

The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located and marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

## SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

## WATER SUPPLY

A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to the address above.

The proposed development is crossed by a 90mm distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

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.

Environmental Protection

5th Nov 2019

Due to the residential setting of the proposed development it is recommended that before any development commences a Construction Method Statement shall be submitted to and agreed in writing by the Local Planning Authority in respect of the control of noise and dust during the landscaping and construction phases.

In addition it is recommended that the landscaping and construction period working hours and delivery times be restricted as follows:

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

0800 - 1800 hrs Monday to Friday

0800 - 1300 hrs Saturday

At no time on Sunday and Bank Holidays

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

During construction (including soil movement and landscaping activities) the contractor shall take all reasonable steps to prevent dust formation from dusty activities and any dust formed shall be prevented leaving the site by continuous watering down.

Ecologist

13th Nov 2019

Thank you for consulting me with regards to planning application 19/1741/FUL which concerns a full planning application for residential development and associated works at Kilvert View, Clyro.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 92 records of protected and priority species within 500m of the

proposed development, including hazel dormice and great crested newts - no records were for the site itself.

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

An Extended Phase One Ecology Survey report has been produced by Ecological Services Ltd dated October 2019 and submitted with the planning application. The report has been undertaken to assess the potential of the development to impact any protected species presence or habitats of ecological value. The site visit to undertake the extended phase one survey was carried out on the 14 February 2019.

Following the ecological assessment of the site, habitats identified within the development boundary are; semi-improved grassland, hardstanding, scattered trees, tree lines and hedgerow.

Given the habitats and condition of the habitats identified within the site and surroundings it is considered that nesting birds, reptiles and bats have the potential to be present and affected by the proposed developments.

Reptiles; it is considered that there is a low potential for reptiles to be present within the hedgerow and trees lines around the site. Further surveys are not considered necessary however, it is recommended that a reasonable avoidance method statement is implemented and adhered to regarding reptiles and vegetation clearance of the site. Therefore, I recommend that submission of a Reasonable Avoidance Method Statement regarding reptiles to be submitted prior to commencement of works is secured through and appropriately worded condition.

Nesting Birds; it is considered that the trees and hedgerow around the site boundary are considered to be suitable to support nesting birds. Therefore, it is considered necessary that any vegetation/tree or hedgerow works must be carried out outside of the bird-nesting season or the habitats inspected immediately prior to any impacts to these habitats.

Bat; There are a number of trees along the site boundary and singletree within the proposed development site which were assessed from the ground for their potential to support roosting bats. The trees on the development boundary were considered to have low/moderate potential to support roosting bats and the single tree present on the south west of the site is considered to have low potential to support roosting bats. The single tree is required to be removed in order to accommodate the proposed plans. Therefore, in section 4 of the ecological report methods to be adhered to and implemented regarding felling of this tree. No further surveys regarding bats are considered necessary. Therefore, I recommend that implementation and adherence to the bat

mitigation measures are secured through an appropriately worded condition.

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland.

Any external lighting proposed will need to demonstrate compliance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018) full details can be found at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>. It is therefore recommended that a External Lighting Plan is secured through an appropriately worded condition.

With regards to other protected and priority species - it is not considered likely that great crested newts, dormice, otters or badger would be present and impacted by the proposed developments.

Within section four of the ecological report it is recommended that retained tree line and hedgerows along the site boundary must be protected during the construction phase to ensure that no construction activity or storage of materials will take place within the root protection zone. Therefore, to ensure that these features of biodiversity importance for wildlife will be protected during the construction period of works a root protection zone will be established during the construction plans. I recommend that a trees and hedgerow protection plan is secured through an appropriately worded condition.

Along the western boundary the hedgerow will be impacted in order to facilitate a new footway. It is recommended that this hedgerow is translocated rather than removed in order to mitigate to impacts of this hedgerow. Therefore, I recommend that that a hedgerow translocation scheme is secured through and appropriately worded. I would note that the translocation of the hedgerow should take into consideration the potential of reptiles to be present.

In ensuring the net biodiversity benefits through the development, I considered that the provision of bird nesting boxes, native wildflower planting, the installation of hedgehog friendly fencing, additional tree and hedgerow plant and the use of permeable paving to be appropriate and acceptable.

Given the identified compensation, avoidance and mitigation measure recommended within section 4 of the ecological report as well as the additional of features to ensure no loss of biodiversity at the site proposed to be incorporated within the final design of the development - I consider that the proposed developments will not result in the loss of any

features of ecological importance and it is considered the proposed works are unlikely to have a negative impact to biodiversity in the wider area.

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

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

The mitigation, avoidance and compensation measures identified in section 4 of the Extended Phase One Ecology Survey produced by Ecological Services Ltd dated October 2019 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a Reasonable Avoidance Method Statement regarding Reptiles 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 LDP Policies DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), 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 LDP Policy DM2 and DM4, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

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

Reason: To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

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

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a detailed Hedgerow Translocation Method Scheme shall be submitted for written LPA approval and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition, I recommend inclusion of the following informative:

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:

- o Intentionally kill or injure these species of reptiles,
- o 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.

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:

- o intentionally kill, injure or take any wild bird
- o intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- o intentionally take or destroy the egg of any wild bird
- o 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.



19/1741/FUL Full planning application for residential development and associated works  
Housing Development At Land Off Kilvert View Kilverts View Cleirwy Hereford Powys

Recommendation - No objection

Background to Recommendation

Designation

Within Middle Wye Registered Historic Landscape

In close proximity to Scheduled Ancient Monument RD066 Clyro Castle

In proximity to Clyro Conservation Area which contains a number of listed buildings

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 10th edition 2018

Conservation Principles published by Cadw

TAN24

Managing Change to Listed Buildings in Wales - Annexe to TAN24

Setting of Historic Assets in Wales - Annexe to TAN24

Heritage Impact Assessments - Annexe to TAN24

Historic Environment Records

Local Development Plan

Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 - Guardianship of natural, built and historic assets

LDP Objective 13 - Landscape and the Historic Environment

## Comments

I am mindful of the advice in Sections 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

However, I would also refer to more recent guidance in paragraph 6.1.10 of Planning Policy Wales 10th edition 2018 which states, " For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

Section 6.1.9 of PPW 10 advises that " Any decisions made through the planning system must fully consider the impact of the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place"

Section 6.1.7 of Planning Policy Wales 10th edition requires that " it is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset should be managed in a sensitive and sustainable way"

I note the proximity to RD066 however as Cadw are the consultee in respect of the setting of Scheduled Ancient Monuments, I shall defer consideration of this section to Cadw. For clarity my comments are in respect of the impact on and the setting of listed buildings and conservation area only.

Cadw have prepared guidance on the setting of historic assets that in an annexe to TAN24 that came into effect on 31 May with advice on how to assess the setting of listed buildings. This document outlines the principles used to assess the potential impact of development or land management proposals on the settings of all historic assets but is not intended to cover the impact on the setting of the historic environment at a landscape scale.

It is noted that section 2.2 of Managing Setting of Historic Assets which came into effect

on 31 May advises that applicants for planning permission should provide the local planning with sufficient, but proportionate, information to allow the assessment of the likely impact of proposal for development on a historic asset and its setting. It is noted that no such assessment accompanied the application.

The document advises that "Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost"

The document provides advice on how to assess the setting

This section outlines the general principles that both assessors and decision makers should consider when assessing the impact of a proposed change or development on the setting of historic assets. There are four stages.

Stage 1: Identify the historic assets that might be affected by a proposed change or development and their significance.

Stage 2: Define and analyse the settings to understand how they contribute to the ways in which the historic assets are understood, appreciated and experienced.

Stage 3: Evaluate the potential impact of a proposed change or development on those settings.

Stage 4: Consider options to mitigate the potential impact of a proposed change or development on those settings.

The site is located to the south of the conservation area of Clyro and to the NE of Clyro Castle. The proposal is for housing adjacent to an existing housing development to the SE of the A438 which lies between the application site and Clyro Conservation Area.

I note the Heritage Impact Assessment that has been produced, and note the assessment of the impact of the proposal on; St Michaels and All Angles Church grade II\* (Cadw ID 15196) . Ashbrook House grade II\* (Cadw ID 8740) , Clyro Court (Cadw ID 15316) and associated gateway (Cadw ID 15317) , Cae Mawr house (Cadw ID 8750) and Clyro Conservation Area and the 14 other listed buildings within the Conservation

Area and would not disagree with the conclusions.

I can confirm that I have no objection to the proposal.

Natural Resources Wales

21st Nov 2019

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 01/11/2019.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following condition to the permission, and you include the following document within the condition identifying approved plans and documents on the decision notice. Otherwise, we would object to this planning application.

o o Extended Phase One Ecology Survey - Land at Castle Estate Clyro, Ecological Services Ltd., October 2019

Condition 1: Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan must include details of the siting and type of external lighting to be used. The lighting shall be installed and retained as approved during operation.

Protected Species

Artificial Lighting

In line with the recommendations in the Ecological Survey (Extended Phase One Ecology Survey - Land at Castle Estate Clyro, Ecological Services Ltd., October 2019.) we advise you include a condition in relation to the lighting scheme for the proposal. A lighting plan following the guidance in ILP Guidance Note 08/18 must be submitted to ensure lighting details are agreed prior to installation and to reduce the impacts of lighting in the interest of protected species and commuting corridors.

Condition 1: Prior to its installation, full details of lighting shall be submitted to and agreed in writing by the Local Planning Authority. The Lighting Plan must include details of the siting and type of external lighting to be used. The lighting shall be installed and retained as approved during operation.

## Reasonable Avoidance Measures

We note the recommendations in the ecological survey regarding reasonable avoidance measures with regards to the felling of a single tree identified as having low potential for bats. Therefore, we advise that the report is included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

## Other Matters

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. 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.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

## Advice to Developer

### Pollution Prevention

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the following website: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

### Waste produced during construction

Waste produced during the construction phase of your development must be dealt with appropriately and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- o o before it is collected, disposed of or recovered
- o o to identify the controls that apply to the movement of the waste
- o o to complete waste documents and records
- o o to identify suitably authorised waste management options
- o o to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provide information on how to classify waste and register as a waste carrier or hazardous waste producer:

<https://naturalresources.wales/permits-and-permissions/waste/?lang=en>

<https://naturalresources.wales/permits-and-permissions/waste/waste-permits/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

### Surface Water Drainage

We refer the developer to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by Natural Resources Wales. In particular the developer should be aware of the advice under Position Statement G13 (Sustainable drainage systems) which applies to this development.

### Landfill

According to our records the proposed development site is located near to land that is, or has been, used for the deposition of waste material. We would therefore advise you to consult with the local authority's Environmental Health and Building Control Departments, as they may hold detailed records, and may wish to make appropriate recommendations in respect of landfill gas investigation/remedial work. The developers should be made aware of the existence of the landfill site(s) so that they can decide whether or not to make their own investigations into the presence of landfill gas. It should also be noted that Waste Management Paper 27 states "It has been found that many sites which have taken only supposedly 'inert' waste have produced gas".

Cadw

20th Nov 2019

Thank you for your letter of 1 November 2019 inviting our comments on the information submitted for the above planning application.

### Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled

monument listed in our assessment of the application 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 related guidance.

PPW ([planning-policy-wales-edition-10.pdf](#)) explains that It is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way.

The conservation of archaeological remains and their settings is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains 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 a direct adverse impact on a scheduled monument (or an archaeological site shown to be of national importance)

Technical Advice Note 24: The Historic Environment elaborates by explaining that 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.

PPW also explains that local authorities should value, protect, conserve and enhance the special interests of parks and gardens and their settings included on the register of

historic parks and gardens in Wales and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

#### Assessment

The application area is located some 77m north of scheduled monument RD66 Clyro Castle and in an identified significant view between the castle and the church: This issue has been assessed in the information submitted with the application following the guidance outlined in the Welsh Government document "The Setting of Historic Assets in Wales". It considers that whilst the proposed development will be visible from the castle it will not block the significant view towards the church and will be seen as part of the other modern development on the southern side of the A438 in Clyro. The assessors has therefore concluded that whilst there will be a slight visual change in views between the castle and the church this will not alter the way that the castle is experienced, understood and appreciated and therefore the proposed development will not have any impact on the setting of scheduled monument RD66. We concur with this conclusion.

Contaminated Land Officer

21st Nov 2019

I have reviewed the Arcadis site investigation report submitted in support of this application and make the following comments.

1. The subject site is within 250m of a former landfill. The gas monitoring programme undertaken to date is not considered acceptable within the context of current guidance. However, I do note the intention to undertake further monitoring;
2. The gas risk assessment should be developed further with reference to current guidance as I have previously advised the developer/consultants.

Therefore the following conditions are recommended:

Condition A

Condition 1. Preliminary Investigation

No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted



to and approved in writing by the local planning authority. This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best practice, and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

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

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

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

#### Condition 2. Site Characterisation

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

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

#### Condition 3. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must

include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 2 has been received from the local planning authority.

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

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

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

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

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

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

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

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the

local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

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

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

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

Note to Applicant

Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 01597 827645.

## **Representations**

The proposed development has been advertised by site display and within the local press. At the time of writing this report 8 letters of objection have been received by Development Management. The concerns expressed therein can be summarised as follows;

- Inadequate access;
- Inadequate parking provision;
- Unacceptable increase in traffic movements;
- Loss of parking;
- Noise nuisance;
- Development not in keeping with the site's surroundings.

## **Planning History**

No relevant planning history on the proposed site of development.

Land adjacent/within proximity of the proposed site of development - 19/0970/FUL - Proposed area of public open space on land to the south of Castle Estate – approved September 2019.

### Principal Planning Constraints

- Historic Landscape Register
- Scheduled Ancient Monument
- Amenity Greenspace (Open Space Assessment)
- Within proximity of Clyro Conservation Area
- Within proximity of listed buildings
- Former landfill

### Principal Planning Policies

| Policy | Policy Description                                | Year | Local Plan                       |
|--------|---|------|----------------------------------|
| PPW    | Planning Policy Wales (Edition 10, December 2018) |      | National Policy                  |
| TAN1   | Joint Housing Land Availability Studies           |      | National Policy                  |
| TAN2   | Planning and Affordable Housing                   |      | National Policy                  |
| TAN11  | Noise   |      | National Policy                  |
| TAN12  | Design  |      | National Policy                  |
| TAN16  | Sport, Recreation and Open Space                  |      | National Policy                  |
| TAN18  | Transport   |      | National Policy                  |
| TAN24  | The Historic Environment                          |      | National Policy                  |
| SP1    | Housing Growth                                    |      | Local Development Plan 2011-2026 |
| SP3    | Affordable Housing Target                         |      | Local Development Plan 2011-2026 |
| SP5    | Settlement Hierarchy                              |      | Local Development Plan 2011-2026 |

|        |   |                                  |
|--------|---|----------------------------------|
| DM1    | Planning Obligations                        | Local Development Plan 2011-2026 |
| DM2    | The Natural Environment                     | Local Development Plan 2011-2026 |
| DM3    | Public Open Space                           | Local Development Plan 2011-2026 |
| DM4    | Landscape                                   | Local Development Plan 2011-2026 |
| DM5    | Development and Flood Risk                  | Local Development Plan 2011-2026 |
| DM6    | Flood Prevention Measures and Land Drainage | Local Development Plan 2011-2026 |
| DM7    | Dark Skies and External Lighting            | Local Development Plan 2011-2026 |
| DM10   | Contaminated and Unstable Land              | Local Development Plan 2011-2026 |
| DM13   | Design and Resources                        | Local Development Plan 2011-2026 |
| SPGAH  | Affordable Housing SPG (2018)               |                                  |
| SPGBIO | Biodiversity and Geodiversity SPG (2018)    |                                  |
| SPGLAN | Landscape SPG                               |                                  |
| SPGOBS | Planning Obligations SPG (2018)             |                                  |

### **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**

### Site Location and Description

The site subject to this application extends to approximately 0.36 hectares and comprises of a largely rectangular shaped parcel of land located within the village of Clyro and is currently used as amenity greenspace. The site is bound by residential properties to the north east and south east. The A438 which passes through the centre of the village runs parallel to the south western boundary of the site.

Consent is sought in full for the provision of 13 residential dwellings and associated works. The proposed scheme will comprise of a 100% affordable units provided through the combined use of walk-up flats, detached, semi-detached houses and bungalows. Access to the site will be provided via Kilvert View, off Castle Estate. Parking and turning provision will be provided within the application site boundary.

### Principle of Development

#### *Public Amenity Space*

Policy DM3 of the Powys LDP confirms that development proposals either partially or wholly located on existing Open Space will only be permitted where it can be demonstrated that:

1. There is an excess of such provision in the area; and
2. There is no longer a requirement for that type of open space in the area; and
3. The site would not be suitable to provide an alternative type of Open Space for which there is a shortfall; or
4. It can be demonstrated that alternative provision can be made available that is of enhanced or equivalent community benefit in terms of its size, characteristics, location and accessibility.

For the purposes of the adopted Local Development Plan, the application site is defined as 'amenity greenspace'. In light of the said designation and in considering criterion 4 as above, Members are advised that a planning application (submitted by Powys County Council) for a proposed area of public open space on land to the south of Castle Estate was considered and consented by the Authority under planning reference 19/0970/FUL in September 2019. The existing open space designation as defined by the LDP amounts to approximately 0.36 hectares whilst the consented recreation scheme will extend to approximately 0.43 hectares.

Whilst acknowledging that the proposed development will result in the loss of public open space, it is considered that the alternative provision as consented will enhance open space provision within Clyro and therefore Officers are satisfied that the proposal complies with policy DM3 as above. Notwithstanding the above, should Members be minded to grant planning permission, it is recommended that a suitable condition is attached to any consent to ensure that the residential scheme is not commenced until such time that alternative open space provision is provided within the settlement.

### *Housing Policies*

The proposed development will occupy a site within the settlement development limits of Clyro (Large Village) which extends to approximately 0.36 hectares. The scheme includes the provision of 13 affordable dwellings comprising of detached, semi-detached bungalows and dwellings together with walk up flats and two storey units resulting in a housing density of 36 units per hectare.

Policy H1 identifies suitable locations for new housing within the settlement hierarchy to support the delivery of a sustainable pattern of development. The type and scale of development permitted within each tier is commensurate to a settlement's place in the sustainable settlement hierarchy. Criterion 1 of policy H1 directs housing growth in Towns and Large Villages to allocated sites and to other suitable windfall sites within the settlement's development boundary.

Thereafter, policy H3 seeks to achieve an appropriate range and mix of housing types to meet local needs, as identified in evidence such as Local Housing Market Assessment, in particular the needs of the county's ageing population and decreasing household size, affordable housing and specialist housing needs.

The proposed scheme comprises of the following;

- 4 no. one bedroom walk-up flats;
- 4 no. two bedroom houses;
- 3 no. one bedroom bungalows; and
- 2 no. four bedroom house

On the basis of the information provided, Officers consider that the range of affordable housing units provided are capable of accommodating varied housing need within the County and therefore fulfil the requirements of policy H3 of the Powys LDP.

Whilst the scheme proposes 100% affordable housing, given that the site is located within the settlement development boundary, it is not considered reasonable or appropriate to condition the scheme to this effect. Therefore, should Members be minded to approve the development, it is recommended that the percentage of affordable housing is conditioned to reflect the relevant sub-market area, which in this instance is South Powys – 30% contribution applicable. That said, as the scheme is to

be delivered and operated by Powys County Council as Local Housing Authority, Officers are confident that the scheme will provide 100% affordable units.

### Design, Layout and Appearance

Policy DM13 of the Powys LDP confirms that development proposals must be able to demonstrate a good quality design and shall have regard to the qualities and amenity of the surrounding area, local infrastructure and resources. As such, proposals will only be permitted where the scheme 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 A438 runs parallel to the site's south western boundary whilst residential dwellings bound the site to the north, east and south. The residential dwellings within close proximity to the site feature a mix of render, brick and stone facades and comprise of both two storey dwellings (Kilvert View and Buttercup Meadow) and bungalows (Castle Estate).

On reviewing the proposed plans, Officers are satisfied that the form, layout and scale demonstrate that the proposed residential development is capable of being integrated into the existing settlement whilst safeguarding existing character and appearance. The site provides for a density of 36 dwellings per hectare, making best use of land in a sustainable location whilst also securing adequate provision for residential amenity space and parking/turning provision.

Although of a contemporary appearance, the dwellings will be clad in timber boarding and render (walls) whilst the roof will comprise of metal standing seam (slate finish) reflective of the character and appearance of neighbouring residential development. Having carefully reviewed the proposed plans, it is considered that the proposed scheme integrates effectively into the built environment whilst also safeguarding the amenities enjoyed by occupants of neighbouring properties, compliant with policies SP7 and DM13 of the Powys LDP.

### Built Heritage

In order to safeguard strategic resources and assets within the County, policy SP7 indicates that development proposals must not have an unacceptable adverse impact on the identified resource or asset. For the purpose of policy SP7, assets include historic designations such as Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Historic Landscapes. This approach is reinforced within Planning Policy Wales (PPW) and Technical Advice Note 24 – The Historic Environment. Indeed, paragraph 6.1.9 of PPW advises that, 'Any decisions made through the planning system must fully consider the impact of the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place'.



Sections 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development." More recent guidance in paragraph 6.1.10 of Planning Policy Wales states, " For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 confirms that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area", which is also repeated within Planning Policy Wales and TAN24.

#### *Listed Buildings & Conservation Area*

The application site is located to the south of Clyro Conservation Area and north east of Clyro Castle, separated by the A438. The application is accompanied by a Heritage Impact Assessment (HIA) which considers the potential impact of the proposed development on nearby listed buildings together with the Conservation Area.

On reviewing the submitted HIA, the Built Heritage Officer has confirmed that the proposed development will not adversely affect the identified historic assets or designated Conservation Area and therefore no objection has been offered. Based upon the consultee comments received and Officer appraisal, it is considered that the proposed development is of an acceptable design, scale and location so as to safeguard the setting of the listed assets and Clyro Conservation Area compliant with policies SP7 and DM13 of the Powys Local Development Plan (2018), Technical Advice Note 24 and Planning Policy Wales.

#### *Scheduled Ancient Monument*

Planning Policy Wales explains that it is important that the planning system looks to protect, conserve and enhance the significance of historic assets. The conservation of archaeological remains and their settings is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains 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 a direct adverse impact on a scheduled monument (or an archaeological site shown to be of national importance)

Technical Advice Note 24: The Historic Environment elaborates by explaining that 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.

The application area is located approximately 77 metres north of Clyro Castle, a designated Scheduled Ancient Monument. Cadw indicate that the site is located within an identified significant view between Clyro Castle (SAM) and Church. This is assessed within the HIA in accordance with the guidance outlined in the Welsh Government document "The Setting of Historic Assets in Wales". The assessment indicates that whilst the proposed development will be visible from the castle it will not block the significant view towards the Church and will be seen as part of the other modern development on the southern side of the A438. The assessment thereafter concludes that whilst there will be a slight visual change in views between the Castle and the Church this will not alter the way that the Castle is experienced, understood and appreciated.

In commenting on the planning application, CADW confirms that they are in agreement with the HIA which concludes that there will be no impact on the setting of scheduled monument RD66. On the basis of the comments received, it is considered that the proposed development is in accordance with Technical Advice Note 24 and Planning Policy Wales.

#### Highway Safety and Movement

Policies DM13 and T1 of the Powys LDP indicate that development proposals will only be permitted where it can be demonstrated that the scheme has been designed and located to minimise the impacts on the transport network - journey times, resilience and efficient operation - whilst ensuring that highway safety for all transport users is not detrimentally impacted upon.

Access to the proposed development will be provided via the existing estate road serving Kilvert View, off Castle Estate. Parking and turning provision will be provided within the application site boundary.

Members are advised that the third party representations received express concern regarding the impact of the development on the existing highway network and parking provision given the increased traffic movements associated with the proposed development. On reviewing the submitted plans, the Highway Authority has confirmed no objection to the proposed development subject to the recommended conditions being attached to any grant of consent.

Notwithstanding the concerns expressed, in light of the Highway comments received, it is not considered that the proposed development will have an unacceptable adverse impact on the existing highway network or provision. As such, the proposal is

considered to be in accordance with planning policy, particularly policies DM13 and T1 of the Powys LDP.

### Ecology and Biodiversity

Policy DM2 states that all 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.

Planning Policy Wales (PPW) 10 sets out that “planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity” (para 6.4.5 refers). This policy and subsequent policies in Chapter 6 of PPW 10 respond to the Section 6 Duty of the Environment (Wales) Act 2016.

Recent Welsh Government correspondence offered further clarity on the implementation of legislation and Government policy as outlined above, confirming that where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. Guidance regarding suitable enhancement measures are detailed within the Council’s Biodiversity SPG.

The application is accompanied by an Extended Phase One Ecology Survey report produced by Ecological Services Ltd dated October 2019. The report assesses the potential impact of the development on protected species and habitats of ecological value.

The ecological assessment identified semi-improved grassland, hardstanding, scattered trees, tree lines and hedgerow within the application site. Given the habitats and condition of the habitats identified within the site and surroundings it is considered that nesting birds, reptiles and bats have the potential to be present and affected by the proposed development.

Whilst noting the above potential, the report indicates that there is a low potential for reptiles to be present within the hedgerow and trees lines around the site and therefore, it is not considered that further surveys are necessary. Consistent with the consultee advice secured, should Members be minded to grant consent, it is recommend that a suitable condition securing the submission of a Reasonable Avoidance Method Statement is attached to any planning permission.

Trees and hedgerow around the site boundary are considered to be suitable to support nesting birds. Therefore, it is considered necessary that any vegetation/tree or hedgerow works must be carried out outside of the bird-nesting season or the habitats inspected immediately prior to any impacts to these habitats. There are also a number

of trees along the site boundary and single tree within the proposed development site which were assessed from the ground for their potential to support roosting bats. The trees on the development boundary were considered to have low/moderate potential to support roosting bats and the single tree present on the south west of the site is considered to have low potential to support roosting bats. The single tree is required to be removed in order to accommodate the proposed development. In accordance with the recommendations from the County Ecologist, a condition requiring the implementation of bat mitigation measures will be attached to any grant of consent.

With regards to other protected and priority species - it is not considered likely that great crested newts, dormice, otters or badger would be present and impacted by the proposed development.

Within section four of the ecological report it is recommended that existing trees and hedgerows along the site boundary are protected during the construction phase to ensure that no construction activity or storage of materials will take place within the root protection zone. Therefore, to ensure that these features of biodiversity importance for wildlife are protected during the construction period, a root protection zone will be established during the construction plans, secured by condition.

Along the western boundary the hedgerow will be impacted in order to facilitate a new footway. It is recommended that this hedgerow is translocated rather than removed in order to mitigate impacts on this section of hedgerow. Again, this will be secured via an appropriately worded condition.

Having carefully considered the information provided in consultation with the relevant consultees, given the identified compensation, avoidance and mitigation measures recommended within section 4 of the ecological report, it is not considered that the proposed development will result in the loss of any features of ecological importance or result in a negative impact to biodiversity in the wider area. For the above reasons, it is considered that the proposed development is in accordance with planning policy, particularly policies SP7 and DM2 of the Powys LDP, Technical Advice Note 5 and Planning Policy Wales.

### Residential Amenity

LDP policy DM13 indicates that development proposals will only be permitted where the amenities enjoyed by the occupants or users of nearby or proposed properties are not unacceptably affected by levels of noise, dust, air pollution, litter, odour, hours of operation, overlooking or any other planning matter.

As previously referenced, the application site is located within immediate proximity of existing residential properties. In commenting on the proposed development, Environmental Health note the residential setting and thereafter recommend a number of conditions including the requirement for the submission of a Construction Method Statement and restriction of construction hours in order to safeguard residential amenity. Subject to the imposition of the aforementioned conditions it is considered that

potential impact on neighbouring residents can be appropriately managed and therefore the proposal is considered to be compliant with policy DM13 as above.

In assessing the potential impact on neighbouring properties by reasons of overlooking and privacy, it is considered by Officers that there is sufficient distance between adjacent properties and the proposed dwellings thereby ensuring no unacceptable adverse impacts in accordance with policy DM13.

### Contaminated Land

In accordance with LDP policy DM10, development proposals on contaminated or unstable land will be permitted where they do not:

1. Result in any additional problems of ground instability or contamination either on or off site and shall remediate the contamination / instability.
2. Unacceptably adversely affect public health and safety, nature conservation, historic or archaeological interests.

The application site is located within approximately 250 metres of a former landfill site. The application is accompanied by a site investigation report which has been subject to review by the Council's Contaminated Land Officer. In commenting on the proposed development, no objection has been raised subject to a number of standard conditions being attached to any planning permission granted. Officers are satisfied that sufficient information can be secured by condition thereby safeguarding public health and the environment, compliant with LDP policy DM10 as above.

### **RECOMMENDATION**

Having carefully considered the scheme, Officers are satisfied that the proposed residential development is in accordance with the listed planning policies. The proposed scheme proposes the development of a site within a sustainable location whilst also contributing to the supply of affordable housing to meet the varied housing needs within the County. As such, the recommendation is one of approval subject to the conditions detailed below.

### **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans (L01 Rev A, PL02, PL03, PL04, PL05, PL06, PL07, SK08 Rev F and ENG\_P\_CLY\_500).
3. No development shall begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in

writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include: i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces; ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; iii) the arrangements for the transfer of the affordable housing to an affordable housing provider; iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

4. The affordable dwellings shall have a maximum gross floor area of 115 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwellings shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

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

0800-1800 hrs Monday to Friday

0800-1300 hrs Saturday

At no time on Sundays and Bank Holidays

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

6. Prior to the commencement of development, a Construction Method Statement detailing the control of noise and dust during the landscaping and construction phases shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken strictly in accordance with the Construction Method Statement as approved.

7. Prior to any works commencing on the development site, detailed engineering drawings for the offsite highway junction visibility improvement works at the junction of the U1999 with the B4351 and associated works, shall be submitted to

and approved in writing by the Local Planning Authority. The works detailed shall thereafter be constructed to an adoptable standard prior to any works being commenced on the development site.

8. No development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. The parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
9. Before any other development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
10. Notwithstanding the approved plans, prior to the commencement of development, detailed highway engineering drawings covering the highway works within the site, shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.
11. Prior to the occupation of each of the dwellings hereby approved, provision shall be made within the corresponding plot for the parking of vehicles as detailed on the approved highways plan number SK08 F. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
12. No dwelling hereby approved shall be occupied before the estate road carriageway and footways are 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 dwelling and to the junction with the existing county highway.
13. No dwelling hereby approved shall be occupied until the vehicular access is finished in a 40mm bituminous surface course material for a distance of 10 metres from the edge of the adjoining carriageway. The area will be maintained to this standard for as long as the development remains in existence.

14. The estate road carriageway and all footways shall be fully completed, in accordance with 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.
15. 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.
16. Each private drive shall be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained as such for as long as the development remains in existence.
17. Within 10 days from the commencement of the development the existing means of vehicular access from the A438 county highway shall be stopped up, in materials to be agreed in writing by the Local Planning Authority and this shall be retained for as long as the development is in existence.
18. The development hereby approved shall be undertaken strictly in accordance with Section 4 (mitigation, avoidance and compensation measures) of the Extended Phase One Ecology Survey produced by Ecological Services Ltd dated October 2019.
19. Prior to commencement of development, a Reasonable Avoidance Method Statement regarding Reptiles shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken strictly in accordance with the Reasonable Avoidance Method Statement as approved.
20. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken strictly in accordance with the Tree and Hedgerow Protection Plan as approved.
21. Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the details as approved.



22. Prior to the commencement of development, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. The scheme shall also include an implementation and maintenance strategy. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition. The development shall thereafter be undertaken strictly in accordance with the landscaping scheme as approved.
23. Prior to commencement of development a detailed Hedgerow Translocation Method Scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken strictly in accordance with the Hedgerow Translocation Method Scheme as approved.
24. No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority. This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best practice, and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

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

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

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

25. No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins. The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.
26. No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 2 has been received from the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).
27. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority.

The remediation of the site shall incorporate the approved additional measures before the development is occupied. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced,

and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

28. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
29. The development hereby approved shall not commence until such time that the public open space consented under planning reference 19/0970/FUL has been fully implemented.

## **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 ensure that affordable housing is secured in accordance with policies SP3 and H6 of the Powys Local Development Plan (2018).
4. To ensure that affordable housing is secured in accordance with policies SP3 and H6 of the Powys Local Development Plan (2018).
5. In order to ensure that there is no harm to the amenity of neighbouring properties during the construction of the development in accordance with policy DM13 of the LDP.

6. In order to ensure that there is no harm to the amenity of neighbouring properties during the construction of the development in accordance with policy DM13 of the LDP.
7. In the interests of highway safety and movement in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 – Transport (2007) and Planning Policy Wales (2018).
8. In the interests of highway safety and movement in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 – Transport (2007) and Planning Policy Wales (2018).
9. In the interests of highway safety and movement in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 – Transport (2007) and Planning Policy Wales (2018).
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15. In the interests of highway safety and movement in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 – Transport (2007) and Planning Policy Wales (2018).
16. In the interests of highway safety and movement in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 – Transport (2007) and Planning Policy Wales (2018).

17. In the interests of highway safety and movement in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 – Transport (2007) and Planning Policy Wales (2018).
18. In order to safeguard protected species and biodiversity in accordance with policies SP7 and DM2 of the Powys Local Development Plan (2018), Technical Advice Note 5 (2009) and Planning Policy Wales (2018).
19. In order to safeguard protected species and biodiversity in accordance with policies SP7 and DM2 of the Powys Local Development Plan (2018), Technical Advice Note 5 (2009) and Planning Policy Wales (2018).
20. In order to safeguard protected species and biodiversity in accordance with policies SP7 and DM2 of the Powys Local Development Plan (2018), Technical Advice Note 5 (2009) and Planning Policy Wales (2018).
21. In order to safeguard protected species and biodiversity in accordance with policies SP7 and DM2 of the Powys Local Development Plan (2018), Technical Advice Note 5 (2009) and Planning Policy Wales (2018).
22. In order to safeguard protected species and biodiversity in accordance with policies SP7 and DM2 of the Powys Local Development Plan (2018), Technical Advice Note 5 (2009) and Planning Policy Wales (2018).
23. In order to safeguard protected species and biodiversity in accordance with policies SP7 and DM2 of the Powys Local Development Plan (2018), Technical Advice Note 5 (2009) and Planning Policy Wales (2018).
24. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).
25. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).
26. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other

offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).

27. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).

28. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).

29. The proposed development would result in the loss of amenity greenspace and therefore this condition is imposed in order to ensure sufficient alternative open space provision is made available within the settlement. This is in accordance with policy DM3 of the Powys Local Development Plan (2010), Planning Obligations SPG (2018) and Planning Policy Wales (2018).

## **Informatives**

Members are advised that the informatives as recommended by the respective consultees will be attached to any planning permission granted.

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Case Officer: Holly Wilkinson, Principal Planning Officer  
Tel: 01597 827319 E-mail: holly.hobbs@powys.gov.uk





CYNLLUN SAFLE  
SITE PLAN - 1:200 @ A1



CYNLLUN LLEOLIAD  
LOCATION PLAN - 1:1250 @ A1

| KEY                                       |  |
|---|--|
| Proposed Site Boundary                    | Existing Area in Client Ownership      |
| 1.8m boundary / privacy screen            | 1.2m sub-divisional boundary           |
| Passivhaus standard                       | ZeroCarbon Standard                    |
| garden shed / bike store                  | washing line                           |
| permeable paving finish - parking surface | permeable paving finish - road surface |
| tarmac pavement                           | grasscrete                             |
| grassed areas                             | patio / paving                         |
| Planting                                  | works to existing                      |



**GEORGE + TOMOS**  
PENSEIRI : ARCHITECTS Cyf.  
12 Heol Penrallt, Madynlleth, Powys, SY20 8AL  
www.georgetomos.co.uk - georgetomos@yahoo.co.uk

|  |                                |   |                                 |
|--|--------------------------------|---|---------------------------------|
| Project<br>TAI NEWYDD / NEW HOUSING<br>CLYRO | Client<br>Powys County Council | Job Nr.<br>19 / 25                        | Drawing Nr.<br>L01              |
|  | LOCATION & BLOCK PLAN          | Graddfa / Scale<br>1:400 @A3<br>1:200 @A1 | Dyddiad / Date<br>July '19   AG |

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# 4.4

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

**Application Number:** 19/0494/OUT  
**Grid Ref:** E: 324280  
N: 308965  
**Community Council:** Welshpool Community  
**Valid Date:** 26.03.2019

**Applicant:** Delves

**Location:** Land At Rhallt View And Tan Yr Allt View, Buttington, Welshpool, SY21 8SR,

**Proposal:** Outline application (with all matters reserved) for erection of a restaurant (class A3 use), formation of vehicular access roadway, parking area and all associated works together with demolition of 1 dwelling and associated buildings

**Application Type:** Outline planning

### The reason for Committee determination

The application is considered to be a departure from the development plan.

### Consultee Responses

| Consultee                            | Received     |
|--------------------------------------|--------------|
| Natural Resources Wales (North) DPAS | 7th Aug 2019 |

Thank you for consulting Natural Resources Wales (letter dated 29/03/2019) regarding additional information on the above.

In our previous response of 11/04/2019 we had not objection to the proposal, however we have now been re-consulted on the ecological report and our comments can be found below.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

Summary of Conditions

Condition 1 - LEMP: No development shall commence until a Landscape Ecological Management Plan (LEMP) for the provision, management and maintenance of the landscape and ecological features at the site, has been submitted to and approved by the Local Planning Authority.

Condition 2- Bats: No demolition shall take place until a pre-construction bat survey has been carried out. If the survey confirms the presence of bats the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out in accordance with the approved details.

### Protected Species

We have reviewed the Ecological Assessment report submitted in support of the above application dated 13 June 2019 by Star Ecology. Despite the main house on site (Tan yr Allt) being found to have low/moderate potential for bat roosting, no bats were found using any of the buildings/trees proposed for demolition/removal. The site was however found to have potential for bat foraging/commuting.

Unfortunately, the report fails to provide any bat activity analysis at the site and no information was provided on any flight lines that may have been observed during activity surveys.

We welcome the recommendations for the need of a bat-sensitive external lighting scheme as described in section 7.1 of the report. At reserved matters we would expect to see a revised bat survey report which gives information of bat activity at the site, this should be used to inform an appropriate landscape ecological management plan that will aim at retention of habitat connectivity with the larger environs and an appropriate lighting scheme to demonstrate retention of dark flight lines.

Condition 1 - LEMP: No development shall commence until a Landscape Ecological Management Plan (LEMP) for the provision, management and maintenance of the landscape and ecological features at the site, has been submitted to and approved by the Local Planning Authority. The LEMP should include, but not limited to, the following:

- o o Details of habitats, landscape, ecological features present or to be retained/created at the site;
- o o Details of the desired conditions of the features at the site
- o o Details of scheduling and timing of activities

- o o Details of short and long term management to deliver and maintain the desired condition.
- o o Details of an exterior lighting scheme to demonstrate retention of dark wildlife corridors

The bat survey findings are considered valid for two years from the last date of observations.

Since it is not known at this stage when the buildings are likely to be demolished and due to the moderate potential of one of the buildings to host bats, we suggest that the presence/absence of bats is confirmed prior to demolition.

Condition 2- Bats: No demolition shall take place until a pre-construction bat survey has been carried out. If the survey confirms the presence of bats the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out in accordance with the approved details.

If bats are found to be present a NRW derogation license will be required.

#### Protected Sites

From the information provided, NRW consider that the proposals may affect the Montgomery Canal Special Area of Conservation (SAC). The application is located within 60m of the SAC which is also a Site of Special Scientific Interest (SSSI).

NRW have identified potential impact pathways to features of this site:

#### 1. Pollution (air born)

The above pathways may not result in a likely significant effect if the following measures are adhered to/ implemented:

1. Developer adheres to pollution prevention guidelines (refer to the advisory given at the bottom of this letter).

No assessment of likely significant effect under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 has been undertaken by your authority or it has not be forwarded to NRW for consideration. Should you conclude that the proposed

development is likely to have a significant effect on the European site, we look forward to being consulted on your appropriate assessment. In the absence of this assessment, NRW cannot offer assurances that the proposals would not result in an adverse effect upon the SAC.

#### Foul Drainage

No information has been provided regarding the disposal of foul waters from the proposed development. We refer you to WG Circular 008/2018 on the use of private sewerage in new developments, and specifically paragraphs 2.3-2.5, which stress the first presumption must be to provide a system of foul drainage discharging into a public sewer. We advise you the proposed development is in a publicly sewered area.

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

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: (<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). 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.

#### Advice for the developer:

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.

#### Foul Drainage

It is not known at this stage what is the proposed method of foul water discharge for this proposal. Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and discharge of effluent to ground or surface water is required, the Applicant will need to apply for an environmental permit or register an exemption with us. The Applicant must obtain any necessary permit or exemption prior to commencement of work on site. Septic tanks and small sewage treatment works may be registered as exempt from the requirement to obtain an environmental permit if certain criteria is met. Please note, should a permit be required, further information may be required as part of that application and the Applicant is therefore advised to hold pre-application discussions with our Permitting Team on 0300 065 3000, at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the permit requirements. More information, including a step by step

guide to registering and the relevant application forms are available on our website. Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standards 6297 and Approved Document H of the Building Regulations. We also refer the Applicant to Pollution Prevention Guideline 4 which provides further information.

## Waste

Waste produced during the construction phase of your development must be dealt with appropriately, and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- o o before it is collected, disposed of or recovered
- o o to identify the controls that apply to the movement of the waste
- o o to complete waste documents and records
- o o to identify suitably authorised waste management options
- o o to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/waste/how-to-classify-and-assess-waste/?lang=en>

<http://naturalresources.wales/apply-for-a-permit/waste/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

## Pollution Prevention

All works at the site must be carried out in accordance with GPP5 and PPG6 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which is available at:

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

## Environmental Management

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under the Environmental Permitting Regulations 2016. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

PCC-Ecologist

30th Aug 2019

Thank you for consulting me with regards to planning applications 19/0494/OUT that concerns an outline planning application for (with all matters reserved) for erection of a restaurant (class A3 use), formation of vehicular access roadway, parking area and all associated works together with demolition of 2 dwellings and associated buildings at Rhallt View And Tan Yr Allt View, Buttington.

I have reviewed the Ecological Assessment Report produced by Star Ecology dated June 2019 report reference DC/2254/19.1 along with NRW's consultation response letter dated 7 August 2019.

No buildings on site that are proposed to be demolished or trees were found to support roosting bats. However it has been noted that the site has potential for bat foraging/commuting.

NRW have commented the ecological report has not provided any bat activity analysis at the site and that no information was provided on any flight lines that may have been observed during the activity surveys.

Whilst NRW have stated that that at reserved matters we would expect to see a revised bat survey report which gives information of bat activity at the site, this should be used to inform an appropriate landscaping ecological management plan that will aim at retention of habitat connectivity with the larger environs and an appropriate lighting scheme to demonstrate retention of dark flight lines.

I would recommend that submission of any bat activity analysis at the site, with information regarding flight lines that were recorded during the survey be provided prior to determination of the application.

Without this data it is considered that insufficient information with regards to biodiversity - namely impacts to European Protected Species - a Material Consideration in the planning process has been provided with the application, as such further information is required to be submitted prior to determination of the application to address this.

Environmental Health

22nd Aug 2019

Having considered the information provided by the agent regarding noise and odour, I'm of the opinion that provided that the site is managed well issues should not arise therefore I have no objection to the application.

CPAT

22nd Jul 2019

The proposed demolition will impact a brick farmhouse building on the frontage which is not recorded within the Historic Environment Record. The building is present on the 1829 OS Surveyors map, the 1840 Tithe map and subsequent OS maps from the first edition onwards. The building clearly pre-dates the 1829 mapping, but it is not clear how early the first structure is on this site. The building is of at least local architectural and historic interest.

The application information supplied suggests this building will be completely demolished, but presents no plans as existing or internal/external photographs.

We have a very poor understanding of the architectural history, fabric and layout of this building and would require more information on its archaeological/architectural and historical value to be able to inform the planning committee of any suitable mitigation.

I would therefore recommend that a Level 3 archaeological survey of the building is completed at the pre-determination stage in accordance with the guidance set out in TAN 24 (May 2017) and Planning Policy Wales (Edn 10 Dec 2018) so that we can assess the importance of this historic asset and provide informed advice about suitable mitigation for its loss.

The applicant will need to engage an archaeological contractor to complete the survey and information on sources of contractors is attached along with a brief for a Level 3 survey.

The determination of this application should therefore be delayed until the additional information is supplied.

CPAT

4th Apr 2019

Thank you for the consultation on this application.

The proposed demolition will impact a brick farmhouse building on the frontage which is not recorded within the Historic Environment Record. The building is present on the 1829 OS Surveyors map, the 1840 Tithe map and subsequent OS maps from the first edition onwards. The building clearly pre-dates the 1829 mapping, but it is not clear how early the first structure is on this site. The building is of at least local architectural and historic interest.



The application information supplied suggests this building will be completely demolished, but presents no plans as existing or internal/external photographs.

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The applicant will need to engage an archaeological contractor to complete the survey and information on sources of contractors is attached along with a brief for a Level 3 survey.

The determination of this application should therefore be delayed until the additional information is supplied.

Community Council

10th Apr 2019

19/0494/OUT      Land at Rhallt View and Tan Yr Allt View Buttington

An application for the erection of a fast food restaurant (class A3), formation of a vehicular access roadway, parking area and associated works together with the demolition of 2 dwellings and associated buildings. See appendix A.

Notes:

- a) All matters reserved so this is a basic application with site layout only.
- b) 12 full time equivalent employee positions gained.
- c) Loss of 2 houses.
- d) No public consultation and no pre-planning advice.

The Committee OBJECTS to this application on the following grounds:

- a) The site is outside the Local Development Plan boundary.
- b) The development would result in the loss of 2 residential units.
- c) The location of the site is not accessible by pedestrians who would have to cross a trunk road with the site close to an industrial estate, residents and more importantly a High School and new Infant/Junior school.
- d) The egress from the site on the Oswestry Road is close to the roundabout and is considered a highways issue.
- e) The site location with the Town Centre close by does not meet the Town Council Climate Change Policy encouraging cycling and walking.

Wales & West Utilities - Plant Protection  
Team

29th Mar 2019

Wales & West Utilities have been made aware of a planning application on 29.03.2019 ,  
advising us of the proposals

at:

Rhallt View, Buttington Cross, Buttington, WELSHPOOL, SY21 8SR

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

Wales & West Utilities apparatus may be directly affected by these proposals and the Information you have provided has been forwarded to Asset Management for their comments. If Wales and West are affected an Engineer will then contact you direct.

Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners.

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

Environmental Health

2nd Apr 2019

I will require the following

1. Given the proximity of the nearby residential dwellings I will require a BS4142 (2014) noise assessment.
2. The proposed method of foul drainage with the relevant calculations.
3. Lighting scheme
4. Hours of operation
5. Odour management

PCC-Ecologist

5th Apr 2019

Thank you for consulting me with regards to planning application 19/0494/OUT which concerns an outline planning application (with all matters reserved) for erection of a restaurant (class A3 use), formation of vehicular access roadway, parking area and all associated works together with demolition of 2 dwellings and associated buildings at Rhallt View And Tan Yr Allt View, Buttington, Welshpool.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 85 records of protected and priority species within 500m of the proposed development -there were no records for the site itself.

There are two statutory designated sites within 500m of the proposed development site;

- o Montgomery Canal - SSSI
- o Montgomery Canal - SAC

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

Given that to accommodate the proposed development both dwelling and outbuildings are required to be demolished consideration needs to be given to the potential for existing outbuildings and existing dwelling to support roosting bats - bats being a European protected species. Bat roosts are often associated with roofs, both internally using the loft void and externally, particularly utilising suitable roosting opportunities associated with the ridge and edges of the roofs, especially of buildings of age.

No ecology information has been submitted to support this planning application.

#### Extended Phase 1 Ecological Survey including a Bat Survey

It is recommended that an Extended Phase 1 Ecological Survey including a Bat Survey is carried out to inform the current application given the impacts to the buildings on site and from reviewing the surrounding habitats.

Given that the building and stables are buildings of age, taking into consideration the surrounding habitat and records of bats within neighbouring buildings - it is considered that there is a reasonable likelihood of bat roosts being present.

It is therefore considered at this stage that there is insufficient information with regards to biodiversity - namely impacts to European Protected Species - a Material Consideration in the planning process has been provided with the application, as such further information is required to be submitted prior to determination of the application to address this.

The request for further information is based on the fact that bats are a European protected species and biodiversity is a material consideration in the planning process therefore PCC need to ensure they have sufficient information to assess potential impacts and the requirement for any mitigation.

In order to assess the potential impacts to roosting bats, as a minimum a preliminary assessment of the buildings and dwelling for its bat roost potential and the potential for any impacts is required. This assessment needs to be undertaken by an appropriately experienced and licensed bat consultant. If this preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals, then further bat survey work will be required. If bat accesses or roosts are found that will not be affected by the proposals a method statement must be submitted to demonstrate how the proposed works will avoid any impacts to bats.

The preliminary bat roost assessment shall include a full internal and external inspection of the building and an assessment of how the proposed development works may affect any potential or actual bat roost features, as well as incorporating opportunities for bats within the completed development. The preliminary bat roost inspection must be undertaken by an appropriately experienced and licensed ecologist and must adhere to the current standard survey methodology published by Bat Conservation Trust.

Bat activity surveys will need to be undertaken in accordance with the Bat Conservation Trust's Bat Surveys for Professional Ecologists - Good Practice Guidelines 3rd Edition (2016) and Powys County Council's planning application guidance note (Powys Bat Survey Guidance 2009). Therefore, the survey should be undertaken by suitably licensed and qualified ecologists and comprise a thorough internal and external inspection and three activity surveys during the recognised activity season May - September, the surveys should be spread throughout the activity season (as far as reasonably possible to do so) to allow a broad picture of any bat roost use of the site to be developed. Where deviations from the standard guidelines are considered to be necessary, full justifications for the methods used will be required.

If bats are found to be using the buildings for roosting purposes and there is potential for the roost to be destroyed or disturbed i.e. an offence is likely to be committed a European protected species licence would be required to allow the works to proceed, as part of the

planning process the Local Planning Authority must establish whether the three tests as defined by the Conservation of Habitats and Species Regulations 2010 (as amended) have been met prior to determining the application. If the Wildlife Licensing Unit at Natural Resources Wales (NRW) is also happy that these Tests have been satisfied, then an EPS development licence can be granted.

The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

In order to address the 3rd test appropriate mitigation would need to be identified. The proposed mitigation will need to be located in a suitable location and appropriate to the species identified. Mitigation details need to be clearly illustrated on the architectural plans and must provide sufficient detail to enable them to be subject to a planning condition/s106 agreement.

An extended Phase 1 habitat survey is recommended to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

The ecological assessment should evaluate the potential impacts of the proposed developments on protected and/or notable species, such as species of conservation concern and locally important species listed in the Powys BAP.

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

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

Tree and Hedgerow Compensation Planting Scheme and/or Tree and Hedgerow Protection Plan and/or Hedgerow Translocation Plan

Powys LDP Policy DM2 states that:

'Development proposals which would impact on the following natural environment assets will only be permitted where they do not unacceptably adversely affect:

5. Trees, woodlands and hedgerows of significant public amenity, natural or cultural heritage'

LDP Policy DM2 part 3, make reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan - 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'.

LDP policy DM2 part 2 identifies the need to protect habitats afforded protection under National policy and legislation including those listed as a "habitats of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016 - Hedgerows are included on this list and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

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

Where it is necessary to remove any trees or hedgerows - a Tree and Hedgerow Replacement Planting Scheme will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow - details of the location, length and species as well as an appropriate aftercare scheme will need to be identified - species used will need to be native and reflect the hedgerows present in the local area.

## External Lighting Plan

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. I therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition. However as further information has been requested, submission of an external lighting plan at this stage would avoid the need for a pre commencement condition.

## Landscaping Plan

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. A landscaping plan could be secured through a planning condition, however the provisions of details submitted with a planning application would avoid the need for a pre-commencement condition requiring this information.

## Maintaining Biodiversity

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

- oProvision of bird and bat boxes including the details of the number, type and location of these boxes;
- oA wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- oProvision of wildlife friendly landscape planting.

Should biodiversity enhancement measures such as the bird nesting boxes - be proposed as part of the development details of these features identified will need to be specific and



detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

PCC-Building Control

1st Apr 2019

Building Regulations application required.

PCC-(N) Highways

2nd Apr 2019

Does not wish to comment on the application

WG - Highways Directorate

23rd Apr 2019

I refer to your consultation of 29/03/2019 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road does not issue a direction in respect of this application.

Hafren Dyfrdwy

4th Apr 2019

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

- o 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
- o 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

The developer's attention is also drawn to the legal requirement for all sites to enter into a Section 104 sewer adoption agreement with Hafren Dyfrdwy before any sewer connection can be approved, in line with the implementation Schedule 3 of the Floods and Water

Management Act 2010. Full details of this are provided on our website [www.hdcymru.co.uk](http://www.hdcymru.co.uk) under the 'New Site Developments' section.

Natural Resources Wales (North) DPAS

11th Apr 2019

Thank you for consulting Natural Resources Wales (letter dated 29/03/2019) regarding the above.

NRW does not object to the proposal but would like to raise the matters detailed below.

#### Protected Sites

From the information provided, NRW consider that the proposals may affect the Montgomery Canal Special Area of Conservation (SAC). The application is located within 60m of the SAC which is also a Site of Special Scientific Interest (SSSI).

NRW have identified potential impact pathways to features of this site:

1. Pollution (air born)

The above pathways may not result in a likely significant effect if the following measures are adhered to/ implemented:

1. Developer adheres to pollution prevention guidelines (refer to the advisory given at the bottom of this letter).

No assessment of likely significant effect under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 has been undertaken by your authority or it has not be forwarded to NRW for consideration. Should you conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being consulted on your appropriate assessment. In the absence of this assessment, NRW cannot offer assurances that the proposals would not result in an adverse effect upon the SAC.

#### Protected Species

NRW has not considered European Protected Species(EPS) because the application does not appear to include an EPS report. Please consult NRW again if an EPS report identifies the presence of EPS.

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

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: (<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). 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.

Advice for the developer:

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.

#### Foul Drainage

It is not known at this stage what is the proposed method of foul water discharge for this proposal. Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and discharge of effluent to ground or surface water is required, the Applicant will need to apply for an environmental permit or register an exemption with us. The Applicant must obtain any necessary permit or exemption prior to commencement of work on site. Septic tanks and small sewage treatment works may be registered as exempt from the requirement to obtain an environmental permit if certain criteria is met. Please note, should a permit be required, further information may be required as part of that application and the Applicant is therefore advised to hold pre-application discussions with our Permitting Team on 0300 065 3000, at the earliest opportunity, to try to ensure that there is no conflict between any planning permission granted and the permit requirements. More information, including a step by step guide to registering and the relevant application forms are available on our website. Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standards 6297 and Approved Document H of the Building Regulations. We also refer the Applicant to Pollution Prevention Guideline 4 which provides further information.

#### Waste

Waste produced during the construction phase of your development must be dealt with appropriately, and be in line with all relevant waste legislation including Duty of Care

Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- o o before it is collected, disposed of or recovered
- o o to identify the controls that apply to the movement of the waste
- o o to complete waste documents and records
- o o to identify suitably authorised waste management options
- o o to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/waste/how-to-classify-and-assess-waste/?lang=en>

<http://naturalresources.wales/apply-for-a-permit/waste/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

#### Pollution Prevention

All works at the site must be carried out in accordance with GPP5 and PPG6 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which is available at:

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

#### Environmental Management

The activity of importing waste into the site for use as, for example hardcore, must be registered with Natural Resources Wales as an exempt/permittable activity under the Environmental Permitting Regulations 2016. The developer should contact Natural Resources Wales to discuss the necessity for an exemption/permit for any material imported to and exported from the site.

If during construction/excavation works any contaminated material is revealed, then the movement of such material either on or off site should be done in consultation with Natural Resources Wales. Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste from the site must be registered waste carriers and movement of any Hazardous Waste from the site must be accompanied by Hazardous waste consignment notes.

Canal & River Trust (Glandwr Cymru In  
Wales)

15th Apr 2019

The trust has no comment to make on the proposal as the site is set away from the canal.

Environmental Protection

14th Nov 2019

The amended layout would result in the existing farmhouse being very close to the proposed site and I am very concerned about the affect on the amenity of the residents of the property given that their garden and the carpark will be adjacent.

On the previous application the nearest dwelling was over the road therefore background noise and distance would mask and reduce some of the noise from the site. However on amended plan this they are immediately adjacent therefore I will require noise and odour assessment for the new layout.

Sources concern

Noise

1. People exiting and entering their vehicles 24hours
2. Staff using the service yard in the early morning and late at night.
3. Service fans air outlets.
4. Drive-thru microphone/speaker
5. General disturbance of people talking in the carpark and outdoor eating area.

## Odour

1. Continual cooking odours
2. Waste in external storage area

CPAT

23rd Oct 2019

Thank you for the additional consultation on this application.

The Level 3 building survey by Trysor indicated that the main farmhouse building retains a layout and fabric that are of local vernacular importance and should be retained. The house was originally linked to Powis Estate as a mangers residence and office and retains original beams, a slate shelved pantry, windows, fireplaces and other features that are worthy of preservation. This was communicated to the developer and they have now agreed to retain the farmhouse and garden within the proposed development plan. The farmhouse will be sympathetically converted to a restaurant/café at a future date.

We would therefore have no objection to the revised layout which retains the old farmhouse and garden area.

## Representations

The application was advertised through the display of a site notice and press advertisement. Five objections have been received and are summarised below;

- Highway concerns regarding safety of the highway, impact on Buttington roundabout, parking, pedestrian safety, car speeds and volume.
- Social and financial pressure on parents to take children to the restaurant

## Planning History

| App Ref | Description | Decision | Date |
|---------|-------------|----------|------|
|---------|-------------|----------|------|

## Principal Planning Constraints

Montgomery Canal SAC

## Principal Planning Policies

| <b>Policy</b> | <b>Policy Description</b>                              | <b>Year</b> | <b>Local Plan</b>                |
|---------------|--|-------------|----------------------------------|
| PPW           | Planning Policy Wales (Edition 10, December 2018)      |             | National Policy                  |
| TAN4          | Retail and Commercial Development                      |             | National Policy                  |
| TAN5          | Nature Conservation and Planning                       |             | National Policy                  |
| TAN11         | Noise  |             | National Policy                  |
| TAN12         | Design   |             | National Policy                  |
| TAN18         | Transport  |             | National Policy                  |
| TAN23         | Economic Development                                   |             | National Policy                  |
| TAN24         | The Historic Environment                               |             | National Policy                  |
| SP4           | Retail Growth  |             | Local Development Plan 2011-2026 |
| SP5           | Settlement Hierarchy                                   |             | Local Development Plan 2011-2026 |
| SP6           | Distribution of Growth across the Settlement Hierarchy |             | Local Development Plan 2011-2026 |
| R1            | New Retail Development                                 |             | Local Development Plan 2011-2026 |
| R4            | Neighbourhood and Village Shops and Services           |             | Local Development Plan 2011-2026 |

|        |  |                                  |
|--------|--|----------------------------------|
| DM2    | The Natural Environment                      | Local Development Plan 2011-2026 |
| DM4    | Landscape                                    | Local Development Plan 2011-2026 |
| DM7    | Dark Skies and External Lighting             | Local Development Plan 2011-2026 |
| DM13   | Design and Resources                         | Local Development Plan 2011-2026 |
| SPGBIO | Biodiversity and Geodiversity SPG (2018)     | Local Development Plan 2011-2026 |
| SPGLAN | Landscape SPG                                | Local Development Plan 2011-2026 |
| T1     | Travel, Traffic and Transport Infrastructure | Local Development Plan 2011-2026 |

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

#### Site Location and Description

The application site is located to the north of Welshpool as defined by the Powys Local Development Plan. The site lies adjacent to the development boundary for Welshpool and is bound to the north and east by agricultural land and to the south by the A458 and Welshpool Livestock market and west by the A483. To the south east of the site lies a roundabout. The site currently comprises two residential dwellings and associated agricultural buildings. It is proposed to demolish one of these dwellings and the associated agricultural buildings.

The application seeks outline planning permission with all matters reserved for future consideration for the erection of a restaurant and associated works including the



demolition of a single dwelling and associated buildings. The estimated floor area of the proposed building is approximately 275 square metres. The following parameters have been given for the scale of the building;

- Length – 18m – 25m
- Width – 9m – 14m
- Ridge height – 5m – 7m

### Principle of Development

Technical Advice Note 4: Retail and Commercial Development (2016) states that retail applications of 2,500 square metres or more gross floorspace that are proposed on the edge or outside retail and commercial centres should be supported by a retail impact assessment. The application proposes approximately 275 square metres of retail space, falling far below the threshold identified within the TAN, and the site is located adjacent to Welshpool, which is defined as an Area Retail Centre.

Policy SP4 states that to meet future retail needs provision is made for the up to 1,000 square metres (net) of retail floorspace. The policy goes on to state that additional need for convenience and comparison floorspace elsewhere should be accommodated in existing vacant premises. Whilst it is noted that the development does not accommodate existing vacant premises the following considerations have been given.

Powys Local Development Plan Policies R1 and R4 seek to ensure that retail development is located within defined retail centres with Welshpool being classified as an Area Retail Centre. The proposed development, being adjacent to the northern development boundary, is located some 2.1km from the defined town centre of Welshpool. It is therefore considered that due to its location and distance from the town centre area it would not undermine the vitality and viability of the town centre. As such it is not considered to undermine the retail hierarchy of Welshpool and would not be considered to have an unacceptable adverse impact on the vitality and viability of the retail centre.

With regards to Area Retail Centres the LDP stated that these areas not only serve the resident population, but also a wide catchment area due to the nature of retail facilities and services offered. Para 4.7.5 of the LDP states that settlements categorised as Area Retail Centres are therefore considered strategically important in terms of their retail and service provision and best suited to accommodate large new retail developments.

As such in considering policy R1 and the statements made within the LDP it is considered that the provision of a restaurant, amounting to some 275 square metres, supports the retail hierarchy identified within the policy. Furthermore, it is considered that the scale of the development complements the role of the Area Retail Centre, and its location adjacent to this ensures that the proposal is compliant with the retail hierarchy as defined by policy R1 of the LDP.

In light of the above it is considered that the proposed development is in accordance with the relevant local and national planning policies.

### Scale, Design and Appearance

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.

As the application is in outline, matters such as design will be dealt with at reserved matters stage. However based on the provided measurements and indicative layout it is considered that a restaurant can be accommodated on the site without having a detrimental impact on the character and appearance of the area. Landscaping will also be conditioned as part of any consent to ensure that the landscaping provided further aids in the assimilation of the development into the landscape.

As such, it is considered that the proposed development is in accordance with policy DM13 of the Powys Local Development Plan, TAN12 Design and Planning Policy Wales.

### Highway Safety and Movement

Policies DM13 and T1 of the Powys Local Development Plan 2018 indicate 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.

It is noted that highway safety concerns have been raised by all objectors on the proposed development ranging from concerns regarding access, volume and speeds of traffic to pedestrian safety.

In responding to the consultation, the Highway Authority has confirmed that they do not have any comments to make and the Welsh Government Highways Department advise that they do not issue a direction on the proposal.

It is advised that the application has been submitted in outline with all matters reserved for future consideration. As such, only the principle of development is being considered and matters surrounding highways will be dealt with at reserved matters stage.

In light of the above, it is considered that the proposed development fundamentally complies with relevant planning policy and in particular LDP Policy DM13 (Part 1), TAN 18 and Planning Policy Wales.

### Environmental Protection

As part of the application process Powys County Council's Environmental Protection Officer has been consulted on the application.

During the course of the application additional information was requested and submitted which overcame concerns raised by Environmental Protection. Following discussion between the applicant and CPAT it was decided to retain the original farmhouse as part of the development and Environmental Protection objected to this being used as a residential dwelling as there would be amenity issues with its proximity to the restaurant. As such should the application be approved a condition will be attached to ensure that the dwelling remains ancillary to the proposed restaurant and not used for residential purposes. Following discussion with Environmental Protection they are content with this condition.

The proposed development and activities to be undertaken are not considered to detrimentally impact the amenity of the area or other properties within the vicinity. In light of the above, it is considered that the proposed development fundamentally complies with relevant planning policy and in particular LDP Policy DM13 (Part 11).

#### Land Drainage

As the construction area is greater than 100m<sup>2</sup>, the scheme will require SAB approval prior to any construction works commencing on site.

In light of the above, it is considered that a suitable drainage scheme will be secured and therefore the proposed development is considered to be compliant with LDP Policy DM6.

#### Cultural Heritage

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. The Barnwell Manor case the Court of Appeal made it clear that in enacting Powys County Council s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore, special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

The application site lies approximately 120 metres and 160 metres from listed buildings. The Buttington Limekilns and Bridge over the Montgomeryshire Canal are both grade II listed buildings. The development site currently contains built development comprising

two dwellings and agricultural buildings. The proposed development will reduce the building mass on site and introduce additional planting as screening. It is considered that this along with the intervening landscaping and trunk road and associated large roundabout will ensure that there is no harm to the listed buildings.

TAN 24 outlines that the conservation of archaeological remains are a material consideration in determining a planning application and that there should be a presumption in favour of their physical preservation in situ. Therefore, there is 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.

CPAT commented on the planning application advising that a pre-determination survey of the existing farmhouse be undertaken. Following this it was discussed with CPAT that the original farmhouse would be retained as part of the development. CPAT confirmed that they were content with this and did not object to the proposed development.

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

#### Biodiversity 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.

Both Powys Ecology and Natural Resources Wales have been consulted on the proposed development.

The application is supported by an Ecological Assessment Report produced by Star Ecology. Both Powys Ecology and NRW have reviewed the report which advised that whilst the main dwelling at the site has low/moderate potential for bat roosting, no bats were found using any of the buildings/trees proposed for demolition.

Whilst Ecology have requested additional information be provided prior to determination, NRW, the statutory consultee for European Protected Species, have advised that as surveys are only relevant for two years and being mindful of the outline nature of the proposed development and no information regarding the timescale for demolishing any buildings have been provided they have not objected to the proposed development. NRW are therefore content with the submitted information provided that should planning permission be granted that conditions securing a Landscape Ecological Management Plan and pre-construction survey be attached to any consent.

It is noted that the Montgomery Canal SSSI and SAC is located within 60 metres of the proposed development. Following discussion with the Powys Ecologist they have advised that they do not consider that the development would have a likely significant effect on

the SSSI/SAC due to the distance between the SAC/SSSI and the site, the intervening trunk road and built development and the fact the SSSI/SAC lies at a higher level than the proposed development.

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.

## **RECOMMENDATION**

Having carefully considered the proposed development, officers are satisfied that, whilst a departure, broadly complies with National policy and does not undermine the policies within the LDP. For the reasons stated above, the recommendation is therefore one of approval subject to the conditions detailed below.

### **Conditions**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the following approved plans and documents (Drawing no's: 70108/19/01; Planning Statement; Noise Impact Assessment dates 4th July 2019 and Ecological Assessment dated 13th June 2019.)
5. Prior to the beneficial use of the restaurant the residential use of the dwelling known as Tan yr Allt shall cease and the building shall only be used for storage ancillary to the approved restaurant.
6. No development shall commence until a Landscape Ecological Management Plan (LEMP) for the provision, management and maintenance of the landscape and ecological features at the site, has been submitted to and approved in writing by the Local Planning Authority. The LEMP should include, but not limited to, the following: Details of habitats, landscape, ecological features present or to be retained/created at the site; Details of the desired conditions of the features at the

site; Details of scheduling and timing of activities; Details of short and long term management to deliver and maintain the desired condition; Details of an exterior lighting scheme to demonstrate retention of dark wildlife corridors.

7. No demolition shall take place until a pre-construction bat survey has been carried out. If the survey confirms the presence of bats the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out in accordance with the approved details.
8. No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: i) A statement setting out the design objectives and how these will be delivered; ii) earthworks showing existing and proposed finished levels or contours; iii) means of enclosure and retaining structures; iv) other vehicle and pedestrian access and circulation areas; v) hard surfacing materials; vi) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.), and vi) water features. Soft landscape works shall include [planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; an implementation programme (including phasing of work where relevant).

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans as approved in the interests of clarity and a satisfactory development.
5. In the interest of the protection of amenity in accordance with policy DM13 of the Powys Local Development Plan and Planning Policy Wales.
6. 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 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
7. 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 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

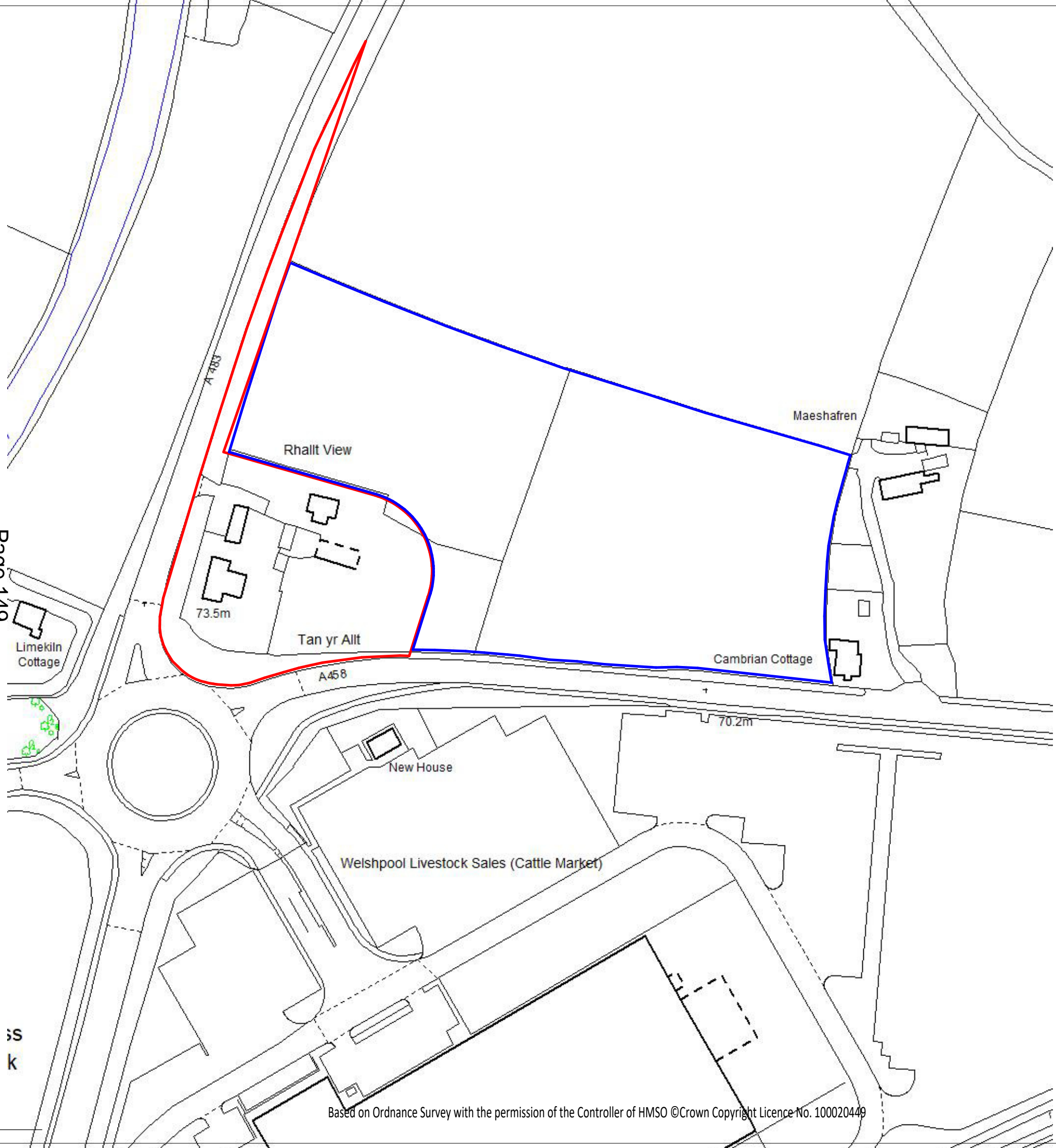
8. To comply with Powys County Council's LDP Policy DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

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Case Officer: Tamsin Law, Principal Planning Officer  
Tel: 01597 827230 E-mail: [tamsin.law@powys.gov.uk](mailto:tamsin.law@powys.gov.uk)

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Roger Parry  
& Partners

Residential - Agricultural - Commercial

|             |                                     |      |           |
|-------------|-------------------------------------|------|-----------|
| Job         | Drive Thru Restaurant (A3)          |      |           |
| Title       | Location Plan                       |      |           |
| Location    | Buttington<br>Welshpool<br>SY21 8SR |      |           |
| Client      | Delves & Co                         |      |           |
| Scales      | 1:1250 @ A3                         |      |           |
| Drawing No. | 70108/19/01                         | Rev  |           |
| Drawn by    | SC                                  | Date | Sept 2018 |

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# 4.5

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

**Application Number:** 19/1873/FUL      **Grid Ref:** E: 296918  
N: 268791  
**Community Council:** Rhayader Community      **Valid Date:** 05.12.2019

**Applicant:** Powys County Council

**Location:** Rhayader C in W School, Rhayader, LD6 5LT.

**Proposal:** Construction of new mobile classrooms to provide 3+ Early years facility

**Application Type:** Full Application

### The reason for Committee determination

Powys County Council is the applicant and therefore is required to be determined by Members of the Planning Committee.

### Consultee Responses

| Consultee | Received |
|-----------|----------|
|-----------|----------|

Rhayader Community Council

No comments received at the time of writing this report

PCC - Building Control

No comments received at the time of writing this report

Wales & West Utilities

No comments received at the time of writing this report

Natural Resources Wales

11th Dec 2019

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 Consultation Topics, Development Planning Advisory Service: Consultation Topics (September 2018): <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.

We do note that the development is 310m from two Protected Sites;

- River Wye (Upper Wye) Site of Special Scientific Interest
- River Wye Special Area of Conservation

From the information provided, we consider that the proposal is not likely to have a significant effect on the protected sites.

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.

PCC - Highways

19th Dec 2019

Thank you for consulting the Highway Authority on this matter.

Based on the information submitted by the agent, in an email dated 19th December 2019, confirming the use of the building being for existing pupils of the school, the Highway Authority does not wish to comment on this application.

Welsh Water

11th Dec 2019

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### Sewerage:

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

#### Surface Water Drainage.

The proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in pre-application consultation with the Local Authority, as the relevant SuDS Approval Body (SAB).

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

PCC - Environmental Protection

16th Dec 2019

Having taken a look at the residential nature of the area where the proposed development will be sited and given consideration to noise creation, I would recommend that during the landscaping and construction period working hours and delivery times be restricted as follows:

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

0800 - 1800 hrs Monday to Friday

0800 - 1300 hrs Saturday

At no time on Sunday and Bank Holidays

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

PCC - Ecologist

19th Dec 2019

Thank you for consulting me with regards to planning applications 19/1873/FUL that concerns full applications for construction of new mobile classrooms to provide 3+ Early years facility at Rhayader C In W School, Rhayader.

I understand that an ecological survey has been undertaken to support this planning application. However, the ecological report has not been submitted with the current planning application.

Once the ecological report has been submitted, I will be able to provide an ecology consultation response regarding this application

*Additional comments received 28<sup>th</sup> January 2020 –*

Thank you for consulting me with regards to the submitted additional information concerning planning application 19/1873/FUL.

A Preliminary Ecological Survey has been undertaken to assess the potential of the development to impact to any protected species presence or habitats of ecological value.

I have reviewed the submitted Ecological Assessment (including for protected species) Report produced by Mid Wales Ecology Ecological Consultants dated September 2019 report reference number 19.026b, I consider that the survey effort employed was in accordance with National Guidelines.

Method statement, avoidance and mitigation measures – Nesting birds, Reptiles and Badgers

A site visit was carried out by the Ecologist on the 8<sup>th</sup> September 2019. The habitats identified within and adjacent to the proposed development (noted to be referred to as area 4 within the ecological report) are;

Broadleaved scattered trees, tall ruderal herbs, amenity grassland, introduced shrub and non native invasive species (namely Japanese knotweed).

The habitats directly impacted by the proposed development is considered to be of low biodiversity value, however it is considered that species that could be present an impacted by the proposed developments are nesting birds, reptiles and badgers. Therefore section 8 of the ecological report provides reasonable avoidance method statement that requires to be implemented and adhered to throughout the construction phase of the proposed developments.

I therefore recommend that implantation and adherence of the method statement, avoidance and mitigation measures are secured though an appropriately worded condition.

Given the identified Method Statement, Avoidance and Mitigation Measures in section 8 of the Preliminary ecological assessment (including for protected species) by Mid Wales Ecology Ecological Consultants dated September 2019 - I consider that the proposed developments will not result in the loss of any features of ecological importance and it is considered the proposed works are unlikely to have a negative impact to biodiversity in the wider area.

#### Tree Protection Plan

The scattered broadleaved trees are not within the proposed development area but on the immediate boundary edges.

Powys LDP Policy DM2 states that:

‘Development proposals which would impact on the following natural environment assets will only be permitted where they do not unacceptably adversely affect:

5. Trees, woodlands and hedgerows of significant public amenity, natural or cultural heritage’

LDP Policy DM2 part 3, make reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – ‘Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value’.

LDP policy DM2 part 2 identified the need to protect habitats afforded protection under National policy and legislation including those listed as a "habitats of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of

the Environment (Wales) Act 2016 – Hedgerows are included on this list and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Works will be undertaken in close proximity to a mature trees on the boundary of the proposed development. Given the nature of the proposed works in close proximity to the mature tree it is considered prudent to require information as to how these features of biodiversity importance will be protected during the construction period of works. It is therefore recommended that a tree and hedgerow protection plan is secured through an appropriately worded condition

#### Biosecurity Plan regarding Non-Native Invasive Species

Japanese knotweed (non native invasive flora species) has been noted alongside the northern, southern and western boundaries of area 4. Therefore I recommend that a biosecurity Plan regarding non-native invasive species is submitted prior to commencement of works is secured through an appropriately worded condition. Please see below the recommendation for inclusion of an informative regarding non native invasive species.

#### External Lighting

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland.

Any external lighting proposed will need to demonstrate compliance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12<sup>th</sup> September 2018) full details can be found at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>. It is therefore recommended that a External Lighting Plan is secured through an appropriately worded condition.

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

Prior to commencement of development works a detailed Biosecurity Plan regarding Non-Native Invasive Species shall be submitted to the Local Planning Authority and shall be implemented as approved.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

The Method Statement, Avoidance and mitigation Measures regarding nesting birds, reptiles, and badger detailed in section 8 of the Preliminary Ecological Assessment (including for protected species) produced by Mid Wales Ecology Ecological Consultants



dated September 2019 report reference 19.026b shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

No external lighting shall be installed unless a detailed external lighting 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, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

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

Reason: To comply with Powys County Council's LDP policies DM2 and DM4 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

In addition, I recommend inclusion of the following informative:

Non-native Invasive Species - Wildlife and Countryside Act 1981 (as amended)

It is an offence under the Wildlife and Countryside Act 1981, as amended, to introduce, plant or cause to grow wild any plant listed in Schedule 9, Part 2 of the Act. Himalayan Balsam is included within this schedule. Himalayan Balsam waste (the plant itself or seeds) is classed as a controlled/special waste and therefore needs to be disposed of in accordance with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991.

Further information is available from the Non-native Species Secretariat (NNSS) website at <https://secure.fera.defra.gov.uk/nonnativespecies/home/index.cfm>

Further advice for the construction industry on legal responsibilities when dealing with Japanese knotweed, giant hogweed and other invasive plants is available on Netregs <http://www.netregs.org.uk>

## PCC - Land Drainage

No comments received at the time of writing this report

### **Representations**

Following the display of a site notice there has been no letters of public representations received at the time of writing this report

### **Planning History**

| <b>App Ref</b> | <b>Description</b>  | <b>Decision</b>     | <b>Date</b> |
|----------------|---|---------------------|-------------|
| P/2012/0542    | Full: Demolition of existing porta cabin and erection of new modular nursery building | Conditional Consent |             |

### **Principal Planning Constraints**

Adjacent to an Ancient Woodland

| <b>Policy</b> | <b>Policy Description</b>                                | <b>Year</b> | <b>Local Plan</b>                |
|---------------|--|-------------|----------------------------------|
|               | Planning Policy Wales (Edition 10, December 2018)        |             | National Policy                  |
| TAN5          | Nature Conservation and Planning                         |             | National Policy                  |
| TAN12         | Design   |             | National Policy                  |
| TAN18         | Transport  |             | National Policy                  |
| DM2           | The Natural Environment                                  |             | Local Development Plan 2011-2026 |
| DM7           | Dark Skies and External Lighting                         |             | Local Development Plan 2011-2026 |
| DM11          | Protection of Existing Community Facilities and Services |             | Local Development Plan 2011-2026 |

|      |   |                                  |
|------|---|----------------------------------|
| DM13 | Design and Resources                                  | Local Development Plan 2011-2026 |
| SP5  | Settlement Hierarchy                                  | Local Development Plan 2011-2026 |
| SP7  | Safeguarding of Strategic Resources and Assets        | Local Development Plan 2011-2026 |
| T1   | Travel, Traffic and Transport Infrastructure          | Local Development Plan 2011-2026 |
| C1   | Community Facilities and Indoor Recreation Facilities | Local Development Plan 2011-2026 |
| SPG  | Landscape   | Local Development Plan 2011-2026 |
| SPG  | Biodiversity and Geodiversity                         | Local Development Plan 2011-2026 |

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

#### Site Location and Description

The application site is located within the Community Council area for Rhayader. The application is not located within the settlement development boundary for Rhayader 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).

The application site is located within the grounds of Rhayader Primary School. To the north and west of the application site is existing buildings and land in association with

Rhayader Primary School. To the south of the application site are further buildings in association with the school and agricultural land, and to the east is the existing access to the school.

Consent is sought for the siting of a mobile classroom to provide a 3+ early years facility. The mobile classroom will measure approximately 30 metres in length by 9.1 metres in width, with a ridge height of 3.9 metres. The mobile classroom will be finished with timber cladding for the walls and mineral felt for the roof. The proposed windows and doors will be finished with timber. The proposed development also includes a canopy to the front of the cabin which will be constructed from steel and will measure approximately 18 metres in length and approximately 4 metres in width. The canopy will reach a height of approximately 4 metres in height.

### Principle of Development

The Local Development Plan identifies that community facilities such as village halls and schools are essential to the social and physical well-being of the community and support the vitality and viability of our rural settlements. It is recognised that the LDP supports the provision of local facilities alongside improving access to existing facilities.

Policy C1 of the Powys Local Development Plan (LDP) (2018) states that development proposals for community or indoor recreation facilities will be permitted where proposals are within or adjoining a settlement identified in the strategic settlement hierarchy and where no suitable facility exists nearby which could appropriately accommodate the proposed use.

Consent is sought for the siting of a mobile classroom to provide a 3+ early years facility at Rhayader Primary School. It is considered that there are no other buildings within the school site or adjoining which could accommodate this use and therefore in principle it is considered that the proposed development fundamentally complies with relevant planning policy subject to consideration of the following matters.

### Scale and Design

With respect to design, specific reference is made to LDP policy DM13 (Part 1). This policy indicates that development proposals will only be permitted where the 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 proposed size and scale of the mobile classroom is deemed to be typical of a standard mobile classroom, whilst the existing school is noted as being of brick/render construction it was considered that there were a number of other existing structures/buildings within the grounds of the school which complement the timber clad classroom as proposed. It is therefore considered that the introduction of a timber clad mobile classroom would not have a detrimental impact upon the character and

appearance of the surrounding area. The proposed development will be well screened by an existing woodland which will help integrate the cabin into the surrounding area.

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

### Highways

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

The application does not seek any alterations to the existing access or parking arrangements on site. The local Highway Authority has been consulted regarding the proposed development and noted based on the information submitted by the agent, in an email dated 19th December 2019, confirming the use of the building being for existing pupils of the school, the Highway Authority raised no objection to the proposed development.

In light of the above it is therefore considered that the proposed development would not result in any increased traffic movements and therefore the proposed development fundamentally complies with relevant planning policy.

### Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004) & LDP: DM13 (Part 11).

The proposed development is not considered to offer any additional impact upon loss of daylight or loss of privacy to any neighbouring dwellings based on the distance between and the siting of the mobile classroom. Environmental Health were consulted on the proposed development and confirmed that they had no objection to the proposed development subject to the inclusion of a condition regarding working hours and delivery times being restricted.

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

### Biodiversity

With respect to biodiversity, specific reference is made to LDP policy DM2 which seeks to maintain biodiversity and safeguard protected important sites.

The PCC Ecologist has been consulted and has reviewed the submitted Ecological Assessment (including for protected species) Report produced by Mid Wales Ecology Ecological Consultants dated September 2019).

The Ecologist noted the application site which is considered to be of low biodiversity value, however it was considered that the development could have the potential to impact on nesting birds, reptiles and badgers due to its location. Section 8 of the Ecological report provides Reasonable Avoidance Method Statement (RAMS) that would be required to be implemented and adhered to throughout the construction phase of the proposed development.

The PCC Ecologist considered that the proposed development in light of the above report would not result in the loss of any features of ecological importance and subject to the inclusion of a number of conditions regarding a biosecurity plan, mitigation measures, external lighting and a tree protection plan raised no objection to the application.

Natural Resources Wales (NRW) has also been consulted regarding the proposed development and noted that the application site is approximately 310 metres from two Protected Sites: River Wye (Upper Wye) Site of Special Scientific Interests and River Wye Special Area of Conservation. NRW noted from the information provided they do consider that the proposal is not likely to have a significant effect on the protected sites and therefore raised no objection to the proposed development.

In light of PCC Ecologist and NRW comments it is therefore considered that the proposed development fundamentally complies with relevant planning policy subject to the inclusion of the recommended conditions.

## **RECOMMENDATION – CONDITIONAL CONSENT**

Having carefully considered the proposed development, officers consider that the proposal fundamentally complies with relevant planning policy. The recommendation is therefore conditional consent.

### **Conditions**

1. The development shall begin not later than five years from the date of this decision

2. The development shall be carried out in accordance with the following approved plans and documents; P5060/51/A02 Rev 2, P5060/51/A01 Rev C, 5060\_51\_03, Preliminary Ecological Assessment – Mid Wales Ecology September 2019

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

0800 - 1800 hrs Monday to Friday

0800 - 1300 hrs Saturday

At no time on Sunday and Bank Holidays

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

4. Prior to the first beneficial use of the building, the biodiversity enhancements as shown on drawing (5060\_51\_03 received on 22/01/2020), shall be implemented as approved and maintained thereafter for as long as the development remains in existence.

5. Prior to commencement of development a detailed Biosecurity Plan regarding Non-Native Invasive Species shall be submitted to the Local Planning Authority. The scheme as approved shall thereafter be implemented as approved prior to the first use of the building hereby approved.

6. The Method Statement, Avoidance and Mitigation Measures regarding nesting birds, reptiles, and badger detailed in Section 8 of the *Preliminary Ecological Assessment (including for protected species)* produced by Mid Wales Ecology Ecological Consultants dated September 2019 (report reference 19.026b) shall be adhered to and implemented in full and maintained thereafter throughout the construction of the building hereby approved.

7. No external lighting shall be installed unless a detailed external lighting 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.

8. Prior to commencement of development a Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented as approved and maintained thereafter throughout the construction of the building hereby approved.

## Reasons

- 1 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
- 2 To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
- 3 In the interests of neighbouring amenities in accordance with policy DM13 of the Powys Local Development Plan.
- 4 To comply with Powys County Council's LDP Policies DM2, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
5. 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 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

6. To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
7. To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
8. To comply with Powys County Council's LDP policies DM2 and DM4 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

## **Informative Notes**

### Welsh Water

#### Surface Water Drainage.

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.



Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

### PCC Ecologist

Non-native Invasive Species - Wildlife and Countryside Act 1981 (as amended)

It is an offence under the Wildlife and Countryside Act 1981, as amended, to introduce, plant or cause to grow wild any plant listed in Schedule 9, Part 2 of the Act. Himalayan Balsam is included within this schedule. Himalayan Balsam waste (the plant itself or seeds) is classed as a controlled/special waste and therefore needs to be disposed of in accordance with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991.

Further information is available from the Non-native Species Secretariat (NNSS) website at <https://secure.fera.defra.gov.uk/nonnativespecies/home/index.cfm>

Further advice for the construction industry on legal responsibilities when dealing with Japanese knotweed, giant hogweed and other invasive plants is available on Netregs <http://www.netregs.org.uk>

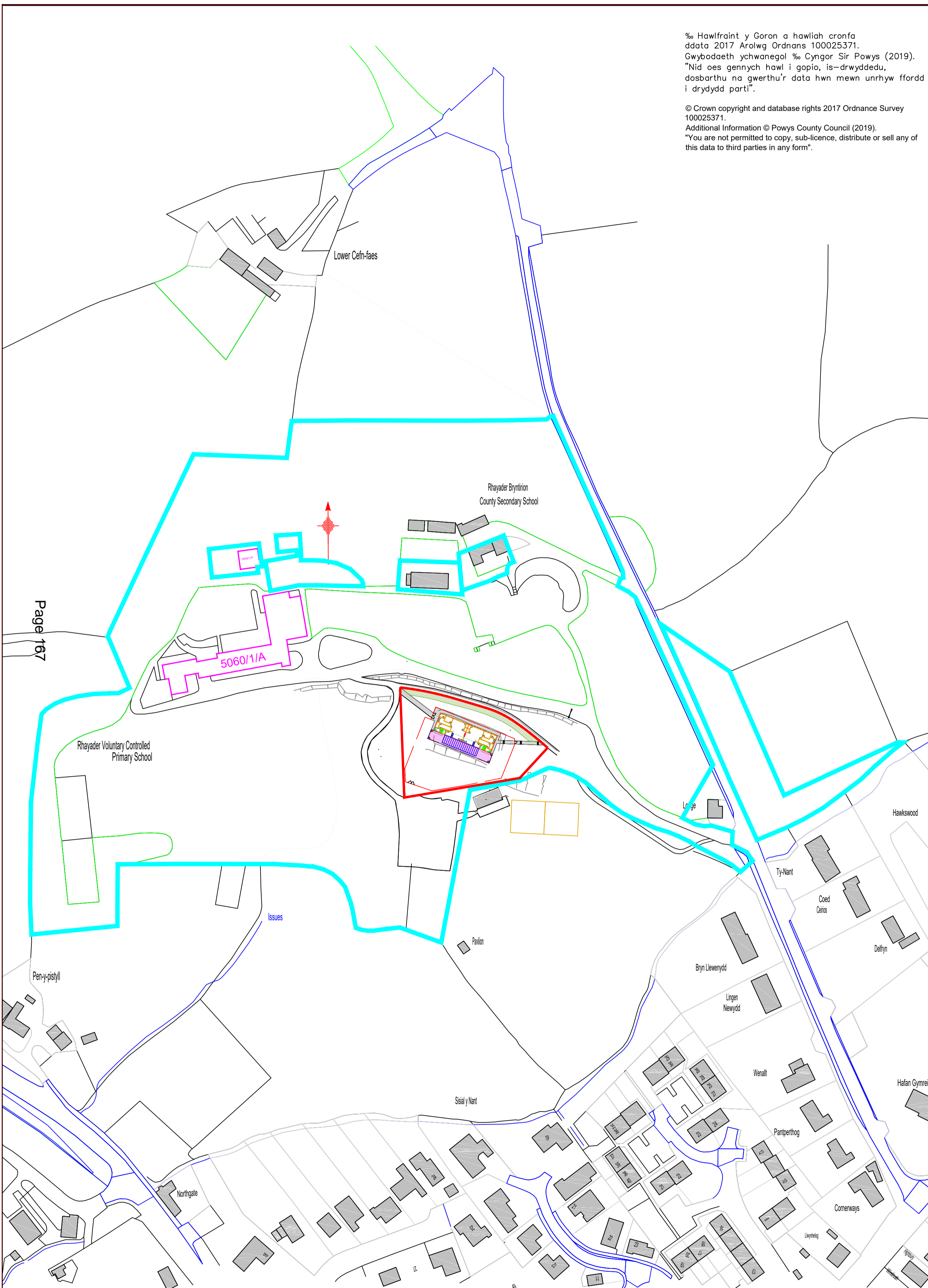
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Case Officer: Luke Jones, Planning Officer  
Tel: 01597 827115 E-mail: [luke.jones@powys.gov.uk](mailto:luke.jones@powys.gov.uk)

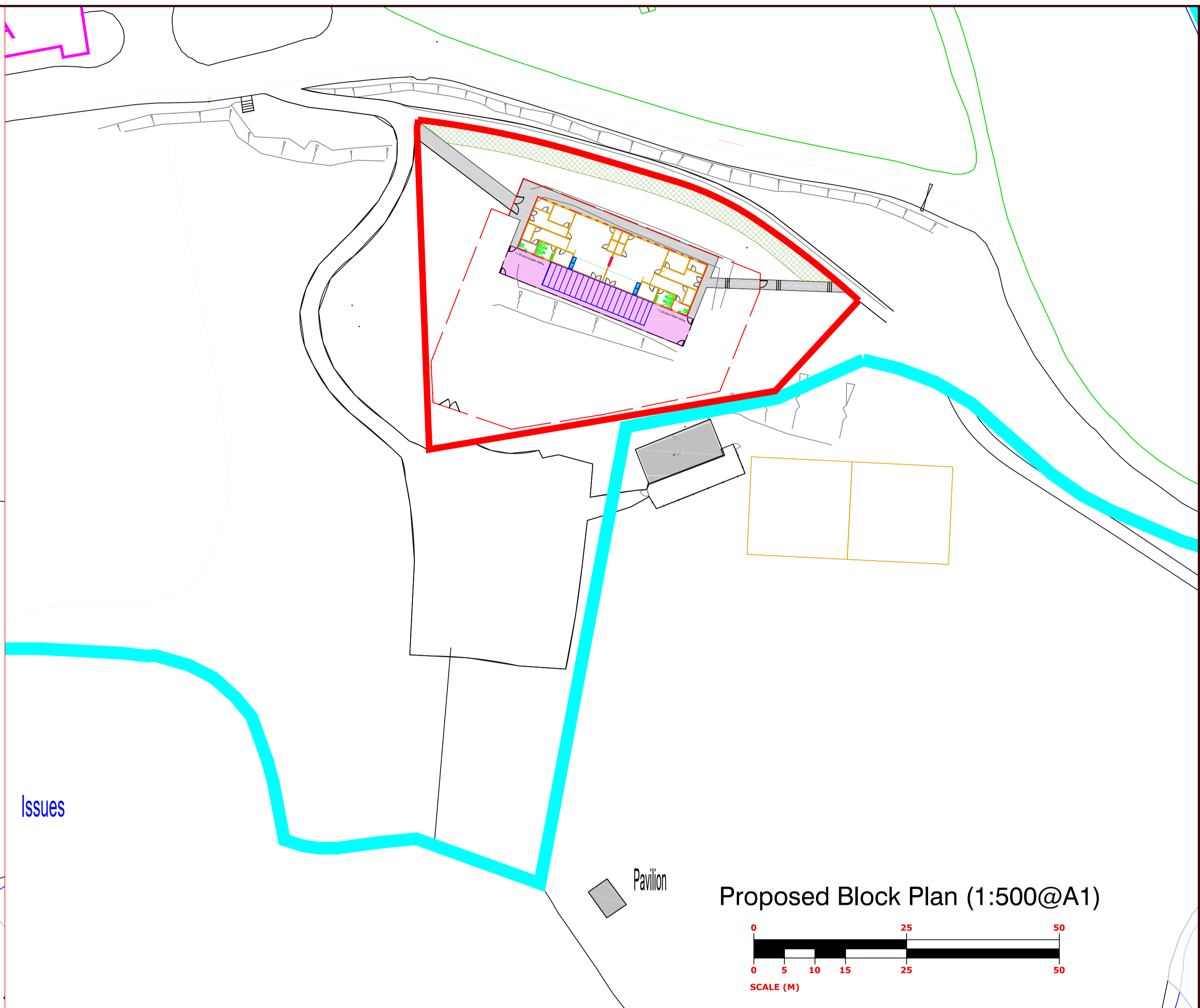
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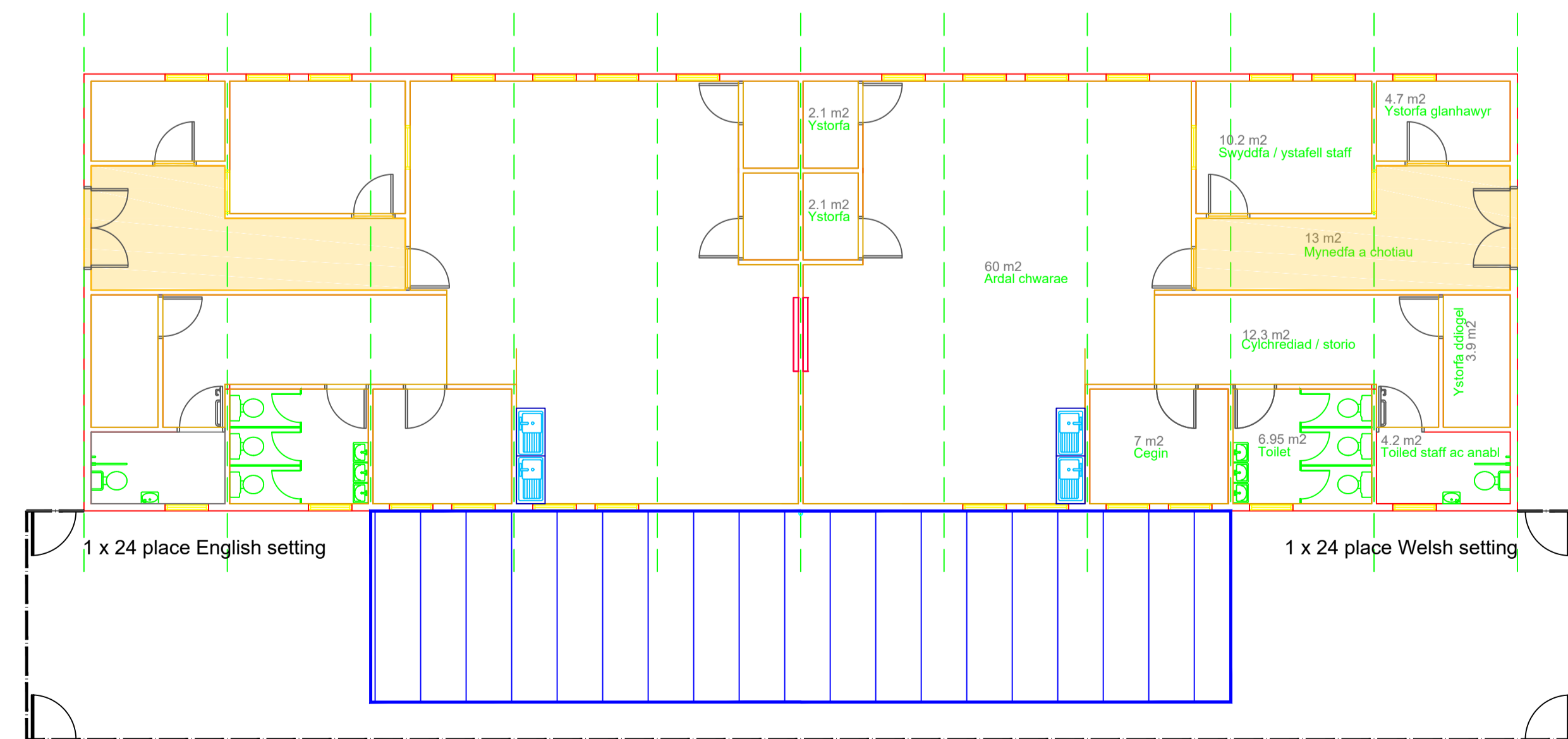


Location Plan (1:1250 @ A1)



Proposed Block Plan (1:500@A1)

Issues



FLOOR PLAN 1:100

Do not scale from drawings, refer only to figured dimensions. Check all dimensions on site. Report any discrepancies to the Contract Administrator promptly.

22/1/20  
Revision C: Changed red line to better indicate development site.

6/1/2020, Revision B  
Total area of building reduced to accommodate fewer children.

Project  
**Rhayader C in W school**

Drawing Title  
**Location, Block and Floor Layout Plans**

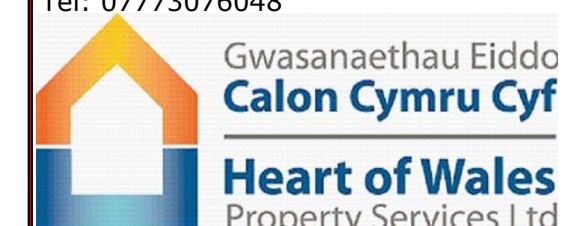
Drawing Number:  
**P5060/51/A01**

Drawn by:  
**GJ/JMP**

Scale:  
**As shown**

Date:  
**22/1/20**

31 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

**Application Number:** 19/1955/FUL      **Grid Ref:** E: 306331  
N: 260821  
**Community Council:** Llandrindod Wells Community      **Valid Date:** 18.12.2019

**Applicant:** Welsh Government

**Location:** County Hall, Spa Road East, Llandrindod Wells, Powys, LD1 5LG

**Proposal:** Erection of a single storey front extension to create a new reception hall and all associated works

**Application Type:** Full Application

### The reason for Committee determination

This application site is owned by Powys County Council, therefore the application is required to be determined by planning committee.

### Site Location and Description

This site is accessed via the existing car park and pedestrian pathways off the C1339 classified highway. The site is situated directly adjacent to the existing Powys County Council County Hall building and is currently a grassed area with some shrub planting bound by paved pathways to the south and west with grassed area to the north.

This full application seeks consent for the erection of a single storey extension to create a new reception hall and entrance and all associated works.

### Consultee Responses

#### Consultee

#### Received

PCC- (S) Land Drainage

15th Jan 2020

Having assessed the Planning Application Ref 19/1955/FUL, the SuDS Approval Body (SAB) deem that the construction area is greater than 100m<sup>2</sup> and therefore this proposed development will require SAB approval prior to any construction works commencing onsite. Having discussed this site previously and through correspondence with Shear design there appears to also be plans for a parking area for this development which will take it over the 100m<sup>2</sup> area.



Please contact the SAB Team on 01597 826000 or via email [sab@powys.gov.uk](mailto:sab@powys.gov.uk)

For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website <https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

If for any reason you believe your works are exempt from the requirement for SAB approval, we would be grateful if you would inform us so we can update our records accordingly.

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs.

PCC-(M) Highways

8th Jan 2020

Does not wish to comment on this application

Welsh Water

2nd Jan 2020

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts us on 0800 917 2652 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Environmental Protection

7th Jan 2020

Environmental Protection have no adverse comments to make

Community Council

22nd Jan 2020

No objections were made.

PCC-Building Control

3rd Jan 2020

Planning application 19/1955/FUL will require building regulations, should you require any further information please do not hesitate to contact me.

Cadw - Planning

No comments received at the time of writing this report.

PCC – Ecologist

29/01/2020

Thank you for consulting me with regards to planning application 19/1955/FUL which concerns a full planning application for erection of a single storey front extension to create a new reception hall and all associated works at County Hall, Spa Road East, Llandrindod Wells, Powys.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 447 records of protected and priority species within 500m of the proposed development.

There is one statutory designated site within 500m of the proposed developments;

- Lake Wood - SSSI

There is one non-statutory designated sites within 500m of the proposed developments;

- Local Nature Reserve – Lake Park

Having reviewed the location and nature of the proposed development in relation to the designated sites, it is considered that the proposed development would not result in a negative impact to the designated sites or their associated features.

It appears that areas impacted by the proposed development include hardstanding, shrub hedge and amenity grassland, which area habitats considered be to of low ecological

value.

Given the proposed development involves extension of an existing building, consideration has been given to the potential for the existing building and areas impacted by the proposed developments to support roosting bats – bats being a European protected species.

Visiting the site area of the existing building which will be impacted by the proposed development – it is considered that there are no suitable access points or roosting features will be impacted by the proposed development.

Therefore, it is considered that works proposed would not result in the loss of features for roosting bats and unlikely to impact roosting bats. Therefore no further surveys regarding bat are considered necessary.

Consideration has been given to the potential for the proposed development 'site' to support Great Crested Newts given the close proximity of the proposed works to the pond – Great Crested Newts being a European Protected Species.

The habitats impacted by the proposed development are considered to offer unfavourable habitat for Great Crested Newt terrestrial habitat – if present.

Assessment of the habitat impacted by the proposed development it is considered that the proposed development would be unlikely to result in the loss of resting sites for this species or result in a barrier to their dispersal to surrounding suitable habitat – should they be present.

From knowledge of the pond and recent surveys conducted – the pond in close proximity to the proposed development does not support great crested newts.

With regards to other protected and priority species identified as present in the local area by the data search given the habitat identified on site, it is not considered likely that the proposed development would result in negative impacts to these species and no surveys are considered necessary at this time.

### **External Lighting**

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland.

Any external lighting proposed will need to demonstrate compliance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12<sup>th</sup> September 2018) full details can be found at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>. It is therefore recommended that a External Lighting Plan is secured through an appropriately worded condition.



## **Biological Enhancement**

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It will therefore need to be demonstrated as to how the proposed development will incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development.

The applicant/agent has indicated that the proposed development will include the incorporation of a green roof on the proposed new extension.

As the application has not indicated any proposed biodiversity enhancements I recommend that a condition is included to secure the submission of a biodiversity enhancement plan including the details of the construction, planting scheme and aftercare of the green roof.

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

*No external lighting shall be installed unless a detailed external lighting 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, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

*Prior to the commencement of development, a detailed Biodiversity Enhancement Plan regarding the green roof; including a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures 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 Policies LDP DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition, I recommend inclusion of the following informative:

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

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

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

### **Protected Species**

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the

Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

## Representations

A public site notice was displayed at the site on the 09/01/2020. No third party representations have been received by Development Management at the time of writing this report.

## Principal Planning Constraints

Historic Parks and Gardens

## Principal Planning Policies

| Policy | Policy Description                                | Year | Local Plan                       |
|--------|---|------|----------------------------------|
| PPW    | Planning Policy Wales (Edition 10, December 2018) |      | National Policy                  |
| TAN5   | Nature Conservation and Planning                  |      | National Policy                  |
| TAN12  | Design  |      | National Policy                  |
| TAN23  | Economic Development                              |      | National Policy                  |
| TAN24  | The Historic Environment                          |      | National Policy                  |
| SP7    | Safeguarding of Strategic Resources and Assets    |      | Local Development Plan 2011-2026 |
| DM2    | The Natural Environment                           |      | Local Development Plan 2011-2026 |
| DM13   | Design and Resources                              |      | Local Development Plan 2011-2026 |
| T1     | Travel, Traffic and Transport Infrastructure      |      | Local Development Plan 2011-2026 |
| SPGBIO | Biodiversity and Geodiversity SPG (2018)          |      | Local Development Plan 2011-2026 |

## **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

## **Officer Appraisal**

### Principle of Development

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.

This site relates to an extension to the existing Powys County Council County Hall building to create a new reception area and separate entrance for a potential tenant to occupy some of the existing office space within the building. The site is currently a grassed area, to front the existing building, with some shrub planting. The proposed extension is to measure 5.3 metres in width, 7.5 metres in length and 3.7 metres in height. The proposed extension is to have a flat roof (Green roof as biodiversity enhancement), brick walls (Edenhall Killin Buff Multi), with windows (Polyester powder coated aluminium framed) to the south west and north east elevations with the new entrance doorway being accessed from the north east.

Officers consider that the proposed development is of an acceptable scale, design and appearance and will not have any adverse impact upon amenities enjoyed by the occupants of any neighbouring properties. The proposed development is considered to be of a scale, height, mass and design that complement and enhance the character and appearance of the existing building and of the surrounding area.

In light of the above observations, officers consider that the proposed extension is in accordance with policy DM13 of the Powys Local Development Plan.

### Highways Safety and Movement

Policies DM13 and 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.

As part of this application process the Highway Authority has been consulted, and they did not wish to comment on the proposal. Officers consider that the proposed development would not result in the loss of any parking/turning area associated with the existing building, and therefore complies with policies DM13 and T1 of the Powys LDP.

In light of the above, Officers consider that the proposed development is in accordance with planning policy, particularly policy DM13 and T1 of the LDP, Technical Advice Note 18 and Planning Policy Wales.

### Ecology and Biodiversity

LDP policy DM2 indicates that development proposals should 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. Proposals which unacceptably affect protected species or designated sites will not be supported. This is echoed within Technical Advice Note 5 and PPW.

As part of this application process the ecologist has been consulted who has raised no objection to the proposal subject to a condition regarding external lighting and a condition to secure further details of the proposed biodiversity enhancement in the form of a planted green roof. Officers consider that given the nature of the proposal and the age and condition of the existing building, no further information in respect of protected species is required and that the site is of low ecological value.

A biodiversity enhancement has been sought from the applicant to be implemented alongside the proposal. The applicant has provided additional information regarding the proposed materials for the extension which includes a green roof to the extension. The proposed green roof is considered to be a suitable ecological biodiversity enhancement with our ecologist raising no objection to the proposal. However, our ecologist has recommended a condition be attached to require a detailed specification for the green roof to be secured via condition upon any grant of consent. Officers consider that the biodiversity enhancement is acceptable and is proportionate to the proposed development.

In light of the above, subject to the recommended conditions, Officers consider that the proposed development is in compliance with policies DM2 and DM13 of the Powys LDP, Technical Advice Note 5 and PPW.

### Historic Park and Garden

Policy SP7 of the Powys Local Development Plan states proposals must not have an unacceptable adverse impact on the resources or asset and its operation. Strategic resources and assets in Powys include historic environment designations such as scheduled ancient monuments, listed buildings and historic parks and gardens. This

policy seeks to safeguard these important assets from unacceptable development for the future well-being of the county.

The proposed application site is located within the designated Llandrindod Wells Public Parks Historic Park and Garden. As part of this application process CADW have been consulted, however no comments have been received in response at the time of writing this committee report. Any comments received will be reported via an update report to members.

Officers consider that the proposed development would be visible from the wider area west and north of the site in the backdrop of the existing County Hall building and would not be visible from the south or east due to screening from the existing building. Given that the proposal forms an extension to the existing building which is relatively modest in scale, officers consider that the proposed development will not have a significant adverse impact upon the registered historic park and garden and the amenity value given to it. Officers consider the proposed design and materials will complement the character and appearance of the existing building.

In light of the above, the proposed development complies with policies SP7 and DM13 of the Powys Local Development Plan together with Technical Advice Note 24.

### Conclusion

Officers are satisfied that the proposed development complies with the relevant policies within the Powys County Council Local Development Plan and the recommendation is therefore one of Conditional Consent.

### **RECOMMENDATION**

The recommendation is one of consent subject to the conditions set out below.

### **Conditions**

1. The development shall begin not later than five years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents (Location Plan, EX-AL01, Email regarding materials from Avison Young dated 28/01/20, Email regarding green roof spec from Avison Young dated 29/01/2020).
3. The biodiversity enhancement features detailed within email regarding green roof dated 28/01/20 from Avison Young and Email regarding green roof spec from Avison Young dated 29/01/2020 shall be fully implemented prior to the first use of the extension hereby approved and retained as such thereafter.

4. No external lighting shall be installed unless a detailed external lighting 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.
5. Prior to the commencement of development, a detailed Biodiversity Enhancement Plan regarding the green roof; including a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

### **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the approved plans in the interests of clarity and a satisfactory development.
3. To comply with Powys County Council's Policies LDP DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
4. To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
5. To comply with Powys County Council's Policies LDP DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

### **Informatives**

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)

### **Protected Species**

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000.

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Case Officer: Bryn Pryce, Planning Officer  
Tel: 01597 827126 E-mail: [bryn.pryce@powys.gov.uk](mailto:bryn.pryce@powys.gov.uk)





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# 4.7

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

**Application Number:** 19/2092/DIS      **Grid Ref:** E: 310380  
N: 291352  
**Community Council:** Newtown And Llanllwchaiarn Community      **Valid Date:** 20.12.2019

**Applicant:** Mr Stuart Owen

**Location:** Sites A, B & C, Nr. Riverside & Nr. Latham Park, Newtown, Powys,

**Proposal:** Application to discharge conditions 17, 18 and 22 of planning approval P/2017/1274

**Application Type:** Discharge of Condition

### The reason for Committee determination

The application subject to consideration is located on land owned by Powys County Council.

### Consultee Responses

#### Consultee

#### Received

PCC-Ecologist

23<sup>rd</sup> Jan 2020

Thank you for consulting me with regards to application 19/2092/DIS submitted to discharge conditions 17, 18 & 22 of planning approval P/2017/1274 which concerns Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works at Sites A, B & C Nr. Riverside & Nr. Latham Park Newtown Powys.

Condition 17 requires that:

*Prior to commencement of development of sites B and C, as shown on the approved location plan, a biosecurity risk assessment shall be submitted to and approved in writing by the local planning authority. The risk assessment shall include:*

- (i) appropriate measures to control any INNS on site, if present; and*
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.*

Condition 18 requires that:

*Prior to the commencement of development on sites B and C as shown on the approved location plan, a scheme detailing reasonable avoidance measures for otters, water vole and bats shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.*

Condition 22 requires that:

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

I have reviewed the information submitted as part of the application this includes the following documents:

- Biosecurity Risk Assessment produced by Marches Ecology dated 10<sup>th</sup> December 2019
- Letter from Marches Ecology Reference C373-P20171274-C18-041219-ME dated 4<sup>th</sup> December 2019
- Arboricultural Survey and Impact Assessment Report produced by Lingard Farrow Styles Reference 3015 dated December 2019

Having reviewed the submitted information, I consider that sufficient detail has been provided and the information and measures identified are appropriate and sufficient to comply with the requirements of conditions 17, 18 & 22.

I therefore consider that sufficient information has been submitted to enable discharge of conditions 17, 18 & 22 from planning permission P/2017/1274.

### **Planning History**

| <b>App Ref</b> | <b>Description</b>  | <b>Decision</b> | <b>Date</b>  |
|----------------|---|-----------------|--------------|
| P/2017/1274    | Full: Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works | Approve         | 2nd Aug 2018 |

### **Principal Planning Constraints**

## Principal Planning Policies

| Policy | Policy Description                                     | Year | Local Plan                       |
|--------|--|------|----------------------------------|
| PPW    | Planning Policy Wales (Edition 10, December 2018)      |      | National Policy                  |
| TAN4   | Retail and Commercial Development                      |      | National Policy                  |
| TAN5   | Nature Conservation and Planning                       |      | National Policy                  |
| TAN11  | Noise  |      | National Policy                  |
| TAN12  | Design   |      | National Policy                  |
| TAN13  | Tourism  |      | National Policy                  |
| TAN15  | Development and Flood Risk                             |      | National Policy                  |
| TAN16  | Sport, Recreation and Open Space                       |      | National Policy                  |
| TAN18  | Transport  |      | National Policy                  |
| TAN23  | Economic Development                                   |      | National Policy                  |
| TAN24  | The Historic Environment                               |      | National Policy                  |
| SP2    | Employment Growth                                      |      | Local Development Plan 2011-2026 |
| SP5    | Settlement Hierarchy                                   |      | Local Development Plan 2011-2026 |
| SP6    | Distribution of Growth across the Settlement Hierarchy |      | Local Development Plan 2011-2026 |
| SP4    | Retail Growth  |      | Local Development Plan 2011-2026 |

|        |  |                                  |
|--------|--|----------------------------------|
| SP7    | Safeguarding of Strategic Resources and Assets         | Local Development Plan 2011-2026 |
| DM2    | The Natural Environment                                | Local Development Plan 2011-2026 |
| DM3    | Public Open Space                                      | Local Development Plan 2011-2026 |
| DM4    | Landscape  | Local Development Plan 2011-2026 |
| DM5    | Development and Flood Risk                             | Local Development Plan 2011-2026 |
| DM6    | Flood Prevention Measures and Land Drainage            | Local Development Plan 2011-2026 |
| DM7    | Dark Skies and External Lighting                       | Local Development Plan 2011-2026 |
| DM11   | Protection of Existing Community Facilities & Services | Local Development Plan 2011-2026 |
| DM13   | Design & Resources                                     | Local Development Plan 2011-2026 |
| T1     | Travel, Traffic and Transport Infrastructure           | Local Development Plan 2011-2026 |
| TD1    | Tourism Development                                    | Local Development Plan 2011-2026 |
| RE1    | Renewable Energy                                       | Local Development Plan 2011-2026 |
| SPGBIO | Biodiversity and Geodiversity SPG (2018)               | Local Development Plan 2011-2026 |
| SPGLAN | Landscape SPG  | Local Development Plan 2011-2026 |

## **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

## **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.

### Site Location and Description

The application granted consent under P/2017/1274 concerns 3 sites in Newtown. The sites include a parcel of land on Trehafren Hill to the east of the football grounds (Site A), another area is on the banks of the River Severn to the south of the football ground and car park (Site B) and the third area is again in the banks of the Severn, adjacent to Back Lane carpark (Site C).

This application seeks to discharge conditions 17, 18 and 22 attached to planning consent P/2017/1274.

Condition 17 states:

*Prior to commencement of development of sites B and C, as shown on the approved location plan, a biosecurity risk assessment shall be submitted to and approved in writing by the local planning authority. The risk assessment shall include:*

- (i) appropriate measures to control any INNS on site, if present; and*
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.*

Condition 18 states:

*Prior to the commencement of development on sites B and C as shown on the approved location plan, a scheme detailing reasonable avoidance measures for otters,*

*water vole and bats shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.*

Condition 22 states:

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

Powys County Council's Ecologist has been consulted on the information submitted in regards to conditions 17, 18 and 22 which consists of:

- Biosecurity Risk Assessment produced by Marches Ecology dated 10<sup>th</sup> December 2019
- Letter from Marches Ecology Reference C373-P20171274-C18-041219-ME dated 4<sup>th</sup> December 2019
- Arboricultural Survey and Impact Assessment Report produced by Lingard Farrow Styles Reference 3015 dated December 2019

The Ecologist, having reviewed the submitted information, considers that sufficient detail has been provided and the information and measures identified are appropriate. As such, it is considered that sufficient information has been provided to agree the discharge of the aforementioned conditions.

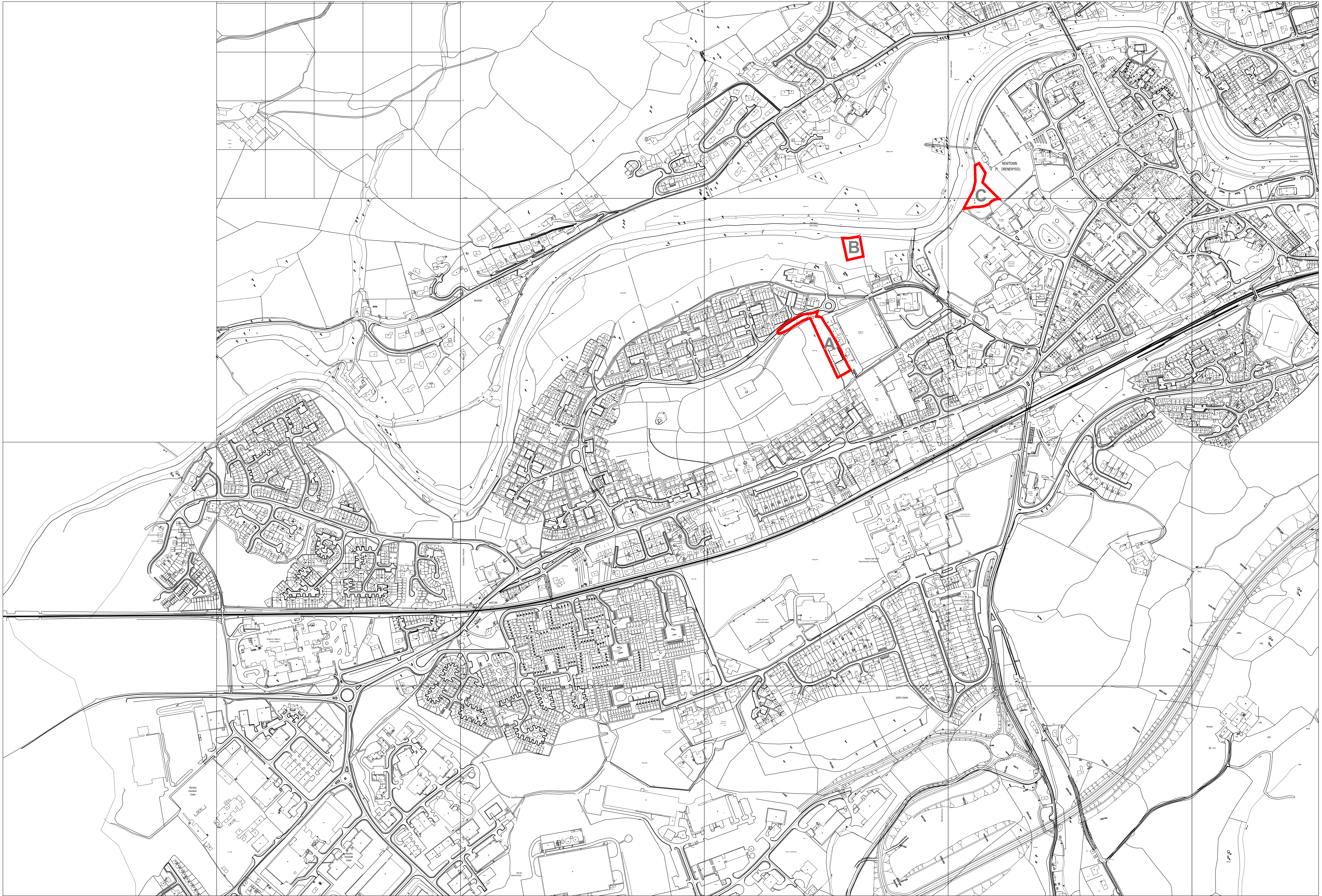
## **RECOMMENDATION**

In light of the above it is recommended that the conditions are discharged.

---

Case Officer: Richard Edwards, Planning Officer  
Tel: 01597 827218 E-mail: richard.edwards2@powys.gov.uk





Application Site Boundary



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69 Applications

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| Parish Name                             | Decision | Date Application | Application No. | Application Type | Date Decision | Proposal   | Location   |
|---|----------|------------------|-----------------|------------------|---------------|--|--|
| Aberhafesp<br>Community                 | Approve  | 21/10/2019       | 19/1560/HH      | Householder      | 21/01/2020    | First floor extension above single storey area of existing dwelling. | Wood View<br>Aberhafesp<br>Newtown<br>SY16 3HL                         |
|   | Approve  | 31/10/2019       | 19/1724/HH      | Householder      | 16/01/2020    | Extension to dwelling  | Caebryn<br>Bwlch-Y-Ffridd<br>Newtown<br>Powys<br>SY16 3HZ              |
| Abermule And<br>Llandyssil<br>Community | Approve  | 15/08/2019       | 19/1106/FUL     | Full Application | 08/01/2020    | Erection of barn/shed for storage of machinery, feed and livestock   | Cherry Orchard Bungalow<br>Abermule<br>Montgomery<br>Powys<br>SY15 6JU |
|   | Approve  | 23/09/2019       | 19/1537/HH      | Householder      | 28/01/2020    | Erection of an extension to the existing dwelling                    | The Rhosser<br>Llandyssil<br>Montgomery<br>Powys<br>SY15 6LQ           |
|   | Approve  | 02/10/2019       | 19/1503/HH      | Householder      | 10/01/2020    | Single storey extension and first floor extension.                   | Cherry Orchard Bungalow<br>Abermule<br>Montgomery<br>Powys<br>SY15 6JU |

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|---------------------------------------|---------|------------|-------------|--------------------------------------|------------|---|---|
|                                       | Refused | 24/09/2019 | 19/1527/HH  | Householder                          | 23/01/2020 | Part demolition of roof and construction of new roof and parapet castellations  | Pentre Cottage<br>Llandyssil<br>Montgomery<br>SY15 6LJ            |
| Bausley With<br>Criggion<br>Community | Approve | 19/08/2019 | 19/1238/RES | Reserved Matters                     | 15/01/2020 | Reserved matters application following outline approval P/2016/0603 for the erection of 8 dwellings   | Land Adjoining Bear<br>House<br>Crew Green<br>Shrewsbury<br>Powys |
| Page 192                              | Approve | 31/10/2019 | 19/1802/CLE | Certificate of Lawfulness - Existing | 22/01/2020 | Section 191 application for lawful development certificate for the occupation of dwelling without compliance of condition 4 of permission M15711 (agriculture and forestry) | Lower House Farm<br>Bausley<br>Crew Green<br>Powys<br>SY5 9BN     |
|                                       | Approve | 16/12/2019 | 19/2046/FUL | Full Application                     | 21/01/2020 | Erection of a stock shed  | Cwmgwyn Hall<br>Felindre<br>Knighton<br>LD7 1YT                   |
| Beguildy<br>Community                 | Approve | 06/01/2020 | 20/0016/NMA | Non-Material Amendment               | 15/01/2020 | Application for a non-material amendmennt to planning permission 19/0607/HH in relation to roofing materials  | The Old Police House<br>Beguildy<br>Knighton<br>LD7 1YE           |
| Berriew<br>Community                  | Approve | 11/10/2019 | 19/1693/FUL | Full Application                     | 28/01/2020 | Demolition of existing bungalow and erection of a replacement dwelling (resubmission of 18/0782/FUL)  | Angorfa<br>Berriew<br>Welshpool<br>SY21 8BA                       |

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|-----------------------|---------|------------|-------------|------------------------|------------|---|---|
| Bettws Community      | Approve | 23/10/2019 | 19/1659/FUL | Full Application       | 16/01/2020 | Erection of an Agricultural Building and all associated works                                   | Glanbechan<br>Bettws Cedewain<br>Newtown<br>SY16 3BN  |
| Caersws Community     | Approve | 12/12/2019 | 19/2001/DIS | Discharge of Condition | 28/01/2020 | Details of lighting   | Hafren<br>Severn Street<br>Caersws<br>SY17 5DZ  |
| Churchstoke Community | Approve | 31/10/2019 | 19/1807/FUL | Full Application       | 14/01/2020 | Move site entrance 3.8 metres north from current position                                       | Development At<br>Hyssington Farm<br>Gorsty Lane<br>Hyssington<br>Montgomery<br>Powys<br>SY15 6AT |
| Clyro Community       | Approve | 17/12/2019 | 19/2048/NMA | Non-Material Amendment | 10/01/2020 | Non-Material Amendment to planning consent 19/0317/HH in respect of changing a door to a window | Rivendell<br>29 Begwyns Bluff<br>Clyro<br>Hereford<br>Powys<br>HR3 5SR                            |
| Duhonw Community      | Approve | 22/10/2019 | 19/1643/FUL | Full Application       | 20/01/2020 | Construction of a covered area to existing manure store   | Abercynithon<br>Nantyrarian Road<br>Llanynis<br>Builth Wells<br>LD2 3HH                           |



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### 69 Applications

|                                      |         |            |             |                                   |            |   |   |
|--------------------------------------|---------|------------|-------------|-----------------------------------|------------|---|---|
| Dwyriv Community                     | Approve | 11/11/2019 | 19/1623/FUL | Full Application                  | 16/01/2020 | Installation of a solar thermal system onto an existing agricultural building roof and biomass installation including flue (retrospective)    | Fraithwen Adfa Newtown SY16 3DB                                 |
|                                      | Approve | 25/11/2019 | 19/1902/FUL | Full Application                  | 28/01/2020 | Excavation & Creation of Hardstanding   | Tyn Y Llan Cefn Coch Y Trallwng Powys SY21 0AG                  |
| Fordeu With Leighton & Trelystan Com | Approve | 23/05/2019 | 19/0770/FUL | Full Application                  | 08/01/2020 | Demolition of existing farm building and siting of a holiday log cabin, installation of septic tank, upgrading of access and associated works | Land At Cwm Heulog Fordeu Welshpool Powys SY21 8ND              |
| Glascwm Community                    | Refused | 13/12/2019 | 19/2098/NMA | Non-Material Amendment            | 14/01/2020 | Application for a non-material amendment to planning approval PR630601 to alter the approved plans  | Bwlch Farm Howey Llandrindod Wells Powys LD1 5RH                |
| Kerry Community                      | Refused | 28/05/2019 | 19/0899/REM | Removal or Variation of Condition | 14/01/2020 | Section 73 application to remove condition 9 from planning approval M/25950 to allow the permanent occupancy of the holiday units             | The Cottages 1-4 Camp Farm Llandyssil Montgomery Powys SY15 6LU |

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|                                   |         |            |             |                                   |            |  |  |
|-----------------------------------|---------|------------|-------------|-----------------------------------|------------|--|--|
|                                   | Refused | 28/05/2019 | 19/0900/REM | Removal or Variation of Condition | 14/01/2020 | Section 73 application to remove condition 8 from planning approval M/96384 to allow the permanent occupancy of the holiday units                      | Unit Two<br>The Barn<br>Camp Farm<br>Llandyssil<br>Montgomery<br>Powys<br>SY15 6LU |
|                                   | Refused | 28/05/2019 | 19/0901/REM | Removal or Variation of Condition | 14/01/2020 | Section 73 application to remove condition 3 from planning approval M/2003/0329 to allow the permanent occupancy of the holiday units                  | Unit 3<br>Barn<br>Camp Farm<br>Llandyssil<br>Montgomery<br>Powys<br>SY15 6LU       |
| Knighton<br>Community             | Approve | 25/10/2019 | 19/1760/REM | Removal or Variation of Condition | 20/01/2020 | Section 73 application to vary condition 2 of planning approval P/2017/0988 in respect of the approved materials                                       | Land To The West Of<br>Presteigne Road (B4355)<br>Knighton<br>Powys                |
| Llanbadarn<br>Fynydd<br>Community | Approve | 23/12/2019 | 19/2121/DIS | Discharge of Condition            | 20/01/2020 | Application to discharge condition 8 of planning approval P/2018/0548  | Blaencwmawr<br>Dolau<br>Llandrindod Wells<br>Powys<br>LD1 6UR                      |
| Llanbrynmair<br>Community         | Approve | 27/11/2019 | 19/1931/NMA | Non-Material Amendment            | 09/01/2020 | Application for a non-material amendment to planning approval 18/0743/FUL in relating to changing the drainage arrangements approved under condition 3 | Nant Yr Esgairwen<br>Talerddig<br>Llanbrynmair<br>SY19 7AJ                         |

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|                             |         |            |             |                        |            |   |  |
|-----------------------------|---------|------------|-------------|------------------------|------------|---|--|
| Llandinam Community         | Approve | 20/11/2019 | 19/1889/DIS | Discharge of Condition | 15/01/2020 | Application to discharge conditions 4, 5, 6 and 7 of planning approval 19/1165/FUL                  | Caerau Caravan Site<br>Dol-wen<br>Llanidloes<br>Powys<br>SY18 6LL                |
| Llandrindod Wells Community | Approve | 13/11/2019 | 19/1867/FUL | Full Application       | 10/01/2020 | Alterations to building to allow for the installation of a disabled access and all associated works | Lloyds TSB Bank PLC<br>Middleton Street<br>Llandrindod Wells<br>Powys<br>LD1 5DG |
| Llanfangel Community        | Approve | 14/09/2018 | 18/0405/FUL | Full Application       | 17/01/2020 | Full: Erection of an egg production unit, alterations to access and all associated works            | Celyn Mawr<br>Llanwddyn<br>Oswestry<br>SY10 0NN                                  |
| Llangammarch Community      | Approve | 10/01/2018 | P/2018/0016 | Outline planning       | 10/01/2020 | Outline: Erection of a single dwelling (all matters reserved)                                       | Land Adjacent To Llais-Yr-Awel<br>Llangammarch Wells<br>Powys<br>LD4 4EN         |
| Llangunllo Community        | Approve | 14/08/2019 | 19/1311/FUL | Full Application       | 21/01/2020 | Change of use of pasture land as part of farm diversification to tourism development.               | Dolassey Farm<br>Bleddfa<br>Knighton<br>LD7 1PA                                  |
|                             | Approve | 29/10/2019 | 19/1789/DIS | Discharge of Condition | 20/01/2020 | Application to discharge conditions 3, 4, 5 and 7 of planning approval 19/0563/FUL                  | Vronladies Farm<br>Heyope<br>Knighton<br>LD7 1RA                                 |

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|------------------------------|---------|------------|-------------|------------------------|------------|---|--|
|                              | Approve | 18/11/2019 | 19/1813/FUL | Full Application       | 08/01/2020 | Demolition of domestic garage and erection of holiday accommodation within domestic curtilage and the creation of parking area (retrospective). | Mill Farm Heyope Knighton LD7 1RA                  |
| Llanidloes Without Community | Approve | 16/12/2019 | 19/2045/DIS | Discharge of Condition | 28/01/2020 | Application to discharge conditions 21 and 22 of planning approval P/2016/0185  | Belan Land Y Fan Llanidloes Powys SY18 6NL         |
| Llanigon Community           | Approve | 04/04/2019 | 19/0554/RES | Reserved Matters       | 20/01/2020 | Reserved matters application following outline permission P/2012/1214 for the erection of 23 dwellings, 16 garages and associated works         | Land South Of Willow Glade Llanigon Hereford Powys |
| Llansantffraid Community     | Approve | 28/10/2019 | 19/1697/FUL | Full Application       | 22/01/2020 | Erection of a replacement dwelling and all associated works   | The Hollies Collfryn Pen-Rhos Llanymynech SY22 6QE |

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|                          |         |            |             |                        |            |  |   |
|--------------------------|---------|------------|-------------|------------------------|------------|--|---|
|                          | Approve | 19/12/2020 | 19/2040/NMA | Non-Material Amendment | 21/01/2020 | Application for a non-material amendment to planning approval 19/0637/REM in relation to amending the approved plans to provide satisfactory access to the garage from driveway  | Plas Gwyn<br>Troutbeck Barn<br>Llansantffraid-Ym-Mechain<br>Powys<br>SY10 9JJ             |
| Llansilin<br>Community   | Approve | 27/11/2019 | 19/1950/FUL | Full Application       | 22/01/2020 | Erection of a replacement single storey dwelling (demolition of existing two storey dwelling) and all associated works (revised proposal to 19/1473/FUL).  | Glan-Y-Gors<br>Moelfre<br>Oswestry<br>SY10 7QW  |
| Machynlleth<br>Community | Approve | 08/11/2019 | 19/1835/DIS | Discharge of Condition | 14/01/2020 | Application to discharge condition 12 of planning approval 18/0142/FUL   | Clynderwen And<br>Cardiganshire Farmers Ltd<br>Maengwyn Street<br>Machynlleth<br>SY20 8EA |
|                          | Approve | 20/12/2020 | 19/2103/NMA | Non-Material Amendment | 17/01/2020 | Appication for a non-material amendment to planning approval 18/0142/FUL in respect of minor re-position of the front building containing Flats 1-2 and reduction in footprint of the building to avoid telegraph pole | Clynderwen And<br>Cardiganshire Farmers Ltd<br>Maengwyn Street<br>Machynlleth<br>SY20 8EA |

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|-------------------------|---------|------------|-------------|------------------------|------------|--|--|
| Meifod<br>Community     | Approve | 01/11/2019 | 19/1567/DIS | Discharge of Condition | 13/01/2020 | Application to discharge conditions 8, 9, 10 and 11 of planning approval 19/0131/FUL   | Bryn Buarth<br>Pentre'r-Beirdd<br>Guilsfield<br>SY21 9DJ       |
|                         | Approve | 20/11/2019 | 19/1905/DIS | Discharge of Condition | 15/01/2020 | Application to discharge condition 6 of planning approval 19/1387/REM  | Twl Farm<br>Pentre'r-beirdd<br>Guilsfield<br>Powys<br>SY21 9DN |
|                         | Refused | 12/08/2019 | 19/1346/DIS | Discharge of Condition | 27/01/2020 | Application to discharge condition no.3 attached to listed building consent P/2018/0446 (blind window removal - infill material and recess depth details) and condition no. 4 (window details) | Ty Mawr<br>Meifod<br>Powys<br>SY22 6BY                         |
| Mochdre<br>Community    | Approve | 25/11/2019 | 19/1967/DIS | Discharge of Condition | 15/01/2020 | Application to discharge condition 5 of planning approval P/2014/0165  | Land At Kincoed<br>Mochdre<br>Newtown<br>Powys<br>SY16 4JT     |
| Montgomery<br>Community | Approve | 05/11/2019 | 19/1806/HH  | Householder            | 10/01/2020 | Erection of a single storey side extension   | 6 Mortimer Road<br>Montgomery<br>Powys<br>SY15 6UP             |

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|--------------------------------------|---------|------------|-------------|-----------------------------------|------------|---|--|
| Nantmel Community                    | Approve | 17/10/2019 | 19/1707/FUL | Full Application                  | 16/01/2020 | Erection of Agricultural storage building, formation of adjoining yard and associated works                     | Land At Upper Dolau Nantmel Llandrindod Wells Powys          |
| Newtown And Llanllwchaiarn Community | Approve | 22/07/2019 | 19/1139/HH  | Householder                       | 28/01/2020 | Erection of extensions and a garage, alterations to the existing dwelling and all associated works              | Clovelly Canal Road Newtown SY16 2HX                         |
|                                      | Approve | 23/07/2019 | 19/1176/REM | Removal or Variation of Condition | 21/01/2020 | Section73 application for the removal of condition 9 from planning permission P/2017/0740 in relation to access | Blaen Y Cwm Upper Gwestydd Lane Cefn Mawr Newtown SY16 3LA   |
|                                      | Approve | 14/10/2019 | 19/1584/FUL | Full Application                  | 28/01/2020 | Proposed external lighting for overflow car park  | Hope Church Dolfor Road Newtown SY16 1JD                     |
|                                      | Approve | 08/11/2019 | 19/1667/FUL | Full Application                  | 13/01/2020 | Siting of temporary office unit   | Dyffryn Industrial Estate, Unit 5 Pool Road Newtown SY16 3BD |
|                                      | Approve | 08/11/2019 | 19/1847/HH  | Householder                       | 16/01/2020 | Erection of a front balcony area  | 8 Bryn Close Newtown SY16 2DT                                |
|                                      | Approve | 23/12/2019 | 19/2021/DIS | Discharge of Condition            | 15/01/2020 | Application to discharge conditions 4, 5, 6, 7 and 8 of planning approval P/2017/0084                           | Smithfield Garage Pool Road Newtown SY16 1DW                 |

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|-----------------------|---------|------------|-------------|------------------------|------------|--|--|
| Old Radnor Community  | Approve | 14/12/2017 | P/2017/1457 | Full application       | 15/01/2020 | Full: Erection of a dwelling and conversion of workshop to holiday accommodation and all associated works  | Old Market Site<br>Kinnerton<br>Presteigne<br>Powys<br>LD8 2PD |
| Painscastle Community | Approve | 06/08/2019 | 19/1267/HH  | Householder            | 08/01/2020 | Erection of an extension   | Llettycoed<br>Rhosgoch<br>Builth Wells<br>LD2 3JT              |
| Penybont Community    | Approve | 10/10/2019 | 19/1602/FUL | Full Application       | 20/01/2020 | Conversion and change of use of welfare cabin to rural enterprise dwelling.  | Mellowcroft<br>Llandegley<br>Llandrindod Wells<br>LD1 5UF      |
|                       | Approve | 16/12/2019 | 19/2052/FUL | Full Application       | 28/01/2020 | Provision of roof over existing slurry pit extension to existing building and associated works   | Cwmbrith<br>Penybont<br>Llandrindod Wells<br>LD1 5SR           |
| Presteigne Community  | Approve | 28/05/2019 | 19/0777/OUT | Outline planning       | 08/01/2020 | Erection of a rural enterprise dwelling, formation of vehicular access, installation of septic tank and all associated works (outline) with all matters reserved | Land At Fold Farm<br>Presteigne<br>Powys                       |
|                       | Approve | 04/11/2019 | 19/1817/HH  | Householder            | 20/01/2020 | Conversion of existing garage/workshop to ancillary accommodation  | 2 Appletree Meadow<br>Presteigne<br>LD8 2DL                    |
|                       | Approve | 06/11/2019 | 19/1770/DIS | Discharge of Condition | 21/01/2020 | Discharge of conditions 3, 4 & 5 attached to permission 19/0501/FUL  | 4 Hereford Street<br>Presteigne<br>LD8 2AW                     |



## Delegated List

### 69 Applications

|         |            |             |                        |            |   |   |
|---------|------------|-------------|------------------------|------------|---|---|
| Approve | 06/11/2019 | 19/1846/DIS | Discharge of Condition | 21/01/2020 | Discharge of conditions 3, 4 & 5 attached to permission 19/0502/LBC | 4 Hereford Street<br>Presteigne<br>Powys<br>LD8 2AW |
|---------|------------|-------------|------------------------|------------|---|---|

|                    |         |            |             |                  |            |   |  |
|--------------------|---------|------------|-------------|------------------|------------|---|--|
| Rhayader Community | Approve | 23/10/2019 | 19/1622/FUL | Full Application | 28/01/2020 | Construction of an observatory building | Land At Tynllidiart Hill<br>Penbont<br>Elan Valley<br>Rhayader<br>Powys<br>LD6 5HS |
|--------------------|---------|------------|-------------|------------------|------------|---|--|

|                    |         |            |             |                        |            |  |  |
|--------------------|---------|------------|-------------|------------------------|------------|--|--|
| Talgarth Community | Refused | 31/12/2019 | 19/2047/NMA | Non-Material Amendment | 15/01/2020 | Non-material amendment to planning consent B/04/0207 in respect of changing the internal layout, external fenestrations, and roof material | Far Barn<br>Brecon<br>Powys<br>LD3 0RA |
|--------------------|---------|------------|-------------|------------------------|------------|--|--|

|                   |         |            |             |                  |            |   |   |
|-------------------|---------|------------|-------------|------------------|------------|---|---|
| Trewern Community | Approve | 03/09/2019 | 19/1366/FUL | Full Application | 21/01/2020 | Conversion of barn to a dwelling, to include the demolition of agricultural buildings, installation of septic tank and all associated works | Rhos Farm Barn<br>Trelystan<br>Leighton<br>SY21 8JB |
|-------------------|---------|------------|-------------|------------------|------------|---|---|

|         |            |            |             |            |  |   |
|---------|------------|------------|-------------|------------|--|---|
| Approve | 28/11/2019 | 19/1938/HH | Householder | 22/01/2020 | Erection of an outbuilding (retrospective) | Plas Cefn, Wisteria Cottage<br>Heldre Lane<br>Buttington<br>Welshpool<br>SY21 8SX |
|---------|------------|------------|-------------|------------|--|---|

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## Delegated List

### 69 Applications

|                            |         |            |             |                                      |            |  |   |
|----------------------------|---------|------------|-------------|--------------------------------------|------------|--|---|
|                            | Approve | 12/12/2019 | 19/1929/FUL | Full Application                     | 22/01/2020 | Erection of stable building  | Far Heldre, South Barn<br>Trewern<br>Welshpool<br>SY21 8EG            |
| Welshpool<br>Community     | Approve | 19/12/2019 | 19/2032/NMA | Non-Material<br>Amendment            | 20/01/2020 | Application for a non-<br>material amendment to<br>planning approval<br>P/2014/1086 in respect<br>of the rewording of<br>condition 9 | Potters Yard<br>Severn Road<br>Welshpool<br>SY21 7YE                  |
| Ystradgynlais<br>Community | Consent | 15/10/2019 | 19/1748/DIS | Discharge of<br>Condition            | 21/01/2020 | Application to discharge<br>conditions 3 & 4 of<br>planning approval<br>P/2018/0639 /<br>18/0099/HH                                  | Coed Lan<br>4 Llys Ynyscedwyn<br>Ystradgynlais<br>Powys<br>SA9 1EN    |
|                            | Consent | 11/11/2019 | 19/1850/REM | Removal or Variation<br>of Condition | 16/01/2020 | Section 73 application to<br>vary condition 2 attached<br>to P/2017/1077 (design<br>and layout changes)                              | Land Adj To Wharf<br>Cottage<br>Gurnos Road<br>Ystradgynlais<br>Powys |
|                            | Consent | 20/11/2019 | 19/1863/HH  | Householder                          | 14/01/2020 | Erection of an extension<br>and all associated works   | Cwmclyd Bungalow<br>Ynys Uchaf<br>Swansea<br>SA9 1RL                  |

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16/12/19

gan Richard Duggan BSc (Hons)  
DipTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 24.01.2020

## Appeal Decision

Site visit made on 16/12/19

by Richard Duggan BSc (Hons) DipTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 24.01.2020

**Appeal Ref: APP/T6850/A/19/3237399**

**Site address: Dolifor, Llanwrthwl, Llandrindod Wells, LD1 6NU**

**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 grant of planning permission subject to conditions.
- The appeal is made by Mr & Mrs Christopher & Helena Parker against the decision of Powys County Council.
- The application Ref 19/0645/HH, dated 29 March 2019, was approved on 29 May 2019 and planning permission was granted subject to conditions.
- The development permitted is Extension of residential curtilage (retrospective).
- The conditions in dispute are Nos 1, 2 and 3 which state:
- *Condition 1: This permission being retrospective as prescribed by Section 73(a) of the Town and Country Planning Act 1990 (as amended) shall be deemed to take effect from the date of consent.*
- *Condition 2: The development shall be carried out strictly in accordance with the plans received on 12/04/2019 (drawing no: Location Plan).*
- *Condition 3: Notwithstanding the provisions of the Town and Country Planning General Permitted development Order 2013, (or any Order revoking and re-enacting that Order) nothing in Article 3 of, or Schedule 2 to that Order, shall operate as to permit within the red outline on the location plan received on 12/04/2019, any development referred to in Part 1 of the Second Schedule to the Order and no such development shall be carried out at any time within that area without the express grant of permission by the local planning authority.*
- The reasons given for the conditions are:
  - Reason 1: To comply with Section 63 of the Town and Country Planning Act 1990.*
  - Reason 2: To ensure adherence to the plans approved by the Local Planning Authority in the interests of clarity and a satisfactory development.*
  - Reason 3: In order to control further development which has the potential to have adverse effect on privacy and/or amenity in contradiction to policy DM13 of the Powys Local Development Plan.*

## Decision

1. The appeal is allowed and the planning permission Ref 19/0645/HH for extension of residential curtilage (retrospective) at Dolifor, Llanwrthwl, Llandrindod Wells, LD1 6NU granted on 29 May 2019 by Powys County Council, is varied by deleting conditions 1, 2 and 3 and substituting for them the following condition:
  - 1) The development shall be retained strictly in accordance with the plan received on 12/04/2019 (drawing no: Location Plan).

## Main Issues

2. The main issues are whether the disputed conditions are reasonable and necessary, having regard to Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' (The Circular), to secure the implementation and retention of the development as approved and the effect of their removal on the character and appearance of the area.

## Reasons

### *Condition 1*

3. The planning application submitted to the Council sought consent for an extension to the residential curtilage of the appeal property. The Council states that it was apparent that the site was already being used for residential purposes associated with the main dwelling, with a fence erected enclosing the parcel of land and the grass had been carefully maintained. As such, the Council stated within Condition 1 that it was a retrospective application and made specific reference to Section 73(a) of the Town and Country Planning Act 1990 ('planning permission for development already carried out') within the condition.
4. Although the Council considered that the change of use of the land had already taken place, the Appellants state that the application was not submitted on that basis. There appears to be some ambiguity over whether the change of use of the land had actually taken place at the time of the application and the granting of planning permission. Nevertheless, I saw on my site visit that the land was no longer in agricultural use and was fenced off, and that it currently has the appearance of a domestic curtilage rather than agricultural land. The Appellants also confirm in their application form that the site is currently in use for domestic amenity. I have therefore made my determination on the basis that the development is retrospective.
5. Although it may be argued that condition 1 provides some clarity in terms of explaining that it is a retrospective permission and the date on which the planning permission takes effect, conditions should only be imposed where planning permission would have been refused if the requirements of the conditions were not imposed and where the conditions meet six tests<sup>1</sup>. The Circular is clear that the standard time limiting condition would not be appropriate where development has already begun before planning permission has been granted. It does not advocate any other effective date that should be imposed by a condition and there is no such legal requirement. In addition, the reason for imposing Condition 1 relies on Section 63 of the Town and Country Planning Act 1990, but this section of the Act has been repealed. In any event, Section 63 stated that any planning permission may be granted so as to take effect from the date on which the buildings or works were constructed or carried out or the use was instituted, in other words where a permission is to refer to the date when the development or use commenced. Condition 1 refers to the date of the consent rather than the date when the use commenced, as such, Section 63 would not have been a relevant consideration.
6. Furthermore, the content of condition 1 is more akin to an advisory note than a condition. The condition requires no action or compliance by the Appellants, and I find its imposition to be neither necessary or reasonable.

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<sup>1</sup> Circular 016/2014, The Use of Planning Conditions for Development Management

7. I conclude that condition 1 does not comply with The Circular and should be deleted from the planning permission.

*Condition 2*

8. The Circular advises that the approved plans that accompany a planning permission should be listed in a condition as this makes sure that there is no doubt over what development should be built and to what development the remaining conditions are applicable. The inclusion of a condition specifying the plans also allows applicants to make minor material amendments to the associated planning permission by using section 73 of the 1990 Act to vary the condition.
9. The inclusion of condition 2 within the planning permission provides certainty to the Appellants and the Council over the exact delineation of the planning permission boundary, and to avoid any doubt over the extent of the land which is the subject to the planning permission. Therefore, I consider the condition to be necessary in the interests of precision and enforceability, and meets the requirements of the six tests set out in The Circular.
10. However, the wording of the condition needs to reflect the retrospective nature of the planning permission and the fact that only one plan was submitted. To that end, in the interests of precision, I shall therefore delete condition 2 and replace it with a new condition.

*Condition 3*

11. The appeal property is located within open countryside in an isolated location outside the village of Llanwrthwl. The land subject to the planning permission is to the south of the dwelling and somewhat detached from the existing curtilage of the house. The land rises steeply from north to south and at the time of my site visit it was made up of mainly grassland with a number of trees located on the southernmost portion. The eastern boundary is made up of a post and wire fence and is open to views from the east, the western and southern boundaries contain a post and wire fence and include a line of mature trees and hedgerow.
12. Whilst the Council considered that the change of use of land would not have any adverse impact upon the surrounding landscape or harm the amenities of any neighbouring properties, it was considered necessary to remove permitted development rights to allow the Council to retain control over any future buildings or structures which could be constructed within the land without planning permission. Removing householder permitted development rights essentially prevents the establishment and proliferation of structures within the extended curtilage which may cause a detrimental visual impact upon the surrounding area. However, The Circular advises that conditions that restrict permitted development rights should only be imposed in exceptional circumstances.
13. I have had regard to the land being within open countryside and the Council's evidence relating to LANDMAP, its topography, its slight detachment from the main part of the dwelling and the fact that the eastern boundary of the land is open to views. I accept that the character of this area is rural in nature with neighbouring agricultural fields and a working farmyard. However, this does not appear to be an especially sensitive location in terms of the landscape, as such it does not appear that the exercise of permitted development rights would cause significant harm to either the character of this area or the 'amenity' experienced by neighbours.

14. I conclude that the condition restricting permitted development rights is not reasonable or necessary in the interests of either the character and appearance of the area, the living conditions of neighbouring residents, or to protect the wellbeing of breeding ewes within adjoining agricultural land. The fact that the Appellants are running a tourism accommodation business from the adjacent property is no reason to remove permitted development rights. As such, clear justification for imposing the condition has not been provided, and furthermore, the exceptional circumstances required to show the need for the condition, as advised by The Circular, have not been demonstrated.

*Other matters*

15. The Appellants have stated that an objection received to the application has influenced the Council's decision to remove permitted development rights and that they have been unfairly treated given the decision to grant other developments in the locality. I have noted the Appellants comments and concerns in this regard, but such matters are not material considerations that I can consider in the determination of this appeal. Whilst I have had regard to the objections received by the Council at the time of assessing the planning application as well as those submitted during the appeal process, for the reasons given above I am satisfied that the proposal to remove the conditions is acceptable subject to their replacement with a new condition in respect of the approved plan.
16. The Appellants have also questioned the reason for referring to Building Regulations within the decision notice. This is not a condition of the planning permission, but as the Council states, it is a standard informative note that is attached to all decision notices issued by the Council, and is attached for information purposes only.

**Conclusions**

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 objectives of promoting good health and well-being for everyone and building healthier communities and better environments.
18. Having regard to the above and considered all other matters raised, I conclude that the appeal should be allowed. I will vary the planning permission by deleting the disputed conditions, but I shall impose a new condition.

*Richard Duggan*

INSPECTOR

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 03/12/19

gan **Melissa Hall BA(Hons), BTP, MSc, MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 22.01.2020

## Appeal Decision

Site visit made on 03/12/19

by **Melissa Hall BA(Hons), BTP, MSc, MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 22.01.2020

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**Appeal Ref: APP/T6850/A/19/3238128**

**Site address: South Court, Park Terrace, Llandrindod Wells LD1 6AU**

**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 Luke Conod of Proposource Gorrington Montague and Conon Limited against the decision of Powys County Council.
  - The application Ref 19/0374/FUL, dated 5 March 2019, was refused by notice dated 4 September 2019.
  - The development proposed is described as a 'New two bedroom Coach House together with external works to the rear of South Court'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Amended plans were submitted during the course of the application, which the Council has confirmed were those used in its determination. My consideration of the appeal is therefore based on the plans which informed the Council's decision.

### Main Issues

3. The main issues are:
  - Whether the proposed development would preserve or enhance the character or appearance of the Llandrindod Wells Conservation Area<sup>1</sup> ("the CA").
  - The effect of the proposed development on the Registered Llandrindod Wells Public Parks.

### Reasons

4. The appeal site lies at the end of Park Terrace, which is characterised by a row of substantial 3/4 storey Victorian properties on one side of the highway overlooking

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<sup>1</sup> Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Rock Park and Spa, a Grade II\* Registered Historic Park and Garden<sup>2</sup> (“the Registered Historic Park”). A pedestrian footpath into the eastern side of the park runs alongside the front and side boundaries of the garden serving the existing property at the appeal site.

5. The site is located within the Llandrindod Wells CA. The Council has provided me with a map showing the CA boundaries, which includes Park Terrace, Rock Park and most of the central part of the town. The CA includes buildings of a variety of styles including Victorian, Edwardian and Arts & Crafts. That is, much of Llandrindod Wells’ historic fabric remains largely intact. In my opinion, the character of the part of the CA in which the appeal site lies is created by the design, scale and materials of the buildings, and in the largely unspoilt juxtaposition of those components notwithstanding that several of the properties have undergone alterations over the years and are in varying states of repair.
6. Turning to the Registered Historic Park and Garden, the Council has not provided me with the Register entry for the Park. However, its delegated report provides an extract from the description of the Llandrindod Wells Public Parks and identifies Park Terrace as ‘...forming the north-eastern boundary of the park and more modest in scale than Norton Terrace. The properties are substantial, Victorian three storeyed terrace houses of brick and stone with ornate bay windows and tiled porches’. The Council also considers that the Registered Historic Park was designed to have large houses / boarding houses built alongside it for visitors to take advantage of the Spa water.
7. The appeal site itself occupies part of the rear / side garden of South Court which is a substantial, yellow coloured brick, detached Victorian property that has been subdivided into flats. The property has a dual aspect incorporating front gables and three-storey bay windows on its west facing front and south facing side elevations together with a three-storey corner turret feature at the junction between the front and side elevations. Many of the features it retains are typical of Victorian Spa architecture. Given the orientation of this property, the features that I have described and the location of an outbuilding in the modest space directly to the rear of the main building, the side garden appears to form the main amenity space serving the property with its uninterrupted views towards Rock Park.
8. The side garden is enclosed to the front by a low brick wall punctuated by a single gated pedestrian entrance. Following the footpath around into Rock Park, the means of enclosure around the southern property boundary alternates from the brick wall, to a hedge and a close boarded fence as the land drops away into the Park. From close range, the change in ground level is such that there are no views over the fence towards the appeal site, albeit the uppermost part of the existing outbuilding is visible on crossing the bridge into the Park where the land rises again. There is an existing hedge running north to south which subdivides the side garden of the property, with the eastern section being at a slightly higher ground level. It is this part of the garden that would contain the appeal dwelling.
9. The proposed dwelling has been designed to take the appearance of a coach house, with a relatively simple form, a 1.5 storey massing, a pitched asymmetric Cambrian slate roof and a red clay brickwork finish with softwood sash window frames. It would not be dissimilar in appearance to the existing outbuilding to the rear of the property, which I understand has been granted planning permission for conversion to a dwelling. Notwithstanding that the Council’s reason for refusal states that the design

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<sup>2</sup> PGW (Po) 20(POW) Llandrindod Wells Public Parks

of the proposal would fail to preserve or enhance the character or appearance of the CA, its appeal statement contends that the amended design of the dwelling more accurately meets the description of a coach house and that its concerns are not primarily in respect of design.

10. Rather, the Council's concerns relate primarily to the principle of the proposed development; namely the siting of a dwelling in what is essentially the main garden of the existing property, severely eroding the character of this section of the CA, which '*... is of properties with relatively large gardens*'. It also states that the proposal would harm the CA in a very sensitive location adjacent to the Registered Historic Park and Garden and that it would '*impact*' upon this heritage asset.
11. At my site visit, I observed that the other properties in the row are sited relatively close together, with few significant gaps or views of their private gardens. Thus, even if these neighbouring properties have large gardens, they cannot be appreciated from the main public vantage points along Park Terrace. In my view, South Court is atypical of the immediate built form insofar as its side garden functions as its main amenity space whilst also providing a verdant setting and uninterrupted views towards the historic park. In this respect, the important relationship between South Court and its garden is an essential component of this building's character which makes a positive contribution to the character and appearance of this part of the CA. It is for this reason that the site is sensitive to change.
12. In this context, the siting of a dwelling beyond the side elevation of South Court and encroaching into the main garden serving the property, would appear awkward, illogical and contrived. It would disrupt the organisation of the space and buildings within the plot; its position in the main garden would be unlike a traditional coach house normally located in the service area of a property's grounds. The dwelling would be visible from public vantage points within the CA, not least due to the low means of enclosure around the property's western and part of its southern boundaries. It would therefore represent a form of development that is incompatible with its immediate surroundings.
13. Turning to the effect of the development on the setting of the Registered Historic Park and Garden. The appellant has submitted a Heritage Impact Assessment, which concludes that there would not be a significant adverse impact on the setting of the Registered Historic Park. The Council argues that as the site lies directly adjacent to one of the much-used pedestrian footpaths around the Park, the proposed development would change the outlook from the appeal site, affecting the legibility and history of the Registered Historic Park. Cadw reinforces this view insofar as it considers that the proposal would have a moderate adverse impact on the setting of the Registered Historic Park given its siting in an incongruous position, confusing the relationship between Rock Park and South Court. That being said, it does not consider that the impact of the development would be significant and therefore raises no objection to the proposed development.
14. Having regard to the physical separation that exists between the Park and the appeal site and that the dwelling would not dominate or overwhelm the substantial form of South Court, I do not consider that the proposal would have a seriously harmful effect on the understanding of the relationship between the Registered Historic Park and South Court / Park Terrace.
15. Although the proposal may not have a significant adverse effect on the setting of the Registered Historic Park, for the reasons I have already given, it would fail to preserve or enhance the character or appearance of the CA contrary to the requirements of the

Act. It would also be in conflict with Policies SP7 and DM13 of the adopted Powys Local Development Plan 2018, which require historic assets to be safeguarded and the design of new development to complement or enhance the character of the surrounding area, preserve local distinctiveness and sense of space. Furthermore, it would be at odds with Planning Policy Wales, Technical Advice Note 24 '*The Historic Environment*' ("TAN 24") and Technical Advice Note 12 '*Design*' ("TAN 12"), which recognise the importance of protecting, conserving and enhancing the historic environment.

16. I note the appellant's contention that the development would meet the objectives of TAN 12 and TAN 24 insofar as it would achieve the efficient use and protection of natural resources, protect and enhance biodiversity and national nature conservation interests and protect natural/cultural heritage value. Moreover, the appellant states that the site is in an inherently sustainable location by virtue of its position adjacent to the settlement boundary of Llandrindod Wells, the dwelling would address the need for additional houses and it would be within close proximity to public transport routes and local facilities. Whilst I do not dispute that the proposal may meet some of the sustainability objectives outlined in local and national planning policy, its failure to preserve or enhance the character or appearance of the CA would outweigh the benefits of the scheme in the balance of acceptability.

### **Conclusion**

17. For the reasons I have given and having regard to all matters raised, the appeal is dismissed.
18. 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 objectives of building healthier and resilient communities and better environments.

*Melissa Hall*

Inspector