

Planning, Taxi Licensing & Rights of Way Committee

Meeting Venue
**Council Chamber, County Hall -
County Hall**

Meeting Date
Thursday, 19 March 2020

Meeting Time
10.00 am



County Hall
Llandrindod Wells
Powys
LD1 5LG

For further information please contact
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12 March 2020

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.

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

2.	MINUTES OF THE PREVIOUS MEETING
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 27 February 2020 as a correct record.

(To Follow)

Planning

3.	DECLARATIONS OF INTEREST
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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.

4.	PLANNING APPLICATIONS FOR CONSIDERATION BY THE COMMITTEE
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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 3 - 4)

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. 19/1899/REM Nant Helen Surface Mine, Coelbren, Neath

(Pages 5 - 54)

4.3. 19/1477/FUL Bryn Posteg, Tylwch, Llanidloes, Powys, SY18 6JJ

(Pages 55 - 86)

4.4. 19/0943/OUT Land Adjacent To Four Crosses Inn, Four Crosses, Powys, SY22 6RE

(Pages 87 - 114)

5.	DECISIONS OF THE HEAD OF PROPERTY, PLANNING AND PUBLIC PROTECTION ON DELEGATED APPLICATIONS
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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 115 - 134)

6.	PLANNING ENFORCEMENT POLICY AND PROCEDURE
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To consider and comment on the proposed policy and procedure.

(Pages 135 - 154)

**Planning, Taxi Licensing and Rights of Way Committee
19th March 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:

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

<p>19/1899REM</p> <p>Tawe Uchaf Community</p> <p>E: 283050 N: 211313</p> <p>11.11.2019</p>	<p>Section 73 Application to vary condition 45 of planning permission 18/1070/REM in relation to restoration scheme</p> <p>Nant Helen Surface Mine, Coelbren, Neath</p> <p>Celtic Energy Ltd</p> <p>Recommendation: Conditional Consent – subject to a revised S106 agreement</p>
<p>19/1477/FUL</p> <p>Llanidloes Without CC and Llangurig</p> <p>E: 297087 N: 282209</p> <p>25.02.2019</p>	<p>Full, part retrospective : Regularisation and retention of over-tipped material on the existing landfill, additional filling operations in accordance with revised restoration profile and phasing details together with associated landfill infrastructure</p> <p>Bryn Posteg, Tylwch, Llanidloes, Powys, SY18 6JJ</p> <p>Mr David Williams Sundorne Products (Llanidloes) Ltd, Llanidloes, Powys, SY186JJ</p> <p>Recommendation: Conditional Consent subject to a Section 106 Agreement</p>

<p>19/0943/OUT</p> <p>Llandysilio Community</p> <p>E: 326854 N: 318442</p> <p>17.07.2019</p>	<p>Outline: Erection of 7 affordable dwellings and associated works</p> <p>Land adjacent to Four Crosses Inn, Four Crosses, Powys, SY22 6RE</p> <p>Mr Graham Jenner</p> <p>Recommendation: Conditional Consent</p>
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Benefits, a mechanism for the provision of a Financial Restoration Guarantee Bond eventually rising to £30 million (paid at £1.5 million per quarter), and an extended aftercare period of 10 years rather than 5 years on all areas of the site. Payments into the Restoration Guarantee Fund currently stand at £19.5 million (plus interest), whereas it should have been at £30.28 million by September 2017 – Celtic Energy Ltd was not in a position to meet the quarterly payments after December 2015.

Celtic Energy Ltd submitted revised restoration details in August 2016 to discharge the requirements of Condition 54 of the 2012 planning permission. The 2012 planning permission contained a restoration strategy for the site but Condition 54 required a detailed restoration scheme for the whole site to be submitted to and approved by the Local Planning Authority.

The Restoration Strategy approved in 2012 sought to restore the site to predominantly upland common with enclosed agricultural pasture (including species rich grassland) on lower slopes and broadleaf woodland planting on the western side and along the corridor of the restored small watercourses which will drain the area naturally. The landscape was intended to reflect that which is likely to have existed prior to the large scale mining activity that has taken place in this area. The area where the overburden mound is located was to be reduced to a summit level of 296m AOD and reshaped to remove the engineered profile, with the surrounding land sloping away from the summit.

The detailed restoration scheme of August 2016 was broadly similar in terms of the restored land uses. These remained as primarily upland common, enclosed pasture but with areas of marshy grassland rather than species rich grassland and slightly reduced areas of woodland planting. In addition, there were amendments to the proposed watercourses and drainage system.

The most significant change to the approved restoration strategy was in terms of the landform to be created following completion of the development. Essentially it involved an increase in the height of the final summit of the overburden mound area from 296m to 305m with slightly steeper slopes, although the engineered slopes were still to be re-profiled. The increase in height of the summit had the knock-on effect of reducing the amount of material available to fill the final void and resulted in a valley feature being created within the final void rather than restoration to the original approved profile. The height of the current overburden mound is approximately 338m AOD so it was still to be reduced by over 30m. The main driver for the change in landform was a reduction in movement of overburden materials required for restoration and the consequent reduction in liability. The change resulted in the movement of approximately 10 million m³ less overburden and a reduction in liability of some £16 million. The approved restoration scheme remains the scheme approved in February 2017.

An application was submitted in December 2018 for the variation of condition 2 of the planning permission P/2011/0217 to allow an extension of the time period to remove the remaining 800,000 tonnes of coal at this site and to complete the approved restoration. The application sought to extend the period for the extraction of minerals up to 31st December 2021 with the completion of restoration by 30th June 2023. The

application was approved on 29th August 2019 subject to conditions and a revised Section 106 Agreement. The revised Section 106 Agreement did not require any further Financial Guarantee Bond payments from Celtic Energy Ltd and instead included certain commitments by Celtic Energy Ltd to undertake annual restoration tasks which reduced the liability. The intention being that at the end of coaling, when the income stream ceases, there was sufficient money in the Financial Guarantee Bond to cover the remaining restoration.

Condition 45 of the 2019 planning permission requires the restoration of the site to be undertaken in accordance with the detailed restoration scheme approved in February 2017.

This current application seeks to replace the February 2017 restoration scheme with a revised restoration scheme which in part reflects the desire to produce a flexible and adaptable landform in order to facilitate future job creation opportunities, nature conservation, leisure and tourism opportunities as well as agricultural restoration.

It should be stressed that the restoration scheme still proposes restoration to a mix of agriculture (upland common and enclosed pasture), woodland/hedgerows and nature conservation habitats. Whilst the landform created would allow for future leisure, tourism and industrial opportunities, which could include industrial uses such as the Welsh Government's proposal to develop a Global Centre of Rail Excellence (GCRE) for rail testing and storage, these are not proposed in this application and would be subject to separate planning applications in the future. The creation of the proposed landform in no way prejudices planning applications which may be submitted for future uses which would have to be considered on their merits. The proposed landform has to be considered on its merits.

A draft planning application which includes earthworks with cutting and embankments as well as drainage works associated with a revised landform is currently subject to pre-application consultation until 16th March 2020. This relates to land outside of the opencast coal site which would also lend itself to potential future uses such as the GCRE. It is anticipated that the application will be submitted in April 2020.

The proposed revised restoration scheme involves retaining additional material in the overburden mound with a consequent change in the landform created in the area of the current excavation void. The revised scheme increases the height of the summit of the overburden mound from the currently proposed 305m AOD to 320m AOD. Therefore, approximately 18m will be removed from the height of the current mound together with a shallowing of the slopes to remove the current 'stepped' engineered profiles. A semi-circular corridor is provided which would facilitate either the potential GCRE proposal or potentially some form of leisure/recreational use.

The void area consequently becomes restored to a steeper sided valley/bowl feature with a level at approximately 145m AOD in the base. It is intended that the steeper slopes will be restored to acid grassland/lichen heath with the base restored to marshy grassland with two shallow ponds/wetland areas. The ponds/wetlands have a dual role of attenuation of storm water run-off as well as being of nature

conservation interest. The level of water in the restored void area will be controlled by an outlet at 145m AOD which will discharge through a cutting into the Nant Penrhos.

The revised scheme would shorten the restoration period by approximately 12 months.

Consultee Response

Cllr David Thomas (Tawe Uchaf Ward) and Cllr Sarah Williams (Abercraf Ward).

With reference to the Section 73 application to vary Condition 45 we would like to offer the following comments/concerns:

1. We are pleased to see that the revised plans no longer incorporate a lake on the hillside above Penrhos/Caerbont and Golwg y Cwm School.
2. However the large void still exists and we are concerned about the steepness (approx. 1:3) and depth (100 metres) of the banks leading into what would in effect be an artificial amphitheatre and constitute a dangerous 'blot on the landscape'.
3. The revised plans incorporate two 'ponds' at the bottom of this void which are meant to act as attenuation features to ensure no flooding occurs in the valley below. No assurances have been given as to who will maintain these features after the site is restored and Celtic Energy have left e.g. if they fill with silt water flow will not be controlled and the villages below could potentially flood.
4. We understand that enough finance was held in the Bond to complete the restoration to the specifications contained in the current plan that was previously accepted by Planning Committee and is now being presented for a variance of condition. If the original restoration plan incorporated most of this void being filled what has changed?
5. We welcome the restoration of public rights of way and common land for grazing.

Finally it has to be said that we are very conscious of the fact that residents have for years had to put up with severe inconvenience from opencast mining in this area. One of their major concerns was that on completion they would be left with a large hole in the hillside. This appears to be the proposal and is not acceptable despite the fact that it will be grassed. Indeed the steepness of the slope would present a dangerous obstacle to anybody walking these hills.

We would request that Planning Committee give consideration to these points before reaching a decision.

We would also request that both of us be allocated a provisional time slot to jointly speak at the Planning Committee meeting.

Tawe-Uchaf CC

Tawe Uchaf Community Council considered the above proposal at a meeting on the 11th December, 2019. Following detailed discussion the Council agreed to submit the following comments

The site plan reveals a very steep bank constructed from the completed final void. From the elevations indicated on the plan the bank created is too steep; the steepness will encourage major water run off down the steep bank into the restored void. The Council considers this steep bank is both dangerous and creates unnecessary risks to safety;

The Council continues to have major concerns on the stability of the restored void; the stability of the site could be compromised by water ingress from the old Ynyscedwyn Colliery workings; the concerns are not effectively addressed in the restoration plan; the Council considers that the stability issues pose a major risk to future safety;

There is inadequate reference to the ongoing monitoring and maintenance on the restored site following completion; the water courses will require inspections to avoid future problems building up; who will be responsible for the monitoring and inspection

The Council is of the opinion this is a very basic restoration proposal and is not acceptable from a site and public safety standpoint.

Ystradgynlais Town Council

The Ystradgynlais Town Council fully supports the observations and comments which have been made in respect of this planning application by the local County Councillors.

In addition to the enclosed comments the Town Council would also wish to add the following observations as the current restoration plan did not have the proposed void that is now being proposed:-

- Serious concern is expressed by the Town Council over the steepness of the void walls proposed as it would be a health and safety danger to all and could also result in land erosion and possible slippage over time.
- With regard to the wetland, water feature area and ponds proposed, who will take the full responsibility for the continuing maintenance and regular oversight of these areas?
- Under no circumstances must there be any water features or water ponds to be allowed in the void after restoration as these feature / water ponds would be clearly above the level of the old workings of both Abercrave and Ynyscedwyn collieries.

The above statements constitute the Ystradgynlais Town Councils response and observations in respect of this planning application.

Natural Resources Wales (initial comments)

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about the above, which we received on 20/11/2019.

We understand a previous proposal for restoration of the quarry was submitted under application 18/1071/REM, this application was subsequently withdrawn, and a new condition was applied to the associated variation of condition application 18/1070/REM (extension of time) to secure the discharge of a restoration scheme previously approved under application DIS/2016/0153.

We have reviewed the following documents:

1. S73 Application for Variation of Condition 45 of Planning Application 18/1070/REM – Further Addendum to Original Environmental Statement and Supporting Information submitted under Planning Reference 18/1070/REM including Revised LVIA. (October 2019) and associated appendices (Appendix 2 drainage, and Appendix 3 LVIA)
2. Celtic Energy Limited - Nant Helen Remainder – Planning Permission 18/1070/REM - Condition 45 – no document reference or data given.
3. Celtic Energy Ltd – Nant Helen Remainder Surface Coal Mine Site Condition 45: Restoration of Watercourses – Design Statement Revision C – no document reference or data given.
4. Drawing – Nant Helen Remainder – condition 45 Revised Restoration Scheme – Restoration Land use. Celtic Energy Limited, 07A05115>DWG, 16.10.19.

We 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 - Landscape: the submission of additional information to demonstrate the revised restoration plan does not have a long-term adverse impact on the landscape of the Brecon Beacons National Park.

Landscape

Our advice relates to the potential impacts on the Brecon Beacons National Park.

The Brecon Beacons National Park lies 200m to the north of the site at its closest point. The site is prominent from Cribarth (Viewpoint BB1 2011 LVIA) and Llorfa Ridge (Viewpoint BB2 2011 LVIA).

We understand that the revised restoration scheme changes the original restoration proposal by retaining more of the current overburden mound than the current approved scheme. Much of the main overburden mound would be retained including steep slopes facing the Tawe Valley and National Park to the north.

It is stated that the LVIA undertaken as part of the original ES is largely unaltered and still relevant, therefore we assume the effects of the revised restoration are still considered neutral to slightly adverse, as opposed to moderate beneficial under the

previous, now withdrawn, restoration proposal (18/1071/REM). Photographs and photomontages of views from the south with indicative sections are provided, but there are no photographs, photomontages or sections of views from the National Park.

The revised restoration now indicates that some of the areas of high nature conservation interest (acid grassland/lichen heath/rush pasture) would be stripped off and replaced on the reduced and re-profiled main overburden mound. The submitted information states that the proposal creates a sympathetic landform and scheme that demonstrates beneficial effects on the National Park equal to the original proposed restoration. However, no information to demonstrate the effects on the National Park has been submitted.

Requirement 1 - Landscape: the submission of additional information to demonstrate the revised restoration plan does not have a long-term adverse impact on the landscape of the Brecon Beacons National Park.

Specific information is required on:

- Photographs & photomontages from viewpoints BB1 & BB2 (panoramas & single frame images reproduced at A3 with an approx. 40 degree horizontal angle of view) showing the current impact & predicted impact of the revised restoration, to compare with the 2010 images.
- Indicative sections of the consented restoration scheme for comparison with the proposed revised scheme.

The information is required to demonstrate that a restoration scheme can be achieved which conserves and enhances the natural beauty of the National Park. This information needs to confirm how the proposals would achieve the same level of benefits and visual integration as the original scheme, to avoid adverse effects on views from the National Park, which are a Special Quality.

More comments with regards to Landscape considerations is given in appendix 1 below.

Groundwater

It is our understanding that the current application seeks the approval of a revised restoration scheme as illustrated in plan drawing 07A05115.DWG dated 16/10/2019.

Unfortunately, the restoration plan drawing approved under DIS/2016/0153 has not been submitted for comparison and is no longer available for viewing on the Powys Planning website. We are therefore unable to establish whether there are significant changes proposed.

Within the section 10 and 11 of document headed "S73 Application for Variation of Condition 45 of Planning Application 18/1070/REM – Further Addendum to Original Environmental Statement and Supporting Information submitted under Planning Reference 18/1070/REM including Revised LVIA", we understand that the effect on the hydrology and hydrogeology will be the same as detailed within the initial planning permission (P/2011/0217). From this we assume that the void will be filled

using cut and fill material and streams will be restored or reinstated over the former workings. From a groundwater viewpoint we have no objection as we assume the approved schemes approximately follow the format of condition 54 of planning permission P/2011/0217 (i.e. the original restoration scheme).

However, if our interpretation of the proposal is incorrect, please re-consult us with a definitive explanation of the proposed restoration scheme.

Protected Species

Discharge of Condition 45 requires the submission of a detailed restoration scheme where the design should aim at achieving maximum ecological resilience. We therefore consider the discharge of condition 45 to be intrinsically related to discharge of condition 32 (Ecology, submission of an Ecological and Habitat Monitoring and Management Plan (EHMMP)).

We are not aware whether an application for discharge of condition 32 has been submitted to the local authority and whether an EHMMP has been produced based on up to date ecological survey information. Therefore, we are not able to comment on the proposal's impact on European Protected Species at this stage. We will need to be consulted on a discharge of condition 32 application and associated EHMMP to be able to provide additional comments on this matter.

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.

Natural Resources Wales (additional information)

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about additional information on the above, which we received on 03/02/2020.

We have reviewed the following documents:

- Celtic Energy Limited – response letter dated 28/01/2020 and titled: NRW response to Section 73 application to vary condition 45 of planning permission 18/1070/REM in relation to t restoration scheme – –and attached A3 photos

We have no objection to the proposed development as submitted and we provide the following advice.

Landscape

We have reviewed the recently submitted information for Viewpoints BB1 & BB2 and compared it with the information submitted in 2011 and our own knowledge of the area.

The Landscape Visual Impact Assessment (LVIA) submitted as part of the Original Environment Statement (ES) in 2011 concluded at section 10.14.2 that the long term effects on the National Park would be Moderate beneficial.

The Addendum to the original ES (18/1071/DIS) with a revised restoration scheme concluded at section 11.2.8 that the landscape and visual effects of the new proposal would be at best Neutral to Slight adverse.

The recently submitted information now suggests that the current, further revised scheme would have a Moderate beneficial long term effect on receptors at Viewpoints BB1 & BB2, in line with the original assertions in 2011. It is stated that the magnitude of change compared to the previous restoration proposal is negligible.

We consider that the beneficial effects on the National Park have been overestimated and that the current revised restoration would be a less beneficial scheme, as a result of the retention of much of the overburden landform and void. However, we do not consider the differences to be so great as to have a long-term adverse impact on the landscape of the Brecon Beacons National Park.

Having said so, we would like to reiterate that we consider the photographs and photomontages submitted to be of poor quality and difficult to interpret. They have not been produced in accordance with our previous advice or best practice guidance (Landscape Institute Technical Guidance Note 06/19 Visual Representation of Development Proposals). Panoramas reproduced in an A3 document will make the development appear further away than, in reality, in the field. As a result, the existing open cast and proposed restoration would be more visible than shown in the photographs and photomontages.

Please refer to our previous response letter of 20/12/2019 for comments on groundwater and protected species.

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.

Welsh Government Agricultural Advisor

Thank you for your consultation regarding the Section 73 application to vary condition 45 of planning permission 18/1070/REM in relation to the restoration scheme at Nant Helen Surface Mine.

The original agreed restoration is agricultural after use, which for this application is considerable at 247 hectares comprising common land, enclosed fields and marshy grassland.

From the application and associated documents, it appears that the applicants propose an alternative after use proposal for the site. The proposal is to create a flexible landform that could be used for a variety of after uses such as nature conservation, leisure, tourism, amenity and industrial use.

Our remit covers restoration and aftercare where agricultural management is the primary objective, and not where the primary objective is a flexible after use.

A decision on after use of the site is a matter for the MPA and outside our remit. If the application is approved, we may need to consider our future input to the case, if the after use of the site is not to be primarily agricultural.

We would be pleased to discuss further at your convenience.

Neath Port Talbot County Borough Council

I refer to the above planning application referred to this Council in accordance with the above Act and order and in accordance with the attached report, the contents of which we ask you note and have regard to, would offer no objections.

REPORT

SITE AND CONTEXT

The application site comprises the existing Nant Helen Open Cast Coal Site (OCCS), Powys.

The Nant Helen OCCS covers an area of some 345 hectares and is located approximately 200m east of Penrhos; 350m south east of Cae'r-bont; 350m south of Caehopkin; 750m south of Abercrave; 725m west of Coelbren; 900m north-west of Onllwyn and 650m north of Seven Sisters. The site has been extensively worked as an open cast coal mine and consists of restored land, overburden mounds, coal stocking areas, barrel wash and plant maintenance areas, site office facilities and a void which is currently being mined. The site is currently being mined by Celtic Energy, although mining operations will cease in 2021, at which point Celtic Energy will be required to restore the land in accordance with regulatory requirements and agreements with Powys County Council.

The north and west of the working area is covered by woodland, whereas the land to the south and east is open upland common land forming part of Mynydd-Y-Drum. A significant part of the OCCS (184 hectares) also falls within the Mynydd-y-Drum

Common. The Sustrans National Cycle Route 43 Celtic Trail East follows the northern and western boundary of the site. The opencast void has moved in a westerly direction during the operation of the Nant Helen series of sites, which began operations in 1986. The current void is located at the western end of the development within the area of Nant Helen Remainder. The overburden storage mounds are to the east of the void with the coal preparation plant, stocking area, offices and workshops located further to the east.

Access to the existing site is gained from the A4221 at Coelbren, along a 1.2km access road which heads west before turning south towards the office/workshop area. There is also an internal haul road link which runs south from the office/workshop area before turning east towards Onllwyn Washery.

DESCRIPTION OF DEVELOPMENT

This is a consultation from Powys CC as an adjoining Authority in respect of details pursuant to the variation of Condition 45 of Planning permission 18/1070/REM, namely a revised restoration scheme.

NEGOTIATIONS

Not applicable.

PLANNING HISTORY

The Nant Helen OCCS has a detailed planning history, primarily (but not wholly) relating to land in the Powys administrative boundary, dating back to 1996, including (but not limited to) the following: -

- N1996/0112 (NPT)

Extract coal by open cast methods incl. Washing of coal bearing material (access only in Neath b.cl.Area). Approved 01.01.1997

- P2001/0405 (NPT)

Vary condition 1 of previous planning application P96/0112 - to extend the period in which the development is begun until 31st July 2003

- P/2011/0217 (PCC)

Western extension to Nant Helen surface mine for the purposes of coal extraction along with completion of coaling at existing site and associated ancillary development including restoration and subsequent aftercare of the full development site - Planning Permission Granted subject to S106 Agreement – 9th March 2012

- PP 106-98-005/PP 106-12-001 (PCC)

Nant Helen Extension – Planning permission Granted at Appeal – 21st July 1998

- 18/1070/REM (PCC)

Section 73 application to vary condition 2 of P/2011/0217 to allow an extension to time to allow extraction of all the coal and completion of restoration.

PCC resolved to grant subject to section 106 agreement (outstanding)

CONSULTATIONS

NPT Ecologist - It is welcomed that the existing biodiversity value of the site has informed the design of the current proposal. However, it is of concern that the biodiversity value and assessment of the amended restoration proposals have utilised out of date ecological information. The information presented was collected in 2010 and 2012, this is significantly out of date particularly in relation to the type of early successional habitats discussed, and such habitats can quickly deteriorate due to scrub and grass encroachment. It also appears that there is very little up to date species information presented to inform the proposals and any mitigation necessary, if protected species were found to be present. It is therefore recommended that up to date ecological surveys are undertaken to inform the amended restoration proposals. The current ecological information presented is not considered appropriate or adequate.

Further discussion as to the potential to recreate or translocate habitats, if removal of the overburden mound was necessary, would also be expected. Whilst retention of S7 (formerly S42) is welcomed it may be the case that such habitats can be moved or recreated elsewhere on site to address landscape or visual amenity issues for example. Consideration of this option would be recommended if alternative options are recommended for non-biodiversity reasons. Information relating to ecosystem resilience is also recommended to be provided to ensure the LPA can appropriately assess the application in line with the S6 duty of the Environment Wales Act 2016.

REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

National Planning Policy:

Planning Policy Wales (Edition 10) was extensively revised and restructured at the end of 2018 to take into account the themes and approaches set out in the Well-being of Future Generations (Wales) Act 2015, and to deliver the vision for Wales that is set out therein.

PPW10 takes the seven Well-being Goals and the five Ways of Working as overarching themes and embodies a placemaking approach throughout, with the aim of delivering Active and Social Places, Productive and Enterprising Places and Distinctive and Natural Places. It also identifies the planning system as one of the main

tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

Local Planning Policies

The Development Plan for the area comprises the Neath Port Talbot Local Development Plan which was adopted in January 2016, and within which the following policies are of relevance:

Strategic Policies:

- Policy SP14 The Countryside and the Undeveloped Coast
- Policy SP15 Biodiversity and Geodiversity
- Policy SP16 Environmental Protection
- Policy SP17 Minerals

Topic Based Policies:

- Policy EN6 Important Biodiversity and Geodiversity Sites
- Policy EN7 Important Natural Features
- Policy EN8 Pollution and Land Stability
- Policy M2 Surface Coal Operations
- Policy M4 Criteria for the Assessment of Mineral Development

Assessment

Officers received a disk and hard copy of the application in order to assess the application, which along with additional meetings with the applicant has given sufficient clarification for the application to be interrogated and for the following assessment to be made.

Observations and comments

The restoration proposal is mainly in line with the original strategy approved incorporating the land use.

The major potential concern for NPT relates to the proposed finished profile and nature of the landform of the existing overburden mound facing the Dulais Valley which varies from the previously-approved restoration profiles.

The amended scheme shows that the existing top tier of the overburden mound (up to 20m) facing the Dulais Valley communities will be removed leaving just the bottom tiers to be blended into the existing topography. The removed material will help create the remaining restoration profile within the void area of the site.

The height of the finished landform at its greatest point is shown as approximately 24m higher than the original restoration strategy profile (was 296m AOD), and as a consequence the retained overburden would have a greater landscape and visual impact than the original restoration scheme when viewed from areas of NPT to the south, south-east and east of the site. Nevertheless, Officers are satisfied that the photomontages and sightline sections demonstrate that the reduction in height and regrading of the side slopes would soften its finished appearance and ensure that in addition to reducing the existing long-term visual impact from the current overburden mound, would result in a finished landform which would in itself have no unacceptable adverse visual or landscape impacts. It is also understood that this would generally conform with (the former) CCW's original comments back in 2011 insofar as the bottom two tiers would be retained for landscape and ecological reasons and the shallow graded western and eastern flanks would protect views from surrounding areas especially from the Onllwyn and Seven Sisters area. The same would apply looking from the Cwmllynfell area towards the Sarn Helen area. Changes to the void area, while significant, would have no adverse impact on views from NPT.

Accordingly, while the restoration profile will be materially different to the original restoration strategy, there are no objections to the scheme in respect of landscape or visual impacts from views within NPT.

It would be advisable, however, to carry out this work under an agreed phasing regime. This could cover any early abandonment of the site resulting in lessening the effect on residential amenity where the limited effect of the landscape falls short on deliverability of the restoration scheme. It is also important to ensure that the restoration bond is sufficient to secure full restoration of the site.

It is noted that the access to Onllwyn within NPT has not been addressed under this application, though no objections are raised to this approach.

Technical Assessment

Following a detailed assessment of the submitted documentation, calculations, land use etc. relating to the site, the submissions are found to be acceptable.

Calculations roughly equate to the current void amounting to 16 million cube, part of this void will be filled by the overburden generated when the site is still in production. The remainder of the void will be filled by removing the material from the main overburden surcharge mound currently creating the visual impact on landscape within the Dulais Valley.

Most of the site will be restored by treated soil form material to provide the land use. There is a limited soil form covering on the current Over Burden Mound facing the Dulais Valley which is to be stripped and placed over the proposed final contours, enhancing the general form of the slopes formed, and thus enabling the overburden mound to secure a more natural profile which ties in more sympathetically with the wider landscape. This re-profiling would reduce the landscape impact of the western and eastern flanks of the retained overburden mound when viewed from the Dulais Valley.

The surcharge mound in layers will be reduced then married into the existing topography. This in principal will be in line with CCW's original historic comments.

The drainage proposals are shown within the application and are considered to be acceptable.

It has been stated that there is £18.5 million available in the current escrow account to deliver the restoration scheme proposed. Following review NPT is satisfied that this will be sufficient to deliver the amended restoration scheme. We would recommend additional work to revisit the restoration and aftercare cost estimate, along with the introduction of an annual review of costings and the escrow account to increase or decrease the value, while the legal agreement could be revisited on a phased operation agreed to guarantee delivery of the proposed restoration and aftercare of the site.

The current 12 year aftercare provision could be revisited to the normal 5 and 10 year cycles hence we would like to see confirmation of the restoration and aftercare costs – these could be aligned to the application under the legal agreement under a task based costing.

There are no detrimental comments made regarding the submission, but as above we consider that the legal agreement currently in place should be revisited and should seek to ensure that sufficient controls are in place to secure the guaranteed delivery of the proposed restoration and aftercare scheme.

Confirmation of the restoration and aftercare costs would be beneficial to ensure the restoration of the site.

Biodiversity

While welcoming that the existing biodiversity value of the site has informed the design of the current proposal, the Council's ecologist has raised concerns that the presented ecological information is out of date particularly in relation to the type of early successional habitats discussed, and such habitats can quickly deteriorate due to scrub and grass encroachment. It also appears that there is very little up to date species information presented to inform the proposals and any mitigation necessary, if protected species were found to be present. They also state that there should be further discussion as to the potential to recreate or translocate habitats, including potential for S7 habitats to be moved or recreated elsewhere on site to address landscape or visual amenity issues.

It is therefore recommended that your ecologists ensure they are satisfied with the level of information available to inform their assessment of the amended restoration proposals.

CONCLUSION

Neath Port Talbot County Borough Council offers no objections to the amended restoration scheme under Condition 45 of Planning permission 18/1070/REM.

Brecon Beacons National Park Authority

Thank you for your consultation received 3 February 2020 regarding the above.

Background

In August 2019 planning permission was granted to extend the operational time period 18/1070/REM together with the discharge of a scheme submitted for a detailed restoration scheme.

Condition 45 states that:-

“The Restoration of the site shall be undertaken in accordance with the detailed scheme approved under planning reference DIS/2016.0153”.

Celtic Energy are now seeking to vary Condition 45 and the approved restoration scheme.

The application is supported by an Addendum to the Original Environmental Statement (OES) and a number of other documents including a Revised LVIA. (October 2019) and associated appendices (Appendix 3 LVIA), a

Revised Restoration Scheme – Restoration Plan 07A05132, Celtic Energy Nant Helen remainder - Sections and Celtic Energy Response to NRW – A3 photographs of viewpoints BB1 and BB2 from the National Park within the original LVIA.

The Addendum to the OES states that the revised landform is seeking to create a flexible landform so that the site could be used for not only agricultural purposes but also nature conservation, leisure, tourism, amenity and industrial uses. Removal of up to 20m of the existing spoil from the top of the overburden mound would be undertaken to reduce the overall height and help create the remaining restoration profile within the void area of the site.

The revised scheme includes steep sided slopes retained to all sides of the overburden mound except to the north-east where it would blend into plateau slopes. A combined agricultural and nature conservation after-use is proposed, with enclosed grassland pasture, open upland grassland and features including ponds & wetlands, hedgerows & woodland. The site would be restored with a combination of topsoil, subsoil and soil forming material (SFM), with the overburden mound re-profiled to reduce the engineered appearance, de-compacted and ripped prior to soil spreading and surface treatment to establish better vegetation and drainage. Upland broadleaf Oak woodland would be established on some of the northern slopes along margins of existing woodland and along watercourses.

Consideration

PPW Wales Edition 10 states at Para 5.14.50 that mineral extraction should be restored to a high standard suitable for its agreed after-use.... Restoration and aftercare should provide the means to at least maintain, and preferably enhance the long term quality of and landscapes for mineral extraction.

PPW Wales Edition 10 states at Para 6.3.5 that planning authorities have a statutory duty to have regard to National Parks purposes to their identified special qualities in the exercise of their functions.

The Brecon Beacons National Park lies 200m to the north of the site at its closest point. The site is prominent from Cribarth (Viewpoint BB1 2011 LVIA) and Llorfa Ridge (Viewpoint BB2 2011 LVIA).

The revised restoration scheme proposes to retain more of the existing overburden mound than the previously approved scheme. Much of the main overburden mound would be retained including steep slopes facing the Tawe Valley and National Park to the north.

The Addendum to the OES acknowledges that further assessment is required in relation to Landscape and a revised LVIA assessment has been produced. However the Landscape Assessment as part of the OES is largely unaltered. It states that “views from the north are largely screened by intervening topography and vegetation with more distant views from the west and from the national park remaining largely imperceptible at that distance.” Photographs and photomontages of views from the south with indicative sections are provided, but there are no photographs, photomontages or sections of views from the National Park. The conclusion of the Addendum states at Para 7.4.1 that “whilst the mound will still be noticeable from the above viewpoints, in the wider landscape context it is not out of place due to its juxtaposition with the neighbouring upland landscape of the Brecon Beacons National Park. It is stated that, whilst different from the original proposals, in landscape and visual terms, the additional benefits it will bring are more than sufficient to make it acceptable.

It is considered that appropriate revised viewpoints should be provided from within the National park to compare the approved restoration and proposed revised restoration levels from the National Park in order to justify the statements made. Sections of the consented restoration scheme and proposed revised scheme should be provided for comparison purposes. It should also be made clearer what the additional landscape and visual benefits would be.

Conclusion

It is considered that additional information should be submitted to support the application to demonstrate that the revised restoration plan conserves and enhances the natural beauty of the National Park and does not have a long-term adverse impact on the special quality of the landscape of the Brecon Beacons National Park. A HOLDING OBJECTION is therefore raised.

Clwyd Powys Archaeological Trust

Thank you for the consultation on this application.

As condition 45 is non-archaeological the variation of the condition will have no archaeological implications.

The Coal Authority

Thank you for your notification of 20 November 2019 seeking the views of the Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

I can confirm that there would be no objection to the variation of Condition 45 as proposed.

Please do not hesitate to contact me if you would like to discuss this matter further.

Dwr Cymru Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

ASSET PROTECTION

It is acknowledged this application is to vary condition 45 of planning permission 18/1070/REM in relation to the restoration scheme for the above development site.

We can advise the development site is crossed by two 500mm trunk watermains, 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 can be advised that the protection zone for each watermain is 6 meters either side from the centreline of each main (total of a 12 meter protection zone). However, this easement width is for guidance purposes only and the location of the watermains will need to be verified on site before commencing work, whereupon the easement will be confirmed. This can be arranged by contacting our Plan & Protect Team on 0800 917 2652.

We note from reviewing the submitted Revised Restoration Scheme (drawing number:07A05118.DWG) in conjunction with the Current Site Layout (Figure 2), that a watercourse is proposed located in the western end of the development site leading from two proposed ponds within the existing quarry of which heads in a north-westerly direction. We also acknowledge the Revised Restoration Scheme also includes a grey area around the watercourse of which is stipulated as 'Cutting'.

Further clarification is requested from the applicant as to what is proposed where they stipulate 'Cutting' on the Revised Restoration Scheme.

We can confirm that we would not permit a new watercourse or any alteration of ground levels within the 12 meter protection zone of each water main.

Should the applicant submit any additional information in relation to this application, we kindly request to be re-consulted.

Advisory Notes

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

If you have any queries please contact the undersigned on 0800 917 2652 or via email at **developer.services@dwrcymru.com**

Wales & West Utilities

Wales & West Utilities plans should now be obtained from LSBUD (<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.linesearchbeforeudig.co.uk%2F&data=02%7C01%7Cplanning.consultations%40powys.gov.uk%7C804e35541ca14ecd901508d76dbe0c9e%7Cc01d9ee10eb0475499ae03ae8a732b50%7C0%7C0%7C637098535331146341&sdata=CWhfY%2FN2OJ5KtvjMkBO05fSaJTB46fSW%2F%2FchUYwh2AE%3D&reserved=0>).

If you are working on behalf of a utility company, local authority or contractor working on behalf of a local authority and would still like to continue receiving asset information directly from WWU's Plant Protection Team, an administration fee of £36.00 + VAT will now be applicable.

If you would like to proceed with your request, please let us know whether you will be paying by card or cheque and we will process your request.

Please note that your request will not be processed until we receive payment.

CADW

Thank you for your letter of 20 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 proposed development. Our assessment of the application is given below.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

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

National Policy

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

Assessment

A restoration scheme for the mine has previously been approved (Planning Application DIS/2016/0153) as a combination of agricultural use and nature conservation that is complementary with its transitional lowland-upland landscape setting. The current application is for similar uses of the site but with some specific changes. These alterations will not change the setting of any designated heritage site more than the approved restoration scheme.

PCC Contaminated Land Officer

With respect to the above application, I have no comments to make.

PCC Built Heritage Officer

Recommendation: No objections

Background to Recommendation

Designation

Listed Buildings within Study area of 18/1070/REM

Cadw ID 7544 Cae'r Lan Castle included on the statutory list on 21/01/1994

Cadw ID 25952 Fan house to former Ynyscedwen Mine included on the statutory list 04/12/2001*

* Fan house to former Ynyscedwen Mine is also a Scheduled Ancient Monument Cadw ID BR198 designated on 31/01/1992

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 Conservation Areas 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”*

The application seeks to vary condition 45 of planning application 18/1070/REM, which states that the restoration of the site shall be undertaken in accordance with the detailed restoration scheme approved under planning reference DIS/2016/0153. The impact of the proposal on the setting of historic assets was undertaken at the time of the original permission.

I acknowledge chapter 15 of the submitted documents Assessment of Cultural Heritage, however note that this chapter focuses on archaeology and not the setting of listed buildings which ideally should also have been considered.

I acknowledge that Cadw have commented in respect of listed building Cadw ID 25952 Fan house to former Ynyscedwen Mine which is also a Scheduled Ancient Monument Cadw ID BR198 and would not disagree with their initial findings and current comments in that the proposed mine would have no impact on the setting of BR198, and acknowledge that listed building Cadw ID 25952 is a Fan house of c1880 to former Ynysgedwen mine and as such linked to mining.

I note the distance of the site from Cadw ID 7544 Cae'r Lan Castle which is a former Inn built for the former Swansea Canal c 1800 and extended in later C19 and now occupied as a house.

I note the proposed changes to the restoration scheme, and would not consider that the revisions to the restoration scheme as proposed would have an impact or harm the setting of the listed buildings. As such I would raise no objections to the proposal.

PCC Countryside Services & Outdoor Recreation

Thank you for giving the Countryside Services and Outdoor Recreation team opportunity to comment on this planning application.

As indicated in the plans accompanying the application, a number of public rights of way cross the site and would be affected by the proposed restoration scheme. These are public footpaths 11, 40, 19, 90, 50, 49 (which becomes footpath 52), and 7.

It is noted that provision is made for the public footpaths to cross any new boundaries (fences and earth banks) and watercourses; stiles, gates and crossing points are indicated on the plan at appendix 2, figure 4-223908. In relation to these proposals:

- Separate authorisation must be sought section under 147 of the Highways Act 1980 to install structures on a public right of way, to cross new boundaries. In authorising these structures, a 'least restrictive access' approach is followed by Powys County Council. As such, as a minimum pedestrian gates would need to be installed at the new boundary crossings, not stiles; field gates are also acceptable. This authorisation can be issued on application by the owner or occupier of land that is already used, or being brought into use for agriculture, forestry or the breeding and keeping of horses, where a structure is needed for the purpose of controlling the movement of animals. Otherwise, a gap of no less than 1.2 metres wide must be left in the boundary where the footpath crosses it.
- Gates must be no less than 1.2 metres wide and comply with the current British Standard (BS5709:2018.) Timber wicket gates are acceptable if they meet these requirements, but metal self-closing designs may be preferable for the landowner, as they generally require less ongoing maintenance and adjustment to open and close effectively.
- The proposed bridges to cross watercourses are acceptable in principle. However, it would be preferable to install more durable structures with lower ongoing maintenance to cross watercourses wherever possible (e.g. culvert crossings.)

In relation to the proposed landform after restoration:

- Consideration needs to be given to the point where footpath 11 crosses the corner of the embankment above the proposed new ponds; it would appear from the plans that it will descend and then ascend the slopes on either side. As part of the construction, a graded route should be created across the slope for the path, to ensure that the gradients are not unduly steep and that the path has a level surface across a minimum width of 2 metres.

- Likewise, the northern end of footpath 40 crosses a steeper area of the embankment. A route should be constructed across the slope, so that the path has a level surface across a minimum width of 2 metres.
- The southern end of footpath 19 would descend the slope via a direct line. Consideration needs to be given to construction of the slope to minimise the gradient of this section of footpath; steps need to be avoided, due to the long term maintenance implications.
- Removal of the buildings on the retained hardstanding is welcomed, as it will ensure that footpaths 49 and 50 are fully open for use.

Use of the footpaths listed above across the application site is suspended for the duration of coaling under Opencast Coal Orders of 1986 and 1997; alternative ways have been provided by the Orders. As such, no additional temporary closure is considered necessary during the restoration works subject of this application, but the temporary alternative routes must be safeguarded during construction.

PCC Planning & Highway Ecologist

I have reviewed the revised restoration scheme submitted with regards to the Section 73 application and in principle I have no objections to the revised proposals from an ecological perspective, the scheme appears to increase the proposed areas of acid and marshy grassland compared to the previous scheme and additional waterbodies have been incorporated into the proposed layout – the areas of woodland planting appear to be similar to that agreed under the originally approved restoration.

I would agree with the comment made by NRW that ultimately the detail of the habitat management and monitoring will be covered by the EHMMP required to be submitted in relation to condition 32

One thing I would raise is that they have identified that in the revised restoration scheme being put forward for this proposal that due to the overburden mound having developed into an area of conservation interest with several areas of ‘Section 42’ priority habitat types – these would be equivalent to Environment (Wales) Act 2016 Section 7 Habitats - and that the surface soil layer from feature is proposed to be transferred to the replacement landform and reshaped overburden mound to enable the re-establishment of the Section 7 habitats – however no recent survey information has been provided with the application to confirm the habitats currently present in this area including their extent and condition, the survey information provided with the application is that submitted with the original ES from 2011.

In absence of supporting information to demonstrate that there is adequate and appropriate habitats currently present to enable the proposed habitat creation through transfer of surface soil layers associated with the identified habitats it is difficult to determine whether this proposed element of the restoration scheme is achievable/appropriate.

PCC Land Drainage Officer

No response received to date

PCC Highways

Does not wish to comment on the application

PCC Environmental Health Service

Having regard to the Noise Assessment undertaken by Hepworth Acoustics a planning condition is recommended to include the findings of the report in respect of the implementation of a Noise Management and Action Plan, the proposed working hours, noise mitigation and control and noise monitoring.

The noise levels in the current planning consent should continue to be conditioned.

It is also recommended that the dust mitigation measures in the air quality report provided by Alex Grant (AirQ) be conditioned.

Representations

The application has been publicised by display of site notices and in the press, to date no objections have been received from members of the public.

Planning History

18/1070/REM – Variation of Condition 2 of planning approval P/2010/0217 to allow an extension of time to allow extraction of all the coal and completion of restoration – Planning Permission Granted subject to Section 106 Agreement – 29th August 2019

18/1071/DIS – Discharge of Condition 54 of planning consent P2011/0217 in relation to revised restoration scheme - Withdrawn

DIS/2016/0153 - Discharge of condition 54 of planning approval P/2011/0217 - provision of detailed restoration scheme – Approved – 2nd February 2017

P/2011/0217 - Western extension to Nant Helen surface mine for the purposes of coal extraction along with completion of coaling at existing site and associated ancillary development including restoration and subsequent aftercare of the full development site - Planning Permission Granted subject to S106 Agreement – 9th March 2012

P2008/0850 – Construction of drainage channel – Planning permission granted – 16th November 2011

PP 106-98-005/PP 106-12-001 - Nant Helen Extension – Planning permission Granted at Appeal – 21st July 1998

Principal Planning Constraints

Potential impact on the landscape.

Potential impacts on the water environment.

Potential impact on biodiversity and the natural environment.

Principal Planning Policies

National

The Well-being of Future Generations (Wales) Act 2015

The Environment (Wales) Act 2016

Planning Policy Wales (Edition 10, 2018)

Mineral Technical Advice Note 2 - Coal (2009)

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

Local Planning Policy

Powys Local Development Plan (April 2018)

Strategic Policy SP7 - Safeguarding of Strategic Resources and Assets

Policy DM1 – Planning Obligations

Policy DM2 – The Natural Environment

Policy DM4 – Landscape

Policy DM6 – Flood Prevention Measures and Land Drainage

Policy DM10 – Contaminated and Unstable Land

Policy DM13 – Design and Resources

Policy DM14 – Air Quality Management

Policy M1 – Existing Minerals Sites

Policy M4 – Minerals Proposals

Policy M5 – Restoration and Aftercare

Supplementary Planning Guidance: Biodiversity and Geodiversity (October 2018)

Supplementary Planning Guidance: Planning Obligations (October 2018)

Officer Appraisal

The Well-being of Future Generations (Wales) Act 2015 (WFG) imposes a duty on public bodies to carry out 'sustainable development' in accordance with the 'sustainable development principle'.

“Sustainable development” means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.

'Sustainable development principle' means that Local Authorities must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

In order to achieve this principle the Act introduces five ways of working to support decision making which ensures public bodies take account of:

- a. Long-term thinking – balancing the need to take action to address current issues with the need to meet long term needs of Wales.
- b. An integrated approach – considering how a body's objectives may impact upon the social, economic, environmental and cultural well-being and considering how an individual body's objectives impact upon other public bodies' objectives.
- c. Engagement – involving the people and communities with an interest in the wellbeing objectives, engaging them in finding sustainable solutions.
- d. Collaboration – acting collaboratively with other bodies, or different parts of a body acting together in a co-productive way, to assist in the achievement of the body's objectives.
- e. Preventative action – deploying resources to undertake action now in order to prevent problems occurring or getting worse.

Well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The Environment (Wales) Act 2016 has been designed to complement the WFG Act by applying the principles of sustainable development to the management of Wales' natural resources.

The "sustainable management of natural resources" means— (a) using natural resources in a way and at a rate that promotes achievement of sustainable development and the well-being goals (b) taking other action that promotes achievement of that objective, and (c) not taking action that hinders achievement of that objective.

The Environment Act also imposes a duty to require all public authorities, when carrying out their functions in Wales, to seek to "maintain and enhance biodiversity"

where it is within the proper exercise of their functions. In doing so, public authorities must also seek to “promote the resilience of ecosystems”.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, 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. For the avoidance of doubt, the development plan in this instance is the Powys Local Development Plan 2011-2026.

Principle of Development

The principle of the development of the Nant Helen Surface Mine was established by the grant of planning permission in March 2012. Nothing in this application allows for additional coaling or excavation that hasn't already been approved.

Environmental factors

Landscape and visual impacts

LDP Policy DM4 states that proposals must not, individually or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape. It goes on to state that all proposals will need to:

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

In terms of LANDMAP, the Visual and Sensory Aspect Area is mainly the Nant Helen Opencast/Restoration Aspect Area (BRCKNVS926) which has a low evaluation. The justification for the evaluation states that the area has been reclaimed in a way to minimise topographical intrusion, although the overburden tip is still visible to the west. There is a distinct lack of tree/woodland/hedgerow planting which means the landscape appears visually sterile and unlike the surrounding pastoral landscape. The principal management recommendation is to increase woodland and boundary planting, planting hedgerows with trees, planting woodland copses in valleys to echo the surrounding landscape and in the long term remove/regrade the overburden spoil tip to reflect a natural landform.

The north western part of the site falls at the eastern extremity of the Tawe Valley and Cwm Twrch Visual and Sensory Aspect Area (The river corridor and mosaic of pasture and deciduous woodlands) and is evaluated as moderate and the south western part of the site forms part of the Twyn Eithinog Visual and Sensory Aspect Area (Small relatively featureless area of upland with residual mining remains) which is also evaluated as moderate.

The Landscape and Visual Impact Assessment (LVIA) considered as part of the 2012 planning permission accepted that there would be adverse visual impacts in the short term but the restoration proposals would result in substantial landscape benefit within the site in the medium to long term and moderate beneficial effects on the landscape setting and visual amenity of nearby settlements and rights of way. A revised LVIA submitted in support of this application confirms that there would be adverse visual impacts in the short term but the restoration proposals would result in landscape benefit within the site in the medium to long term and slightly beneficial effects on the landscape setting and visual amenity of nearby settlements and rights of way.

The most visible element of the Nant Helen site is the overburden mound which is referred to locally as the 'wedding cake' due to its layered profiles. The top of the mound is currently at approximately 338m AOD. The currently approved restoration details propose to reduce the summit level to 305m AOD and to re-profile the outer slopes to form a more natural profile in accordance with the LANDMAP recommendation. This revised proposal seeks to reduce the summit level to 320m AOD and to re-profile the outer slopes to remove the engineered profile. It also results in a consequent valley feature in the area of the current void. There is also a proposed semi-circular platform which could facilitate the GCRE or some other form of leisure/recreational use. Such features are not out of place in upland coal mining areas as there are often relics of the lines of tracks/tramways to former private coal mines.

The Brecon Beacons National Park Authority and NRW have expressed concerns about the long term adverse impact on the landscape of the National Park, primarily from the partial retention of the overburden mound, and requested additional information to demonstrate that the restoration scheme can be achieved which conserves and enhances the natural beauty of the National Park. Additional information has been submitted and has been forwarded to BBNPA and NRW. NRW has responded confirming no objections. They consider that the beneficial effects on the National Park have been overestimated and that the current revised restoration would be a less beneficial scheme, as a result of the retention of much of the overburden landform and void. However, they do not consider the differences to be so great as to have a long-term adverse impact on the landscape of the Brecon Beacons National Park. BBNPA has not responded to the additional information to date.

Neath Port Talbot County Borough Council has considered the potential impact of the increased final height of the overburden mound on communities in the Dulais Valley and has concluded that the revised landform would not have any unacceptable adverse visual or landscape impacts.

Tawe Uchaf Community Council, Ystradgynlais Town Council and Cllrs David Thomas and Sarah Williams consider that steepness and depth of the slopes left in the valley feature will be artificial in nature and a blot on the landscape. However, slopes of 1 in 3 are not considered to be out of accord with land in upland locations and is similar to restoration profiles achieved on other opencast coal sites such as

Maesgwyn, Selar, Margam and East Pit. Final details on the precise alignment of public rights of way and the provision of structures along the routes will be the subject of applications under separate legislation.

The other principal management recommendation of LANDMAP is to increase woodland and boundary planting, planting hedgerows with trees and planting woodland copses in valleys to echo the surrounding landscape. This is reflected in the approved restoration details.

There are therefore landscape benefits associated with the restoration of the site.

Hydrology, Hydrogeology and Land Stability

The site is located almost entirely in the headwaters of the Afon Tawe and Afon Dulais catchments, with a very small area to the east of the site draining to the Afon Pyrddin catchment. The larger part of the site drains towards the Afon Tawe to the north, with the southern part of the site draining to the Afon Dulais to the south.

The drainage from the existing site is managed via a series of lagoons and settlement ponds prior to discharge into surrounding watercourses. These discharges are controlled by NRW under a Permit.

LDP Policy DM6 states that development proposals must avoid unnecessary flood risk by assessing the implications of development within areas susceptible to all types of flooding; any development that unacceptably increases risk will be refused.

The approved restoration details (February 2017) include provision for the restoration of watercourses, ponds and attenuation features. The design incorporated attenuation ponds, wetlands and rush-lined channel beds which would slow down and reduce surface water flows away from the site. Whilst the revised scheme incorporates amendments to the approved scheme the design principles are the same. The water features will slow down and reduce surface water flows away from the site and reconnect the restored on-site watercourses to the existing downstream watercourses that were severed by site operations.

Essentially the watercourses will be created to connect with the natural drainage features beyond the site boundary. The reinstated watercourses will, where practicable, be constructed using a natural clay bed lined with loose stone and with variable bank profiles, channel widths, small waterfalls and pools in order to create landscape and habitat diversity as well as control flows.

However, where gradients exceed 1 in 12 the channel beds will need to be reinforced with rock. These sections will be stepped and formed with backfall areas to provide small pools and help to slow down flows. An estimated 17% (previously 26%) of restored watercourses will be rush-lined, 53% (previously 35%) lined with gravel beds and 30% (previously 39%) reinforced with rock.

Tawe Uchaf Community Council, Ystradgynlais Town Council and Cllrs David Thomas and Sarah Williams express concerns in relation to ponds being located within the restored valley/bowl feature and the responsibility for their ongoing maintenance.

Of particular concern appears to be the fear of increased run-off from the steeper slopes and water features and increased risk of flooding. However, far from being a source of increased flooding the surface water drainage proposals have been designed to reduce the incidences of flooding downstream by incorporating attenuation features which slow down the rate of flow during adverse weather conditions. Maintenance will be the responsibility of the landowner, with the first 10 years covered by an extended aftercare scheme.

Concerns have also been expressed in relation to the stability of the steep slopes and the potential for instability from water ingress from old colliery workings such as Ynyscedwyn and Abercrave. As stated above, the slopes are 1 in 3 whereas the natural angle of repose of replaced overburden is 1 in 1.5. The slope angles are similar to those restored successfully at other opencast coal sites in the area and are therefore considered to be stable.

The opencast coal workings have intersected old mine workings such as those from Ynyscedwyn Colliery. There are three drainage adits in the general area which control the outflow of underground minewater – the Yard Adit (associated with the International Colliery) at 122.5m AOD; the Gwaun Clawdd Adit at 106.1m AOD and the Cwm Du Adit (associated with Ynyscedwyn Colliery) at 93.6m AOD. All of these adits drain into the River Tawe and are well below the proposed 145m AOD level of the restored land. Therefore, the likelihood is that the Post Restoration rebound of ground water (from a base of approximately 76m AOD) will result in additional flows from the site through the Cwm Du adit (as it's the lowest) when the groundwater reaches that level rather than flows from the old workings into the backfill. It is anticipated that groundwater levels will recharge to approximately 145m AOD and therefore flows will be into the adits and not from the adits.

In terms of groundwater and surface water, it is expected that the restoration scheme will have no adverse impact and is beneficial on the basis that the drainage element of the restoration scheme is designed to reduce the risk of flooding.

Impact on Ecology and Biodiversity

LDP Policy DM2 requires development proposals to 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.

During the consideration of the Nant Helen Remainder application in 2012, the impact of the development on biodiversity and ecology was an important consideration. The ecological impacts of the proposal were balanced against the benefits of the wider enhancement of biodiverse habitats contained within the restoration strategy and it was considered that there was sufficient ecological benefit from the restoration of the site in the longer term.

There was (and is) little scope to introduce biodiversity within the Mynydd-Y-Drum Common which covers just over 50% of the site. The Common is to be restored as upland acid grassland (with a small area of species rich acidic grassland), watercourses and wetland areas. Whilst the Welsh Government Agricultural Advisor

has indicated that his remit does not cover flexible after-uses the majority of the afteruse will be agricultural. There is no change to the proposals in relation to the handling and management of soils or the methods of soil replacement. There are minor changes to the aftercare of some areas but these will not have any significant impact on the agricultural use of what is primarily upland pasture/common.

The remainder of the land to the north and west of the common is shown in the approved 2017 restoration details to be restored to a mix of enclosed agricultural land bounded by hedgerows, including areas of marshy grassland; broadleaf woodland planting areas; watercourses with woodland corridors and wetlands/ponds. The enclosed pasture to be created with boundary hedgebanks and stream corridors contribute to landscape integration and nature conservation. The revised 2019 scheme is similar but introduces acid grassland/lichen heath onto the steeper slopes.

Purple moor grass and rush pasture, hedgerows and ponds are included as Section 7 habitat of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales under the Environment (Wales) Act 2016. Linear habitat such as hedgerows, and rhos pasture (purple moor grass and rush pasture) are also Powys LBAP habitat with defined action plans.

The Powys LBAP Linear Habitats Action Plan states as Target 2 that it will – ensure that there is no net loss of species-rich hedgerows and verges in Powys. It encourages replacement of hedgerows lost through development or agricultural activity and seeks to maintain local distinctiveness of traditional hedgerows. This restoration scheme seeks to re-instate hedgerows and complies with this target.

Target 1 of the Rhos pastures Action Plan seeks to – ‘Maintain, and where possible, enhance the current extent, condition and availability to key species, of rhôs pasture in Powys’. This restoration scheme meets that aim.

Whilst concerns have been expressed in relation to the age of ecological survey data, both NRW and the Council Ecologist comment that ultimately the detail of the habitat management and monitoring will be covered by the Ecological and Habitat Monitoring and Management Plan required by Condition 32 of the planning permission. No objections have been received from NPT ecologists, the Powys ecologist or NRW in relation to adverse impacts on biodiversity.

For the above reasons it is considered that the proposals maintain biodiversity and the nature conservation and amenity value of habitats and features that are important for wild flora and fauna and the planting of broadleaf woodland in appropriate locations is encouraged. The scheme places a heavy emphasis upon the creation of wildlife habitat that complements the surrounding land and is therefore beneficial in biodiversity terms and complies with the biodiversity duty set out in the Environment Act.

Built Heritage

CADW has confirmed that a restoration scheme for the mine has previously been approved (Planning Application DIS/2016/0153) as a combination of agricultural use and nature conservation that is complementary with its transitional lowland-upland

landscape setting. The current application is for similar uses of the site but with some specific changes. These alterations will not change the setting of any designated heritage site more than the approved restoration scheme.

The Council's Built Heritage Officer has commented that the application seeks to vary condition 45 of planning application 18/1070/REM, which states that the restoration of the site shall be undertaken in accordance with the detailed restoration scheme approved under planning reference DIS/2016/0153. The impact of the proposal on the setting of historic assets was undertaken at the time of the original permission.

I note the proposed changes to the restoration scheme, and would not consider that the revisions to the restoration scheme as proposed would have an impact or harm the setting of the listed buildings. As such I would raise no objections to the proposal.

On the basis of these responses it is concluded that there is no harm to listed buildings or scheduled ancient monuments or the settings of both.

Financial Guarantee

LDP Policy DM1 states that planning obligations will be sought where necessary to ensure that, amongst other things, restoration arrangements are achieved. LDP Policy M5 also states that financial bonds will be sought to secure the necessary works for restoration and aftercare.

As stated above, the current planning permission for this site is subject to a Section 106 Agreement which covers, the provision of a Financial Restoration Guarantee Bond (including annual tasks to reduce liability) and extended the aftercare period from 5 to 10 years on all areas of the site. The Restoration Guarantee Fund currently stands at £19.5 million.

As this application is for the variation of a condition and would result in a new planning permission being issued, the Authority will need to vary the Section 106 Agreement. Celtic Energy Ltd has submitted a Draft of a revised Section 106 Agreement. This indicates that the Council would hold sufficient money in the Restoration Guarantee Bond to complete the revised restoration in full in the event the operator was to default.

Conclusion

The Well-being of Future Generations Act is the Welsh Government response to the challenges we face as a nation, climate change, poverty, poor health and jobs. Well-being goals identified in the Act are:

- A prosperous Wales – this application seeks to provide a landform which is slightly beneficial in landscape terms and also provides the flexibility and adaptability to support other uses such as industry, tourism, leisure and recreation which would potentially provide employment opportunities and prosperity in an area where jobs would be welcomed (subject to the necessary permissions being obtained).

- A resilient Wales – the proposals maintain and enhance a biodiverse natural environment and provide attenuation for storm water drainage which is becoming necessary as a result of the impacts of climate change.
- A healthier Wales – the restoration will provide opportunities for leisure and recreation use of the land, more than 50% of which is open access common land. The reconnection of the public rights of way system will allow easier public access to the countryside for recreation. Communities surrounding the site are generally in the lower half of the table of most deprived areas in Wales and increased access to the countryside would be beneficial to health.
- A more equal Wales – Ystradgynlais¹ is the overall most deprived area within Powys and is in the 10% most deprived in Wales. Seven Sisters and Onllwyn are in the top 20-30% most deprived in Wales. The site is being restored to a landform which is flexible and adaptable. This provides opportunities for future development which would provide jobs.
- A Wales of cohesive communities – communities at the top end of the Tawe and Dulais Valleys are considered to have a generally cohesive structure but in order to make these communities more attractive and viable it is important to provide opportunities for job creation and increased access to attractive countryside for leisure and recreation. This restoration does both those things.
- A Wales of vibrant culture and thriving Welsh language - communities in the Tawe Valley (Ystradgynlais, Ynyscedwyn, Abercrave) have relatively high numbers of Welsh speakers (approx. 40%). This is one of the highest concentrations in Powys (together with north-west Powys). It is important to provide opportunities for job creation and increased access to attractive countryside for leisure and recreation in order to preserve the communities and the culture which they support.
- A globally responsible Wales – the proposal seeks to improve the prospects for economic, social environmental and cultural benefits and is considered to have the potential to make a positive contribution to well-being.

On the basis of the above, the proposal is not considered to conflict with national legislation, national policy and guidance or local planning policy. A revised Section 106 Agreement will be required in order to secure restoration and aftercare in full.

In reaching this conclusion the Council has considered the likely significant effects of the development on the environment.

Recommendation

It is recommended that the application be approved subject to the following conditions and subject to a revised Section 106 Agreement being entered into which provides a Restoration Guarantee Fund for the restoration and aftercare of the site.

If the Committee are minded to approve the application Welsh Government must be notified under the provisions of the Town and Country Planning (Notification) (Coal

and Petroleum) (Wales) Direction 2018 so that they have an opportunity to consider whether to 'call-in' the application.

CONDITIONS

1. Extraction of minerals shall cease by 31st December 2021, restoration shall be completed by 30th June 2022 and ancillary buildings to which this permission relates (other than those shown as being retained as part of the restoration scheme) shall be removed by 30th September 2022.

Except as modified within the Section 106 Agreement relating to this permission, the site shall be subject to aftercare for a period of 5 years in accordance with the provisions of an aftercare scheme approved by the Local Planning Authority.

2. The development hereby permitted shall be carried out in accordance with the following documents and plans or as otherwise modified by any revisions or by other conditions, schemes or approvals by the Local Planning Authority:
 - Planning Application Validated on 11th November 2019.
 - Environmental Statement – February 2011.
 - Addendum to Original Environmental Statement and Supporting Information – November 2018
 - Addendum to Original Environmental Statement and Supporting Information – Appendices - November 2018
 - Further Addendum to Original Environmental Statement and Supporting Information (including revised LVIA – October 2019)
3. A copy of this permission and the approved plans showing the method and direction of working and restoration shall be displayed in the operator's site office at all times during the life of the site. Any subsequent approved amendments shall also be displayed.
4. From the date of the commencement of coaling the site operator shall maintain records of the monthly output of coal and shall make them available to the local planning authority at any reasonable time upon request. These records shall be kept for the duration of coaling operations at the site.
5. At intervals of 6 months, details, in the form of a land survey, sectional details and calculations, shall be provided to the Local Planning Authority indicating the extent and volume of the extraction void and the extent and volume overburden mound at each such interval.

Hours of operation

6. Except in an emergency which shall be notified to the Local Planning Authority as soon as practicable, no development, which includes the starting up of plant and machinery, or other activities associated with the development (other than water pumping, servicing, environmental monitoring, maintenance and testing of plant) authorised or required by this permission shall be limited to 0600 - 2200hrs Monday to Friday and 0700 - 1300hrs on Saturdays.
7. Notwithstanding condition 6 above, no soils shall be stripped or replaced, no topsoil or subsoil mounds shall be formed or removed and no water treatment areas shall be constructed or removed except between the following times 08.00 to 17.00 hours Mondays to Fridays (excluding Bank/Public Holidays) and 08.00 to 13.00 hours on Saturdays.
8. No coal shall be transported from the site except between the hours of 0700 and 1800 on weekdays (excluding bank holidays) and 0700 and 1300 hours on Saturdays.

Access

9. There shall be no vehicular access to the site, other than from the two points marked "X" shown on Figure 5.01 of the Environmental Statement. No coal traffic shall use the access on to the A4221 for either ingress or egress.
10. The existing wheel cleaning facilities, consisting of a fully automatic wheel wash, supplemented as required by a high pressure hose, shall be retained and all coal lorries shall be washed before travelling along the coal haul route to the public highway.

Dust

11. The approved Dust Management Action Plan (submitted in respect of Condition 25 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
12. All permanent roads within the site shall be hard surfaced and such roads shall be swept and watered regularly and, wherever practicable, site traffic will be prohibited from using such roads unless the vehicle has been washed at a wash bay beforehand.
13. Dust on internal haul roads and other areas of the site traversed by vehicles to be suppressed by means of water bowsers.
14. No coal shall be stocked on the site other than within the area designated in Figure 5.01 of the Environmental Statement, unless otherwise agreed in writing by the local planning authority.

Blasting and Vibration

15. The approved Blasting Management Action Plan (submitted in respect of Condition 19 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
16. Blasting shall be confined (except in the case of an emergency or as otherwise agreed with the Local Authority) to between 1000 and 1300 hours and between 1400 to 1600 hours Monday to Friday (excluding Bank/Public Holidays) and 1000 to 1300 hours on Saturdays. Notices highlighting these blasting times shall be displayed at the site entrance.
17. Each blast shall be preceded by an audible and visual warning to persons on or in the vicinity of the site. The warning methods used shall be displayed at the site entrance. Sentries shall be posted at any possible access points to prevent trespass during blasting operations.
18. No blasting operations shall be carried out which would result in any component of the peak particle velocity attributable to the blast exceeding 4mm/sec at 95% confidence and 6mm/sec at 100% confidence as measured at any occupied property.
19. All practicable steps shall be undertaken by careful design of blasting operation to limit air overpressure. Where air overpressure exceeds 120dB, as measured at the nearest noise sensitive property, the operator shall review the blast design and make such amendments (prior to the next blast) that are considered necessary to the blast design in order to reduce air overpressure below 120dB.

Noise

20. The approved Noise Management Action Plan (submitted in respect of Condition 16 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
21. Noise arising from operations at the site as measured at any noise sensitive location shall not exceed background (LA90) plus 10dB LAeq,1hr or 55dB LAeq,1hr (free field), whichever is the lesser, during normal working hours (0700 to 1900 hours Monday to Friday excluding Bank/Public Holidays and 08.00 and 12.00 hours on Saturdays). At all other times the noise arising from operations at the site shall not exceed 42dB LAeq, 1hr (free field) at any noise sensitive location.
22. Notwithstanding the noise level limits set out in Condition 21, the level of noise from operations consisting of the stripping of soils and the construction

and removal of soil mounds, baffle mounds and water treatment areas, measured at any noise sensitive property, shall not exceed 67dB LAeq 1hr (free field) between 1000 to 1600 hours on Monday to Friday excluding Bank/Public Holidays and for a period of up to 8 weeks in a year.

Water Management

23. Drainage ditches, settling ponds and lagoons shall be de-silted and maintained in such condition that they are able to perform effectively for the purpose for which they have been provided.
24. Unless otherwise approved in writing by the Local Planning Authority, any ditch, watercourse or culverts passing through the site shall be protected, supported or diverted so as to not impair the flow or to render less effective drainage onto and from adjoining land.
25. The site shall continue to utilise the existing water discharge points and treatment areas as identified in Figure 13.05 of the Environmental Statement, unless otherwise agreed in writing by the Local Planning Authority.
26. The approved scheme for the monitoring of local watercourses (submitted in respect of Condition 33 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
27. The approved scheme for the protection and conservation of soil to prevent the pollution of the water environment (submitted in respect of Condition 34 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
28. The approved scheme for groundwater monitoring (submitted in respect of Condition 35 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
29. The approved method statement for the pollution prevention measures during operational and post operational phases of the development (submitted in respect of Condition 36 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Lighting

30. External lighting sets to be erected or used on the site in accordance with the following provisions:

- a. All site lighting shall be reviewed and where necessary fitted with additional cowlings/shrouds to ensure all lights are directed downwards.
- b. Lighting towers equipped with lights on more than one side shall have switches fitted that allow lights not required for Health and Safety purposes to be switched off.
- c. Lights within the administration and workshop areas shall be connected to PIR sensors after 10pm to ensure that when not required for Health, Safety or Security reasons they will remain turned off.
- d. All new lighting equipment shall be fitted with shrouds and maximum height of equipment when at surface to be no more than 5m.
- e. At all times lights shall be directed away from light sensitive areas.
- f. Half yearly surveys of site lighting shall be conducted at locations to be agreed with the Local Authority within the Site Technical Working Party. The results shall be made available to the Local Authority and reported at the Site Technical Working Party.
- g. Monitoring of complaints shall be undertaken through a documented complaints procedure together with reports received during Technical Working Party and Site Liaison Committee meetings.

Archaeology

- 31. The approved programme detailing a written scheme of archaeological investigation for an archaeological watching brief (submitted in respect of Conditions 44 and 45 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Ecology

- 32. Within 6 months of the date of this permission an Ecological and Habitat Monitoring and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The details shall include, inter alia, the following:-
 - a. detailed provisions for the enhancement of biodiversity for all areas of the site subject to extended aftercare;
 - b. calculation and estimates of any loss of BAP habitats and the proposed minimum provisions for translocation, replacement, mitigation or compensation within the aftercare scheme;

- c. the monitoring and management of habitats until the completion of aftercare including the extended aftercare as agreed in the Section 106 Agreement. This shall include annual reports and proposed mitigation, and detail the process to implement any remedial action that is identified from the monitoring results to deliver the agreed habitat type and quality.

The scheme shall be implemented in accordance with the approved details.

- 33. The approved scheme for the phased removal of vegetation and woodland areas (submitted in respect of Condition 7 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
- 34. Prior to the commencement of any phase of tree felling or vegetation clearance during the development further checks and surveys shall be undertaken to ensure that there is no presence of Crossbills, Honey buzzard, Goshawk, Peregrine falcon, Red kite, nesting birds, Marsh fritillary, Otter or Badger within the areas to be developed.
- 35. The Reptile Mitigation and Translocation scheme submitted on 4th July 2011 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.
- 36. The approved bat survey report and tree survey report (submitted in respect of Condition 49 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.
- 37. Prior to commencement of development that would result in the loss or major disturbance of any waterbodies a detailed amphibian translocation scheme shall be submitted to and approved in writing by the Local Planning Authority.
- 38. The approved Ecological Monitoring Schedule (submitted in respect of Condition 65 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Soil Stripping, Handling and Storage of Soils

- 39. All topsoil and subsoils shall be stripped, conserved and re-spread in accordance with the proposals described in the Environmental Statement and in the approved restoration scheme. Any amendments to this specification shall be agreed in writing by the local planning authority before being implemented.
- 40. All areas of excavation, overburden, proposed storage mounds, haulage and temporary access roads, hardstandings, water treatment and lagoon sites,

drainage channels and any other areas likely to be disturbed by any subsequent operations shall be stripped of topsoil, subsoil and any soil forming material which shall be stored in separate mounds or used in the progressive restoration of the site. The soil mounds shall be stored without overlapping and shall be sited, constructed and managed to prevent contamination by any other material, liquid or compound.

41. All natural topsoil found within any soil mound previously identified as subsoil or soil forming material shall be separated from the mound and treated separately in the restoration. Where such material is contaminated by Japanese knotweed, this shall be controlled by a course of treatment, the details of which shall be submitted to, and approved in writing by, the local planning authority prior to the placement of the contaminated material.
42. All storage mounds of topsoil, subsoil and soil-forming material, and their margins shall be seeded to grass within the first growing season, and in any event within 6 months of their construction, maintained to encourage a dense grass sward to develop and shall not be allowed to over winter without grass cover. All vegetation growing on soil storage bunds and their margins within the site shall be maintained by cutting at least once during the growing season. All noxious weed growth shall be controlled by cutting or herbicide spraying to prevent weed seed contamination of the soil resource on site or on surrounding land.
43. Other than those essential for site access, only those vehicles involved in loading soils shall be permitted on unstripped areas, and then restricted only to operations to recover the soils. Vehicles used in transporting soils shall only travel over areas of ground that have previously been stripped of topsoil and subsoil.

Contamination

44. If evidence of contamination is found in or around the development area development must not proceed until a report on potential contamination of the site has been prepared by an appropriately qualified person and submitted to and approved by the local planning authority. This report shall include a phased investigation approach, incorporating risk assessment, to identify the extent of contamination and any measures required to remediate the site, including post-development monitoring. Where remediation works are required, the development shall not be occupied/used until a validation report, to show that the works have been satisfactorily carried out, has been submitted and approved in writing by the local planning authority.

Restoration and Aftercare

45. The restoration of the site shall be undertaken in accordance with the detailed restoration scheme included as Appendix 2 of the Further Addendum to the

Original Environmental Statement and Supporting Information dated October 2019 and Figure 45.1.

46. Unless otherwise approved in writing by the Local Planning Authority and notwithstanding any progressive restoration undertaken during the course of the coaling period, backfilling of the void and the full restoration of the site shall commence no later than four weeks after the completion of coaling at the site.
47. The developer shall inform the Local Planning Authority in writing of the termination of coal extraction from the site within 14 days of the cessation of coaling.
48. The Local Planning Authority shall be given a minimum of 48 hours written notice prior to the commencement of any phase of soil replacement operations, including the dismantling of soil mounds.
49. No soils shall be replaced on any areas restored to finished ground profiles until the levels achieved, in the form of a written statement and plan, have been submitted to and approved in writing by the Local Planning Authority.
50. Unless otherwise approved by the Local Planning Authority, all settlement ponds or lagoons shall be emptied of water and slurry, their impounding banks breached, their voids filled with dry inert material originating from the site and their surfaces graded to the approved levels.
51. In the event of the cessation of winning and working of coal which in the opinion of the local planning authority constitutes a permanent cessation within the terms of Schedule 9 of the Town and Country Planning Act 1990 a revised scheme for the restoration of the site shall be submitted to the Local Planning Authority within 6 months of the cessation of coaling for its written approval. The revised scheme shall be implemented within 6 months of its approval, or as may be otherwise approved in writing by the Local Planning Authority.
52. Within 2 years of the date of this permission or in the event of the cessation of winning and working of coal which in the opinion of the local planning authority constitutes a permanent cessation within the terms of Schedule 9 of the Town and Country Planning Act 1990, whichever is the sooner, details of an aftercare scheme, to bring the site to the required uses for agriculture, amenity and nature conservation, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the steps that are to be undertaken and the period during which they are to be taken together with the following:-
 - a. the designated areas of the intended after uses for the whole site;

- b. the timing and pattern of vegetation establishment (including species to be planted, grass seeding mixtures and application rates, stock types and sizes, spacing, method and position of planting);
- c. cultivation practices for the preparation of soils;
- d. hedgerow construction;
- e. fertiliser and lime application and weed control based on soil and chemical analysis and identification and justification of any areas that would be the subject of treatment by biogran or biosolids;
- f. drainage proposals including the timing of installation, maintenance and temporary drainage measures including any ponds and wetlands;
- g. grassland management, including class of grazing stock, livestock, stocking density and mowing practices;
- h. The provisions for the seeding of woodland ground flora;
- i. watering facilities and the provision of supplies;
- j. the full assessment of the introduction of areas to be restored to nature conservation and their application to local biodiversity objectives;
- k. the creation, management and maintenance of any paths, tracks or roads;
- l. any other agricultural, silvicultural or conservation treatment relevant to the site; and
- m. fencing.

Unless otherwise approved in writing by the local planning authority development shall be carried out in accordance with the approved details.

53. Once a year, the site operator shall arrange a formal review to consider the restoration and aftercare operations which have taken place on the site during the previous year, and also to agree with the Local Planning Authority the programme of management for the following year. The parties invited to this review shall include the site operator, the owners of the land, any other occupiers, the Local Planning Authority, Natural Resources Wales and the Welsh Government Regional Planning Advisor.

Community Liaison

54. The approved scheme for the operation of a Technical Working Party (submitted in respect of Condition 11 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

55. The approved scheme for the operation of a Site Liaison Committee (submitted in respect of Condition 10 of planning permission P/2011/0217) shall be implemented at all times for the duration of operations at the site, including restoration and aftercare.

Reasons

1. Mineral extraction is temporary in nature and to protect the character and appearance of the site and the surrounding area.
2. To enable the Local Planning Authority to control the development and to minimise its impact on the amenities of the local area.
3. To ensure that the developer and site contractors are aware of the working programme and the conditions attached to carrying out the development and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.
4. In order that the local planning authority can monitor output at the site and to comply with Policies DM13, T1 and M4 of the LDP in relation to impact on the local highway network.
5. To ensure that the developer and site contractors are following the working programme and the conditions attached to carrying out the development and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.
6. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
7. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
8. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
9. In the interests of highway safety and to comply with Policies T1 and M4 of the LDP.
10. To protect the living conditions of nearby residents in compliance with Policy DM13 of the LDP.
11. To protect the living conditions of nearby residents in compliance with Policies DM13, DM14 and M4 of the LDP.
12. To protect the living conditions of nearby residents in compliance with Policies DM13, DM14 and M4 of the LDP.

13. To protect the living conditions of nearby residents in compliance with Policies DM13, DM14 and M4 of the LDP.
14. To ensure that the impact on the landscape is minimised in compliance with Policy DM4 of the LDP.
15. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
16. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
17. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
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21. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
22. To protect the living conditions of nearby residents in compliance with Policies DM13 and M4 of the LDP.
23. To protect the water environment and to comply with Policies DM6 and M4 of the LDP.
24. To protect the water environment and to comply with Policies DM6 and M4 of the LDP.
25. To protect the water environment and to comply with Policies DM6 and M4 of the LDP.
26. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.
27. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.
28. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.
29. To monitor and protect the water environment and to comply with Policies DM6 and M4 of the LDP.

30. To protect the living conditions of nearby residents and to comply with Policy DM7 of the LDP.
31. To protect the historic environment and to comply with Policies S7 and M4 of the LDP in relation to the historic environment.
32. In the interests of nature conservation and visual amenity and to comply with Policies DM2, DM4 and M4 of the LDP.
33. To protect the character and appearance of the area in the interest of amenity and to comply with Policies DM2, DM4 and M4 of the LDP.
34. To ensure that the species are not present following initial surveys and to comply with Policies DM2 and M4 of the LDP.
35. To protect the reptile population and in order to comply with Policies DM2 and M4 of the LDP.
36. To ensure further inspection and survey is undertaken to ensure no bat roosts have been created following initial survey for bats and to comply with Policies DM2 and M4 of the LDP.
37. To protect the amphibian population and to comply with Policies DM2 and M4 of the LDP.
38. In the interests of nature conservation and to comply with Policies DM2 and M4 of the LDP.
39. To ensure adequate management, conservation and utilization of soil resources for the restoration of the site and to comply with Policy M5 of the LDP.
40. To ensure adequate management, conservation and utilization of soil resources for the restoration of the site and to comply with Policy M5 of the LDP.
41. To ensure adequate management, conservation and utilization of soil resources for the restoration of the site and to comply with Policy M5 of the LDP.
42. To protect the character and appearance of the site and the surrounding area in order to comply with Policy DM4 of the LDP and to ensure soil resources are protected for beneficial restoration to comply with Policy M5 of the LDP.
43. To protect the character and appearance of the site and the surrounding area in order to comply with Policy DM4 of the LDP and to ensure soil

resources are protected for beneficial restoration to comply with Policy M5 of the LDP.

44. In order to protect against any potential contamination and to comply with Policy DM10 of the LDP.
45. To ensure that the site is restored to a condition suitable for a beneficial after-use and complies with Policy M5 of the LDP.
46. To protect the character and appearance of the site and the surrounding area and to minimise impacts of the landscape and to comply with Policy DM4 of the LDP.
47. To aid the monitoring of site activities and to ensure that restoration is not delayed and to comply with Policy M5 of the LDP.
48. To aid the monitoring of site activities and to ensure that restoration is not delayed and to comply with Policy M5 of the LDP.
49. To ensure adequate restoration and to comply with Policy M5 of the LDP.
50. To protect the character and appearance of the site and the surrounding area and to comply with Policy DM4 of the LDP.
51. To protect the character and appearance of the site and the surrounding area and the living conditions of nearby residents and to comply with Policies DM4, DM13 and M5 of the LDP.
52. To ensure adequate aftercare of the site and to comply with Policy M5 of the LDP.
53. To ensure adequate restoration and aftercare and to comply with Policy M5 of the LDP.
54. To aid the monitoring of site activities and to ensure activities are being undertaken in accordance with the planning permission and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.
55. To aid the monitoring of site activities and to ensure activities are being undertaken in accordance with the planning permission and in order to comply with Policies DM2, DM4 and DM13 of the LDP in terms of minimising the impact on biodiversity, the landscape and amenity.

Notes

1. This application shall be read in conjunction with the section 106 Legal Agreement relating to the site.

2. In the conditions, the term 'emergency' means any circumstance in which the site operator has a reasonable cause for apprehending injury to persons or serious damage to property.
3. The development site is crossed by two 500mm trunk watermains. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose DCWW Conditions for Development near Watermain(s). It can be advised that the protection zone for each watermain is 6 meters either side from the centreline of each main (total of a 12 meter protection zone). However, this easement width is for guidance purposes only and the location of the watermains will need to be verified on site before commencing work, whereupon the easement will be confirmed. This can be arranged by contacting our Plan & Protect Team on 0800 917 2652. We can confirm that we would not permit a new watercourse or any alteration of ground levels within the 12 meter protection zone of each water main.
4. Wales & West Utilities plans should now be obtained from LSBUD (<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.liresearchbeforeudig.co.uk%2F&data=02%7C01%7Cplanning.consultations%40powys.gov.uk%7C804e35541ca14ecd901508d76dbe0c9e%7Cc01d9ee10eb0475499ae03ae8a732b50%7C0%7C0%7C637098535331146341&sdata=CWhfY%2FN2OJ5KtvjMkBO05fSaJTB46fSW%2F%2FcHUYwh2AE%3D&reserved=0>)

Carmarthenshire C.C.

Powys C.C.

Neath / Port Talbot C.B.C.

BBNP BOUNDARY

Nant Helen Remainder


FIG 1

CELTIC ENERGY LIMITED
9,Beddau Way, Castlegate Business Park, Caerphilly, CF83 2AX.

NANT HELEN REMAINDER

Location Plan

LEGEND

 **SITE BOUNDARY**

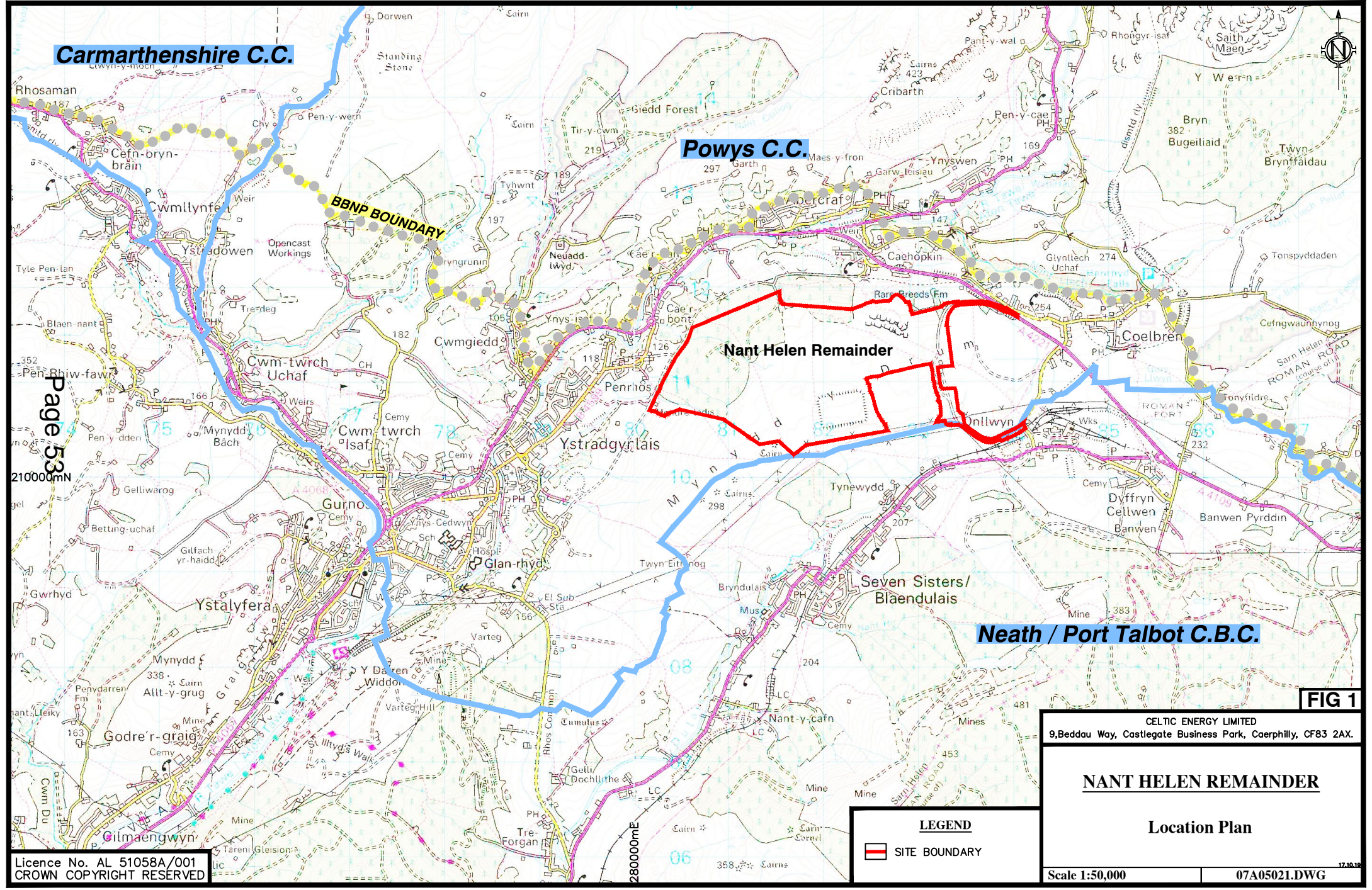
Page 53

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Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	19/1477/FUL	Grid Ref:	E. 297087, N 282209
Community Council:	Llanidloes Without CC and Llangurig	Valid Date:	Officer: 25/09/2019 Gary Nancarrow
Applicant:	Mr David Williams Sundorne Products (Llanidloes) Ltd, Llanidloes, Powys, SY186JJ		
Location:	Bryn Posteg, Tylwch, Llanidloes, Powys, SY18 6JJ		
Proposal:	Regularisation and retention of over-tipped material on the existing landfill, additional landfilling operations in accordance with revised restoration profile and phasing details together with associated landfill infrastructure.		
Application Type:	Full application, part retrospective.		
Environmental Statement:	Application accompanied by an Environmental Statement.		
Reason for Committee:	Major waste development. Powys County Council has an interest in the site because the applicant provides waste management services operating from this site to the Council.		

Site Location and Description

Bryn Posteg Landfill and Waste Management Site is located on high ground 320m AOD on the site of a former lead mine adjacent to the north eastern side of the B4518, some 3 kilometres south east of Llanidloes, and is surrounded by upland agricultural pasture. Bryn Posteg is an existing and long established landfill and waste management site covering an area of approximately 17 hectares. The application area covers the existing permitted waste disposal site. The nearest occupied residential properties to the site are Valley View 200 metres to the north west and Bryn Posteg Farm and Maes Socyn 350 metres and 370 metres to the west and south west of the site. A small number of other rural properties are located at distances in excess of 500 metres from the site.

Consultee Responses

Local Member – Cllr. Phyl Davies, Blaen Hafren. No comment to date.

Adjacent Ward Member Cllr. Karl Lewis, Llandinam. No comment.

Adjacent Ward Member Cllr. Gareth Morgan, Llanidloes. No comment.

Llanidloes Without Community Council – Due to the current problems of smell at the site are reluctant to support this extension at the present time.

Llanidloes Without Community Council discussed the application at Brynposteg Landfill site in great detail, given the many years difficulties in dealing with the operation of the site, and representing views of those residents with the Community Council area.

The consensus of the meeting was that Brynposteg Landfill Site should continue to operate until such a time as the last cell within the site has been completed and capped. The works must be undertaken to a high standard with all works then ceasing on the site. Previous planning contents have been secured but have not been completed as per the detail of the Site Managers and Llanidloes Without Community Council do not wish this to continue. Finishing the cell and restoring the land to a green cover is the wish of this Council.

The above does not prejudice the Council in relation to any further applications of the Landfill Site.

Llanidloes Town Council – Llanidloes Town Council oppose the application as further to a public meeting where approx. 40 residents were present, it was agreed that "The residents of Llanidloes and surrounding areas have put up with the smell for long enough. We are being asked to support something which is illegal, has poor infrastructure and would increase traffic passing 2 busy Schools and residential areas. Any attempt to make that worse should be opposed to, therefore Llanidloes Town Council unanimously strongly oppose this application".

Llangurig Community Council– Llangurig Community Council discussed the above planning application and are strongly opposed to it for the following reasons.

Llangurig Community Council acknowledges that at present the landfill site is working well as there are no birds circling overhead, minimal odour and the water quality has been good. These are all issues which were very much present and causing serious concern to local residents previously. This is the current situation since the gates were closed to fresh waste being brought to the site.

Llangurig Community Council feels very strongly that a new cell should not be opened and the old cell should also not be opened in order to continue to fill it. The concern is that the issues felt locally before the gates were closed to fresh waste would return straight away if this happened.

Llangurig Community Council also wishes to assert that NRW must ensure that regulations are upheld in relation to this site at all times as there were very great concerns previously that the site was not regulated effectively.

Llandinam Community Council – No comments received to date. Will liaise with other Community Councils who may attend the planning meeting.

Powys Highways - Based on the information submitted to support this application, the Highway Authority does not wish to comment on this application.

Powys Environmental Health - No objection. Thank you for the consultation in respect of this application. Landfill operations are regulated by NRW under Environmental Permits and as such would be more appropriate to comment on the detail of the proposed works onsite.

Having said this as a consultee I also have to consider I do have a duty to consider the impact of the proposal on the amenity of nearby residents. My principle concern is that arising from odour and I have given consideration to the both chapters of air quality and odour.

I note that the application is for a regularisation of over tipped waste and whilst I am not in a position to comment on the technicalities of further works onsite, I would be extremely concerned about the alternative which would be removal of the over-tipped waste. Any such operation is likely to have major impacts on amenity as it would be a very odorous process and there are receptors living in close proximity.

I therefore support the proposal being put forward to retain this waste onsite.

Powys Contaminated Land - No Objections. In relation to pre-application consultation 19/1477/FUL, there would be no requirements in respect of the investigation, assessment and mitigation of potential land contamination risks.

As the planning application proposal relates to an active landfill site, the works should be completed in accordance with the requirements of any existing Environmental Permit and to the satisfaction of the regulating authority i.e. Natural Resources Wales.

Natural Resources Wales - We have no objection to the proposed development as submitted and provide the following advice.

Industry Regulation

We received an amended Pre-Application Consultation report on 01/11/2019 (document titled 'Land at Bryn Posteg Landfill, Llanidloes, Powys, Pre-application Consultation Report', document referenced 3456.CAU .XX.XX.RP.T.0300.S4.C2 dated October 2019 by Caulmert Ltd.) submitted in support of this proposal.

The report confirms all the drawings and documents submitted in the planning application are the same as the current documents provided to NRW for the application to vary the Environmental Permit for this site. We can confirm the requirements made during the pre-application application process have been addressed.

We advise the technical determination of the Variation to Permit is still ongoing, and

more formal advice on industry regulation matters will be made under this regulatory process.

Air Quality

We advise matters of air quality relate mainly to dust. We advise levels of dust should not exceed nuisance levels. The documents provided relate to matters which the Human Health department should comment on.

Protected Species

Based on the content of the ecological submission (Ecology chapter of the Environmental Statement 'Land at Bryn Posteg Landfill, Llanidloes, Powys' by Caulmert Ltd, Doc ref: 3456.CAU.XX.XX.RP.T.0301.S4.C1 dated April 2019), we are of the view that the proposal

- i (i) Is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species; and
- ii (ii) Is not likely to adversely impact any local populations of British fully protected species

We therefore have no objection to the proposed scheme on any protected species reasons.

Flood Risk

The part of the proposal site in consideration is in Development Advice Maps zone A with no known main river flood issues, in accordance with Technical Advice Note 5: Development and Flood Risk (July 2004). Detailed drainage comments should be made by the Lead Local Flood Authority. This is to ensure that sustainable drainage techniques are employed in line with best practice.

Landscape

The site is not near any National Parks or Areas of Outstanding Natural Beauty, therefore does not meet any landscape criteria on our planning advice remit.

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.

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

As the proposal has minimal impact on the public sewerage system I can advise we

have no objections to the proposals and do not require a drainage condition to be applied.

Welsh Water/Dwr Cymru - We have no comments to make on the above Planning - 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.

Public Health Wales – No Objections Overall Conclusion - We have no grounds for objection based upon the public health considerations contained within the application.

Comment

Note that the consultation was extended to the immediately neighbouring Community Councils and County Council Ward Members because the site is located on or very close to the administrative boundaries, and because the potential effects of the site are not confined within the administrative boundary which the site is located.

Representations

25 letters of objection and 1 letter of support. Concerns raised material to planning are:

Ecology

Climate and biodiversity emergency & zero carbon

Poor site access

Accidents and road blockages

Increase in traffic

Highway safety

Over-development

Too big

Site is too high

Not in keeping with the character of the area

Strain on existing community facilities

Close to residential properties

Loss of privacy

Potential contaminated land

Pollution impacts on people

Pollution of watercourses

Impact on groundwater

Impact on local water supplies

Flooding

Public health and safety

Odours

Noise

Litter nuisance off site

Crows and gulls littering surrounding area with food waste

Adverse impact on tourism and business due to odours

Better location required for waste management
Will make matters worse
Not compliant with the Wellbeing of Future Generations Act
Waste not coming from Powys
Waste travel distance not sustainable
General dislike of proposal
No reason not to reopen to complete the proposed works.

Comment

Several representations made reference to the competency, environmental compliance history and prosecutions of the applicant. These are not material to planning, which considers land use. Financial provision and competency of the organisation carrying out the landfill development is a material factor for the variation to the Environmental Permit for the site which is being considered by Natural Resources Wales.

Planning History

There are a number of implemented permissions for the established waste disposal landfill and ancillary offices, waste processing and environmental control mechanisms including landfill gas engines, leachate lagoons and a biomass boiler.

M2000/0224	Extension to existing waste disposal site.
M2004/1361	Section 73 to vary conditions 3 and 6 of permission M2000/0224.
M2004/1362	Regularisation of unauthorised over tipping.
P/2016/1197	Section 73 to remove condition 5 of planning permission M2000/0224 to not construct an amenity bund along the site's boundary with Tylwch Road.
P/2008/0443	Erection of 11kv overhead electricity line.
P/2009/1200	Relocation of surface water system & construction of two reed beds for polishing treatment of surface water arising from Bryn Posteg Landfill site.
PP 2010/0566	Erection of an anaerobic digestion plant including a combined heat and power plant, construction of internal access roads and associated earthworks and landscaping.
P/2011/1184	Construction of a replacement composting slab, erection of a storage tank and associated landscaping works.
P/2015/0236	Erection of a biomass boiler, fuel store and associated works.

P/2015/1192

Section 73 application to vary condition no.1 attached to planning permission P/2010/0566 (anaerobic digestion plant) to extend the commencement of development by a further 5 years.

Principal Planning Constraints

Public Rights of Way, Landfill Contamination and a Minerals Site Safeguarding are listed, but note that the site is an existing landfill development and does not directly affect any right of way. The site is located in the Open Countryside.

Principal Planning Policies

Government Policy and Guidance:

Planning Policy Wales Edition 10 (2018)

Towards Zero Waste: The Overarching Waste Strategy Document for Wales (2010)

Technical Advice Note 21: Waste (2014)

Technical Advice Note 11: Noise (1997)

Landfill Sites: Development Control Circular 38/89

Waste Planning Monitoring Report North Wales 2018

Collections, Infrastructure and Market Sector Plan (2012)

The Waste (England and Wales) Regulations 2011

Directive 2008/98/EC on Waste

Local Planning Policy & Guidance:

Powys Local Development Plan 2011-2026: The principle policies by which this application has been assessed are:

Policy SP7:	Safeguarding of Strategic Resources and Assets
Policy DM2:	The Natural Environment
Policy DM4:	Landscape
Policy DM5:	Development and Flood Risk
Policy DM6:	Flood Prevention Measures and Land Drainage
Policy DM7:	Dark Skies and External Lighting
Policy DM14:	Air Quality Management
Policy T1:	Travel, Traffic and Transport Infrastructure
Policy W1:	Location of Waste Development
Policy W2:	Waste Management Proposals
Policy RE1:	Renewable Energy
Policy M5:	Restoration and Aftercare

The main policies to be considered in the determination of this application are the policies of the Adopted Powys Local Development Plan, particularly those relating to, waste management, landscape and amenity. The policies within Technical Advice Note 21: Waste, are also material to the determination of this application. On balance, the development would comply with national policy and guidance and the policies of the development plan.

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 Planning Appraisal

Reason for Application

The tipping levels at Bryn Posteg Landfill Site have exceeded the levels on approved drawing No 9 of planning permission M/2004/1362 which permitted a broad domed landform with a maximum elevation of 341.5 m AOD. The current surveyed maximum elevation (2018) is 349.65 m AOD, approximately 8 metres over the highest authorised level, and the depth of the overtipping varies from zero to a maximum overtip of 12.5 m. The overtip is not uniform and areas remain within or below the current consented levels. This application is to regularise the existing unauthorised over-tipped material and to seek planning permission for the remaining areas where additional disposal of waste will be necessary to achieve a final landform which links in to the profiles already created. The proposed final landform will have a maximum pre-settlement elevation on completion of restoration of up to 351 m AOD.

The total remaining volume of material, including existing consented capacity, to complete the restoration of the landfill is 179,690 m³. The difference between the existing and the proposed final levels, is the new capacity required and amounts to 122,412 m³ and is split between 59,379 m³ waste and 63,033m³ capping and restoration soils.

The timescales to complete the landfill indicated on the Site Phasing Plan are 2 years from re-commencement of waste disposal to reach pre-settlement levels, capping works completed within 3 years and restoration works including the deposition of soils, seeding and tree planting completed within 4 years, albeit the dates provided assumed a start date of October 2019. A phasing plan with revised dates will be required to be submitted assuming that new Planning Permission and Environmental Permit are granted.

Background

Bryn Posteg landfill was originally owned and operated by Montgomeryshire County Council as a household waste disposal site up to the time of local government reorganisation in 1996, when Powys County Council sold the landfill to private ownership. The site has been operating as Sundorne (Llanidloes) Ltd, part of the Potters Group, who are a significant regional operator of waste management facilities in Mid and West Wales. The landfill site has been extended in the past, and the most recent pre-settlement profile plan for the final restoration levels dates from 2004, illustrated in “drawing number 9” submitted with this planning application. Following consideration of

drawings during scoping and pre-application queries for a possible lateral extension to the landfill, officers found a disparity between the plans. Following investigations by officers acting for the local planning authority, it became apparent that the site operator has been working to a different version of “drawing number 9” which illustrated higher levels compared to the version authorised by both Natural Resources Wales and the Local Planning Authority.

During the course of the investigation new surveys of the site were jointly commissioned by Natural Resources Wales and the Local Planning Authority to independently establish the extent of the overtipping, and for the preparation of an isopachyte plan showing the areas and depths of overtipping and areas which had not yet reached authorised levels. Following this Natural Resources Wales suspended the Environmental Permit which allowed waste disposal on the site pending a demonstration that the existing site infrastructure, such as the containment lining system and the leachate and gas extraction pipework, is capable of performing in the long term given the additional loading and settlement movement forces which will be acting on them. The basis of the Environmental Permit was on modelling assuming a given depth of waste. A new modelling assessment was required to demonstrate that the infrastructure will continue to perform in the long term and to ensure that the specification of the infrastructure within the landfill such as the landfill lining, capping, extraction wells and the leachate and gas extraction pipework meets a factor of safety which does not place it at risk of failure from the additional mass of material and settlement forces acting on the pipework.

In response to this the applicant has carried out assessments and modelling of loading stresses to demonstrate that the long term performance of the environmental control infrastructure is not compromised. Natural Resources Wales are satisfied with the outcome of the new modelling. The applicant has made an application for the variation of the Environmental Permit with Natural Resources Wales to take account of the new loading and modelling, and a revised final landform profile plan. In parallel, the applicant has submitted this planning application to regularise the overtip and for a new final restoration landform.

The risk assessment modelling is critical to ensure that the site does not pose an unacceptable risk of pollution to the water resources and natural environment in the long term, which is why the Environmental Permit was suspended. It is understood that Natural Resources Wales is close to making a decision on the variation of the permit, and will carry out a public consultation prior to the final decision. From a planning perspective, Natural Resources Wales have raised no objection to the planning proposal.

Current Site Situation

The site covers a large area of approximately 17 hectares and the approved landform is for a gently rising whale backed hill reaching a high point of 341.5 metres AOD. The profile which is currently on site excluding the current open waste disposal cell was reached around 2011, to a high point of 349.65 metres AOD at which time the final

phase of cells was in preparation to accept waste, with landfilling rising up to tie in with the profile of the previous phases. The earliest phases to the east have been restored with vegetation now establishing. The more recent phases were capped over the top of the site, and restoration soil placed over much of the existing completed cells. The south eastern flanks are capped, but await further clay capping and restoration soils to be spread over them. A prominent mound of compost is placed on the restored profile ready to be spread as part of the restoration soils.

The proposed pre-settlement profile intends to retain all of the previously capped and restored areas of the site within the new pre-settlement profile to regularise the development which has occurred. There is no intention to carry out waste disposal over these areas again. There is a large area which has reached pre-settlement levels, capped and partly restored, and these require completion of the restoration. On the southwestern flanks an area has been capped with geomembrane but awaits the placement of capping clays and restoration soils. These elements represent the regularisation of the overtopped area of the development site.

There is a remaining phase of incompleting landfilling at the west of the site for which the current planning permission remains valid, but in order to tie in with the existing landform represents the other element of this application for the continued deposition of waste and subsequent capping and restoration of this area.

Options and Justification for this Application

The options for how to manage the overtip were assessed by Natural Resources Wales, the Local Planning Authority, and by the Applicant. Whilst public reaction is for the excess material to be pushed into the remaining void, or simply to stop with the present profile, with an immediate cessation of new waste being brought into the site, these options present a number of practical difficulties. The timeline for carrying this out is not quick, as new gas and leachate infrastructure would have to be installed to replace the existing equipment. A very large area of the site already restored would be undone requiring the majority of the site to be re-restored. The logistics of stripping soils and clays and storing them for re-use presents serious challenges, and the risk of the company going into administration leaving the site unfinished and in a worse environmental situation would be unacceptable.

Furthermore re-exposing previously disposed waste will result in significant risk of odours, uncontrolled releases of landfill gas, leachate generation from rainfall on the newly exposed waste, visual litter, dust, pests and vermin and most critically, a risk of fire. The introduction of oxygen to waste which is in a state of decomposition is at high risk of spontaneous combustion due to the high temperatures generated in the decomposing waste, and paradoxically, the introduction of rainwater accelerates this biological process. Whilst surface fires can be extinguished readily, fires that become established in the body of the waste present a very serious challenge to extinguish, and a significant risk of harm to the environment if the containment and environmental control infrastructure system is damaged or destroyed.

Another option is to continue landfilling in the remaining consented areas up to the existing approved profile, however this would leave a prominent break in slope which is too steep to be capped and presents significant environmental risks, and the resultant landform is not in keeping with the area.

The best solution which provides effective long term environmental control, and a useable final landform in keeping with the landscape is the regularisation and continued disposal of waste to a newly approved landform which will see the completion of waste disposal within 2 years and the completion of the restoration of the site within 4 years.

Development Being Sought

This application is to regularise the waste disposal which has taken place in excess of that permitted, together with a new final pre-settlement profile for the entire landfill site which will provide new tipping capacity and a coherent final restored landform. The disposal capacity sought for additional waste to complete disposal activities amounts to 116,657 m³ (which equates about 99,158 tonnes of residual waste), which if disposed at 49,579 tonnes per annum, is 2 years disposal of non-hazardous household, commercial and industrial waste. This runs in tandem with the delivery of 63,033 m³ capping and restoration soils (which equates to about 88,240 tonnes) at an assumed rate of 22,060 tonnes per annum for soils and clays, as set out in the application documentation and on the site phasing plan, Drawing No. 3456- CAU-XX-XX-DR-S-1815.

Waste input at reduced rates will correspondingly increase the life of the site. Once the deposited waste reaches the approved pre-settlement level, the capping system comprising a layer of HDPE (or similar) airtight geomembrane, a 1 metre layer of engineered clay and up to 1 metre of restoration soils is required to be progressively placed on the surface on completion of each working cell. The capping and restoration works will continue for up to 2 years after the completion of the final landfill cell. Thereafter the only activities on the landfill site will be restoration planting and aftercare, and periodic maintenance of the leachate and gas extraction wells.

The waste transfer station, composting area, offices, landfill environmental control infrastructure such as the landfill gas generating engines, biomass leachate heating boiler, and leachate treatment lagoons, will be retained on site until such time that they are no longer required. Some of these are subject to stand alone planning permissions. The revised landform is within the footprint of the existing permitted landfill site. Areas already restored or awaiting restoration will remain unaltered and the only additional alteration is the height profile and duration of the active landfilling activities and additional waste over and above the existing consented profile required to complete the infilling.

Landscape and Restoration

The proposed landform will retain the profile of the completed cells which have been capped or temporarily capped. New disposal will take place in cells which will rise up to meet the top edge of the completed cells to create a whalebacked domed profile. The slopes are generally at a modest gradients of 10-15 % with steeper sections being between grades of 20 to 30%. Over time the profile will reduce due to the effects of settlement as the waste decomposes and compacts, and will eventually reach stability once the main stages of decomposition of organic content has ceased. Landfills are deliberately designed to have steep profiles to compensate for this and to avoid flat spots and dishing which would encourage water-logging of the restored soils, and to minimise risk of surface water entering the body of the waste. This is essential to avoid the generation of leachate, a liquid which contains the decomposition and leached products from the body of the waste.

The landform has infilled the upper reaches along the northern slope of a valley at the watershed between two river tributary valleys separated by the B4518 Llanidloes to Tylwch road which runs along the southwestern boundary. Previously the site was the location of a lead mine and spoil heaps. The valley follows a south-west to north-east alignment and falls away to the northeast. The northern valley slopes steeply drop to the valley floor, which contains a shallow basin of wet upland fenland or "bog" with scrubland succession developing. The site is set within a patchwork of upland agricultural fields in pasture grazing use, with thin hawthorn hedgerows and stock proof fencing defining the field boundaries. To the south the land rises to high hills characterised by a more open character with upland heathland and semi-improved grassland. Isolated farmsteads and residential properties are located along the main road and at more distant locations. Very few have a direct view of the site, mainly confined to properties on the hillside to the south, such as Talcen, 500 metres away.

Public footpaths run along the boundary of the site to the north and south, but there are only limited views into the site, and the impact is already existing. Users of the highway have very restricted views due to hedgerows and sunken nature of some of the unclassified roads. Agricultural workers will have the best uninterrupted views of the site from within surrounding fields. The visual impact is limited to a small number of people.

Whilst the site remains incomplete the impact is locally significant as it is incongruous in the upland rural setting, however, as the site is restored and on completion of the restoration, the local impact will diminish to the point that the landform will assimilate into the landscape. The landform being created will have a maximum pre-settlement top of restoration height of 351 m AOD with a modest rise and gentle slopes to the north and south-west, and the greatest rise and steepest slopes to the east and south-east where they drop into a natural valley.

The surrounding land along the northern boundary with the landfill rises in an easterly direction from 325 m AOD to 333 m AOD, giving a bottom to top of landfill rise of between 17 to 25 m over distances of 150 to 200 metres. The surrounding land along the southern boundary with the landfill falls in an easterly direction from 330 m AOD to

317m AOD, giving a bottom to top of landfill rise of between 20 to 33 m over distances of 150 to 270 m. The original consented highpoint was 341.5 m AOD, meaning that the proposed high point is an additional 9 metres higher, and given that the high point level is already at 349 m AOD, in practice the additional increase in height is simply to accommodate the capping and restoration soils with a nominal depth of between 1 to 2 metres above the existing tipped profile. The location of the high point has shifted from the originally intended northern part of the site 110 m to the south, and is now in a central position.

The restoration proposals are illustrated on Drawing No 18/03/RP/01. When completed, the site will be a whale-backed hill gently rising from the Llanidloes to Tylwch road and agricultural land to the north. The profile of the site will be more pronounced when viewed from the south because it rises up from the valley floor and in effect creates a steep sided valley slope, not uncharacteristic of small valleys with semi-naturalised vegetation characteristic of the Cambrian Mountains hill country. On the southern side of the site, restoration planting of native scrubland and a boundary hedgerow over the lower slopes will help to reduce and foreshorten the otherwise barren slope and the steepest slopes will be delineated by a native hedgerow to be established along the top of the break in slope. On the northern side of the site, scrubland planting will be established along much of the lower flanks, and a belt of native woodland 15 to 27 m deep will run for 175 m over shallow gradients which make up the middle flanks of the slopes. The central part of the site over the highpoint, and locations to the far north and far east will be restored to species rich grass pasture. The band of the steepest slopes will have scattered scrub. The grassland will be capable of being put to agricultural grazing. This reproduces what is most likely to occur in naturally occurring steep sided valleys.

The landscape and visual impact has been assessed in the Environmental Statement and an extensive landscape and visual impact assessment has been carried out for predicted impacts over a 7 year period in three phases of operational activity up to and including the final restoration, and takes account of existing, previously consented and proposed landforms. This was carried out over an 18 month period of assessment and included evaluation from areas of Historic Landscape 12 km distant. No long distance footpaths, designated or historic landscapes are predicted to be adversely affected. There are a limited number of closer moderately sensitive residential properties, and for these and users of the footpath and highway network, there will be a moderate impact during the phases of infill and capping. Following restoration this reduces to a negligible impact.

The findings of the landscape and visual impact assessment are that there are limited opportunities to view the site from longer distances, and coupled with the presence of mature vegetation, low receptor numbers and limited public access, the assessment concludes that the impact of the proposed landform is not significantly worse than the most recently approved restoration landform.

The issue is whether the new existing and proposed landform continues to meet the objectives of the new LDP policies. The principle of the development and a domed landform is long established, and the proposed landform and final restoration remains compatible with that which was originally intended, and is broadly compatible with the character of the local settings. There will be a visual impact during the operational stages, these are existing, and the current waste disposal cells may continue to operate and fill up to the levels consented by the extant planning permission. In the longer term the permanent landform and restoration will integrate with the wider and local landscape. The restored site will incorporate appropriate planting of woodland, scrub vegetation, hegerows and species rich grassland pasture which will provide biodiversity enhancement which will provide a linkage with the near by wet upland fen and nearby woodland. Culturally the site will be capable of providing agricultural pasture grazing, in keeping with the sheep farming typical of the locality. Footpaths are unaffected and views across the site will be improved compared with existing views. The development is considered to accord with LDP policy DM4 Landscape and SP7 Safeguarding of Strategic Resources and Assets subsection 3 iii) Public Rights of Way and subsection 4) The valued characteristics and qualities of the landscape throughout Powys.

Amenity Nuisances

Waste disposal sites by landfill have the potential to generate disturbance and nuisance from odours, noise, dust, litter, gulls, crows, vermin and flies. It is the case that there has been adverse amenity effects from the operation of Bryn Posteg Landfill site, mainly due to odours from both freshly delivered waste and from the releases of landfill gas which contains hydrogen sulphide and volatile aromatic compounds. In recent years a programme of increased landfill gas collection wells and capping of the completed surface has been put in place to address the releases of landfill gas as part of a wider odour management plan agreed with Natural Resources Wales.

The applicant has prepared a detailed assessment of odour generation, comparing the existing and proposed development. The conclusion of the modelling is that the difference to the release of odour from the revised development at sensitive receptors is generally negligible to moderate impact. This would decline as the site is capped and the landfill gas is more effectively captured and managed through landfill gas engines.

The regulatory control for the protection of the environment and human health at the Bryn Posteg landfill site rests with Natural Resources Wales where the development is subject to an Environmental Permit. The existing permit is subject to a variation application to enable the site to be completed to a revised profile, which provides an opportunity to strengthen the permit conditions. Long standing government guidance and case law advises that one regulatory body should not seek to replicate or apply controls which are the responsibility of another regulatory body and it is not proposed to apply planning conditions to bring about controls of matters such as odour control, litter and dust.

The Planning Authority must still consider the impacts on amenity and be satisfied that the granting of the proposed development does not present additional unacceptable

adverse impacts on residential amenity compared with the situation which is currently permitted. It must also consider the consequences of not carrying out the proposed development which leaves the site in an unsatisfactory situation. On balance, whilst it is accepted that this site has caused problems in the past, the proposed development offers a certainty of completion, and improving environmental controls, especially those relating to landfill gas and odour. The Environmental Statement assesses the odour regime in detail and the conclusions are that the proposed development will have a insignificant to moderate impact on odour at sensitive locations dependent upon the stage of development. Once the site is fully capped the potential for odour releases is much reduced.

One of the reasons why it is necessary to complete the infill of the remaining cells is to enable the site to be fully capped which will progressively reduce the area of exposed waste, minimising the passive release of odours and landfill gas. The site cannot be capped in its current condition which has a very steep slopes leading into the incompleated disposal cells, because capping needs to be placed on gentle slopes to avoid long term stresses on the containment system which can cause failures of the lining system and erosion and landslip of the restoration soils. The capping needs to be stable over a very long time period to provide environmental controls to prevent the release of landfill gas, minimise fire risk and infiltration of surface water which generates leachate.

The proposals have been assessed by the Environmental Health and Contaminated Land Officers and Public Health Wales who raise no objection. Indeed, the Environmental Health Officer expressed concern if the currently capped waste was to be uncovered as it would cause significant risk of odour nuisance. Amenity nuisances are addressed by LDP Policy DM14 Air Quality Management, DM 13 Design and Resouces, and W2 Waste Management Proposals. It is considered the proposal complies with the policies because there are sufficient operational controls to manage nuisances to acceptable levels. In particular landfill odours will be subject to an odour management plan regulated under an Environmental Permit by Natural Resources Wales and the completion of the capping and restoration will result in a marked improvement in odour control in the long term.

Public Rights of Way

Public footpaths are located outside of the application area and run adjacent to and parallel to the northern and southern boundary, and a path connects the two which runs along the eastern boundary and crosses the site in the vicinity of the water settling lagoons. None of the proposed development has any direct impact on the rights of way. Indirect impacts are the visual impact, mainly seen through hedgerows at close quarters, and these impacts already exist. The visual impact on the footpaths is considered in the visual impact section of this report, and is considered to be of minor significance. The development therefore complies with Powys LDP Policy SP7 Safeguarding of Strategic Resources and Assets and DM13 Design and Resouces.

Transportation

The development will require the delivery of 99,158 tonnes of waste to be delivered for disposal and 88,000 tonnes of restoration soils over the course of 4 year period. The proposed development does not increase the rate of traffic which has historically visited the application site, or the routing arrangements, but will cause traffic to continue for a longer duration than if the current planning permission had been complied with. A proposed maximum 75,000 tonne per annum input rate to the site will keep HGV traffic within levels which can be comfortably accommodated by the local highway network.

Assuming a payload of 20 tonnes per HGV, this equates to 47 HGV deliveries per week, or a nominal 9 per day (18 movements of 9 in and 9 out). In practice deliveries may be bunched due to the availability of restoration soils, so there may be higher daily input rates, followed by a lull in deliveries back to baseline waste disposal deliveries.

The Powys Highway Officer has raised no objection. The continuation of deliveries of waste and soils to complete the development accords with LDP Policy DM13 Design and Resources subsection 10 and T1 Travel, Traffic and Transport Infrastructure which addresses traffic and access issues.

Ecology

The site has been subject to ecological surveys and an assessment of surrounding land made in the Environmental Statement. There are no national designations applicable to the site. Much of the site is operational landfill, awaiting capping, or capped and awaiting restoration. The continued development of the site would have minimal impact on the ecology on or off the site. The site is partially restored, and areas which are vegetated will be largely retained. A significant area of the site remains unrestored, with exposed waste and daily cover, or capped with geomembrane, and has a very limited ecological value. Indeed, the presence of gulls and crows is likely to be having a negative effect on smaller bird species. As the site is completed and restored the scope for scavenging is reduced and eventually eliminated and the populations of scavenging birds will disperse. The existing habitats created at the site will be retained and the progressive restoration proposals includes a belt of native deciduous woodland, species rich grassland, scrubland and waterbodies. These will provide biodiversity enhancements and linkages with nearby habitats such as the upland fen, and nearby woodland.

On completion of the restoration, a mosaic of habitats will be established which will be capable of supporting a range of farmland and woodland bird species, amphibians, bats, invertebrates and plant species which will make a positive contribution to biodiversity. The development accords with LDP Policy DM2 The Natural Environment and W2 Waste Management Proposals by providing ecological enhancements which are appropriate to the settings.

Hydrology

Matters such as surface water, groundwater and flood risk are assessed in the Environmental Statement. The effects of the proposed development are considered to

be no more significant than for the existing development, as the catchment area has not altered. The landform has the potential to increase surface water runoff rates because of steeper slopes, but is offset by a greater surface area to hold water. Operational controls are in place to manage surface water, with existing attenuation lagoons continuing to settle out silt and discharge water at a controlled rate into the local watercourse. Local watercourses may potentially be affected by surface water runoff polluted by spilled contaminants and flushing of pollutants during the construction phase of the landfill. This risk will decline as the site is progressively capped and restored. The development accords with LDP Policy DM5 Development and Flood Risk, and DM6 Flood Prevention Measures and Land Drainage and W2 Waste Management Proposals.

Waste Planning Assessment

Ordinarily, proposals for new waste disposal would be required to demonstrate a case for need, as it is clear Welsh Government Policy and Strategy that Wales should attain a zero waste to landfill by the year 2050. Other targets are in place which have encouraged local authority collected waste to be diverted away from landfill. The issue here is whether the completion of this landfill represents unreasonable new capacity which may undermine the greater objectives of the Welsh Government.

The landfill has existing planning permission under which landfilling may continue to take place. The total volume of waste to complete the development is 116,657 m³ or 99,158 tonnes of which 59,379 m³ or 50,472 tonnes would be new capacity. The market for this is predominantly going to be from the commercial and industrial sector as availability of residual waste from local authorities is diminishing on account of waste being sent to energy from waste facilities instead. The applicant is projecting that the input rate of residual waste will be about 49,600 tonnes per annum, approximately 2 years. The catchment for sourcing waste to infill Bryn Posteg may need to widen, and a proportion of the waste is likely to come from outside of Wales. The circumstances at this site are exceptional in that the new waste capacity being sought is required to be disposed to complete a site which cannot be left in its current condition. The new tonnages required and lifespan to complete development are not considered to unduly increase the remaining regional waste disposal capacity for North Wales, or undermine continuing efforts for diversion of waste away from landfill or recycling.

Disposal of waste by landfill is at the bottom of the waste hierarchy. Tan 21: Waste requires landfill capacity to be monitored and the most recent North Wales Waste Monitoring Report 2018 advises that landfill capacity in the North Wales catchment, which Bryn Posteg is located, is approximately 10.58 years with existing sites with an Environmental Permit where there is about 4 million m³ of landfill capacity. A requirement for consideration of new capacity is triggered when the capacity falls below 7 years. The proposal for Bryn Posteg will add an additional 0.059 million m³ to this capacity to put the effects into context. Whilst the need for new landfill is finely balanced, this level of increase is not considered to unduly affect regional patterns of waste movements.

The development is considered on balance to comply with LDP Policy W1 Location of Waste Development. Whilst there is not an overwhelming need for new mixed waste landfill capacity, this is an existing landfill site and the additional waste capacity created is modest in regional terms and is justified by the need to complete and restore the existing site in a reasonable time period to protect the natural environment, water resources and residential amenity of the area.

Key Application of LDP Policies

Policy SP7: Safeguarding of Strategic Resources and Assets and Policy DM4: Landscape. The principal long term impacts of the development are the impact on the landscape of the landform proposed taking into account the existing approved development. The landform is considered to be compatible with the landscape setting and has an appropriate restoration proposal. Whilst there are short term adverse impacts on the near views and tranquillity, when completed the landform and restoration is considered to be compatible with the landscape setting and capable of being put to a productive biodiversity and agricultural use.

Policy DM2: The Natural Environment. The development provides for the enhancement of biodiversity, and the restoration will provide opportunities for a diverse range of habitats to become established.

Policy DM5: Development and Flood Risk, and Policy DM6: Flood Prevention Measures and Land Drainage. The development has the potential to generate surface water runoff. There are existing settlement and attenuation ponds to intercept water to minimise flooding off site. The steeper profiles of the proposed landform have an increased runoff rate compared with the original, however once restored the vegetative cover will arrest surface water flows from the site. The increased risk off site flooding due to the proposed development is negligible compared with the existing site.

Policy DM7: Dark Skies and External Lighting. The site is located in an upland rural setting, and measures are proposed in a condition to minimise lighting during the hours of darkness.

Policy DM14: Air Quality Management. The main issue for the development is the management of odours. This has been problematic and in the short term is likely to remain an intermittent problem until the capping and gas extraction infrastructure can be progressively installed. An odour management plan was agreed with Natural Resources Wales to improve the rate of gas collection infrastructure and capping of exposed waste faces at the development site. A new Environmental Permit, if granted by Natural Resources Wales, will have updated controls over this aspect of the development. The proposal is to enable the completion of the landfill in a realistically short timescale, and when the capping is completed the landfill gas system will be working at maximum effectiveness to minimise the escape of odorous gases.

Policy T1: Travel, Traffic and Transport Infrastructure. The transportation routing is well established, and the proposed development does not increase the rate of usage of

HGVs on the road network. Conditions will limit the maximum throughput and the hours of working which will keep highway impacts within acceptable levels.

Policy W1: Location of Waste Development and Policy W2: Waste Management Proposals. These are the principal policies applicable to this site. It is an existing facility, and the principle of waste management at this location is long established. Controls are proposed to minimise impacts of the development on residential amenity and the natural environment. A restoration and aftercare plan is proposed which is appropriate for the setting. The site is in urgent need of being completed and restored and the proposed development is intended to achieve this. There remains a need for landfill, albeit that it is reducing in line with Welsh Government policy and strategic aspirations for zero waste to landfill by 2050. The total volume of materials required to complete this site is 179,690 m³ (116,657 m³ waste and 63,033 m³ capping and restoration soils) The additional new waste, capping and soils required to complete the site is 122,412m³ (59,370 m³ waste and 63,033 m³ capping and restoration soils) which does not add an unreasonable increase in disposal capacity in the North Wales Region or beyond.

Policy RE1: Renewable Energy. The development is and will continue to generate landfill gas and additional waste will increase this. The effective use of capping and extraction systems enables the gas to be used for the production of electricity in landfill gas engines, likely to remain generating for the next 20 years. As gas volume reduces in the longer term, a smaller engine may be substituted. The landfill gas engine also serves as the principal means of managing the gas and reducing odours.

Policy M5: Restoration and Aftercare. There is no specific policy for the restoration of a landfill site, and is covered by Policy W2, but the principles of M5 which relate to the restoration and aftercare of mineral working sites are applicable a landfill site.

It is considered that on balance the proposal meets the objectives of these policies and a sound recommendation may be made.

Planning and Environmental Permitting

In order to be able to carry out waste disposal operations, the applicant requires both a valid planning permission issued granted by the Council and an environmental permit (permit) consented by Natural Resources Wales. The permit provides controls for the daily and long term operation of the site to ensure that human health and the environment is safeguarded from the potential effects that could arise from an unregulated site. The permit will provide controls over the landfill lining and capping specifications and performance, leachate and landfill gas extraction and treatment, management of disposal cells, surface water management and nuisances such as litter, dust, noise, pests and vermin. The Council in its capacity as local planning authority should not seek to replicate or apply more stringent controls over the regulatory responsibilities of Natural Resources Wales, which is why there are only limited number of environmental control conditions being proposed.

The planning authority is considering whether the development is an acceptable use of the land. The principle of the use of the land for waste disposal has already been long established, so the issue being considered now is the acceptability of that use continuing to complete the restoration of the site. The recommendation is that the continuation of the present use to bring about closure and restoration is necessary in the short and long term, in the best interests of bringing the land into a productive future use and in the interests of long term environmental protection.

The permit is presently suspended for the disposal of waste pending demonstration that the infrastructure in place has sufficient capacity to deal with the additional loading placed upon it. An application has been made to Natural Resources Wales for a permit variation, and it is understood that consultation will be taken place before any final decision is made whether to issue an updated permit. Any such permit will be subject to rigorous controls and scrutiny. From the planning perspective, compliance with the conditions and terms of any new planning permission granted will be regularly monitored. It is proposed to have a condition which requires topographical surveys to be carried out and supplied to the Council to assist with future compliance with any approved landform levels.

Environmental Impact Assessment

The proposed development is subject to the provisions of The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations. The development falls within Schedule 2 (11) (b) Installations for the disposal of waste, and exceeds the thresholds of 0.5 hectares, and is within 100 metres of controlled waters. The applicant requested a scoping opinion for the topics to be assessed at the pre-application stage. The scope of the environmental impact (EIA) assessment carried out was limited to the impacts arising as a consequence of the additional waste disposal capacity being sought. The primary topics assessed include, Landscape and Visual Impact, Air Quality, Ecology and Hydrology. Other topics such as traffic were scoped out and not subject to EIA because there is no change to the highways pattern of highways useage and effects associated with the continued use of the development site, but has nevertheless been addressed elsewhere within this report. The conclusions of the EIA are that the predicted effects are negligible to modest depending on the particular stage of completion of the development, and that these will diminish as the development is completed and restored. The most significant impacts are Air Quality and Landscape and Visual Impact. In making a determination in line with this recommendation the Council will be taking the environmental information provided about the development site into account.

The Wellbeing of Future Generations Act 2016

The Act requires multi-faceted consideration of matters which affect people, places and the natural environment and sustainable development. There is a balance between the need to restore the development site and the continuation of waste disposal against the concerns raised by local residents about the adverse impacts of the development on their lives. Whilst disposal of waste is not a wholly sustainable practice, there is still a national need for landfill to manage residual wastes. The site needs to be restored to

render it in a safe condition to protect the natural environment and residents in the long term, and once restored to contribute positively towards the sense of place in the landscape. The proposal is considered to meet the overall objectives of the Act.

Section 106 Agreement

A Section 106 Legal Agreement is required to be entered into between the applicant and the local planning authority to revoke existing planning permissions relating to the waste disposal element of the Bryn Posteg Landfill site to provide planning certainty and to assist with compliance with the new planning permission. Planning permissions relating to landfill gas engines, biomass leachate heating boiler, composting, waste transfer and anaerobic digestion will remain unaffected. Whilst Powys LDP Policy DM1 sets out criteria for planning obligations. The proposed S.106 legal agreement is not for on site provision or mitigation; instead it is to provide for certainty that only a single planning permission can be relied upon to define the extent of the development and to ease compliance by removing the uncertainty of the status of existing planning permissions. This will ensure that satisfactory restoration is achieved, and therefore complies with Policy DM1 Planning Obligations.

Recommendation

On balance the proposed development complies with the policies of the LDP and does not conflict with national policy or guidance and officers recommend approval subject to the following conditions and the agreement to a Sections 106 agreement.

Conditions

Commencement

1. The development shall be deemed to have commenced on the date of issue of this planning permission.

Approved Plans

2. Unless otherwise required by condition, the development shall be carried out strictly in accordance with the application form, supporting statement and the following plans (hereinafter referred to as the Approved Drawings):

- i) Site location plan 3456-CAU-XX-XX-DR-G-1801 P1
- ii) Restoration proposals 18-03-RP-01
- iii) Site phasing plan 3456-CAU-XX-XX-DR-S-1815 P5
- iv) Proposed pre-settlement top of restoration contours 3456-Cau-XX-XX-Dr-G-1813 C04
- v) Proposed pre-settlement top of restoration contours sections 3456-CAU-XX-XX-DR-G-1808 C04
- vi) Environmental Statement 3456-CAU-XX-XX-RT-T-0301-S4-C1

Tonnage and Waste Type Limitation

3. This permission authorises the importation and deposition of an absolute maximum of 75,000 tonnes per annum of those materials detailed in the planning application and no other materials. The permissible materials are non-hazardous household, commercial and industrial, and inert residual wastes, together with clay/shale materials for engineering, soils for restoration, soil improvers and conditioning materials.

Working, Restoration, Aftercare and Decommissioning Scheme

4. Within 3 months of the date of this permission, a Working, Restoration, Aftercare and Decommissioning Scheme (WRADS) relating to the entire landfill site shall be submitted for the approval of the Local Planning Authority. The approved WRADS shall be implemented in full throughout the lifetime of the development and for the aftercare period of each Phase. In the event that the WRADS has not been approved (by either the local planning authority or, on appeal, by the Welsh Government) within 6 months of the date of this permission, all landfill operations shall cease until such time that a revised WRADS has been submitted to, and approved in writing by, the local planning authority. The WRADS shall include the submission of a revised Site Phasing Plan 3456-CAU-XX-XX-DR-S-1815 to reflect the dates and timescales once waste disposal is recommenced.

The WRADS shall include details relating to the:

- i) Commencement of each remaining phase of waste disposal.
- ii) Completion of each phase of waste disposal and capping.
- iii) Handling, storage and placement of soils, soil conditioners and soil making materials.
- iv) Pre-settlement restoration of each phase.
- v) The landscaping of the site's perimeter and final restoration of the site.
- vi) Planting and species mix for the restoration.
- vii) Aftercare of each phase of restoration and landscaping.
- viii) Cessation of landfilling operations on site.
- ix) Continual decommissioning of the site.
- x) Final decommissioning of the site.

Review of the Working, Restoration, Aftercare and Decommissioning Scheme

5. The Approved Working, Restoration, Aftercare and Decommissioning Scheme shall be reviewed and updated at 12 month intervals or at times to be agreed in writing with the Local Planning Authority.

Annual Topographic Survey

6. From the date that waste disposal resumes at the site, a topographic survey of the landfill site shall be undertaken at the end of year and the results provided to the local planning authority within 1 month of the survey setting out the levels and contours, and defining those areas which have been filled to final pre-settlement levels, areas which have been capped, and areas on which restoration soils have been placed and completed.

Clearance of Site on Cessation of Working

7. All vehicles, plant, machinery and equipment not required for pollution control shall be removed from the site within 3 months of its final restoration or otherwise agreed in writing with the local planning authority.

Hours of Operation

8. Except in emergencies, no waste, soils or cover material shall be admitted into the site, or deposited on the site, except between the following hours:

08.00 – 17.30 Monday to Friday

08.00 – 13.00 Saturday

No vehicles or other mobile plant shall be operated on the site (apart from cars in the staff/visitor car park), except between the following hours:

08.00 – 18.00 Monday to Friday

08.00 – 13.00 Saturday

There shall be no site preparation or other civil engineering type, works undertaken on Saturday afternoons, Sundays and Public Holidays.

Noise

9. All reasonable steps shall be taken to minimise noise from vehicles and machinery. Within 1 month of the date of this planning permission a scheme for the control and monitoring of vehicle and machinery noise shall be submitted to the Local Planning Authority and upon written approval shall be implemented with immediate effect in accordance with the timescales set out in the scheme. The details of the scheme shall include:

a) efficient silencing equipment and/or acoustic covers fitted to and used by all vehicles and machinery on site.

b) employment of the best practicable means to minimise noise and disturbance from reversing sirens fitted to mobile plant and vehicles on the site.

c) employment of best practicable means, including, restricting the operational hours, to reduce the noise and capability for disturbance of the aerators serving the leachate lagoons.

Highway Cleanliness

10. All reasonable practical steps shall be taken to ensure that all vehicles leaving the site are in such a condition as not to emit dust, or deposit slurry, mud, refuse or other material upon the highway. Efficient means shall be installed/retained and used for cleaning the wheels of all vehicles leaving the site before they enter the highway, which includes the use of the existing wheel wash.

Storage of Fuel, Lubricants and Other Liquids

11. Any tanks/containers for the storage of oils, fuels or other liquid chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the total capacity of the tank(s) plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. All filling points and tank overflow pipe outlets shall be designed so as to discharge into the bund. Bunded areas shall be monitored and accumulations of rain water shall be periodically removed to maintain the bunded capacity. In the event of a leak or spillage

the appropriate means of managing and disposing of the substances in accordance with published data safety information shall be employed.

Lighting

12. Lighting levels at the site shall be kept to a minimum necessary for the safe operation of the site during hours of darkness. Outside of the operating hours lighting at the site shall ordinarily be turned off, except where maintenance or emergency works are necessary.

Reasons for Conditions

1. To comply with the provisions of Section 91 of the Town and Country Planning Act. To take account that the development is already occurring at the site. To provide a reference date for the monitoring and compliance with the approved development and for the submission of additional schemes required by conditions attached to this planning permission.

2. To define the plans and documentation which the development shall take place and to assist the developer and the local planning authority with monitoring and compliance with the approved development. For the avoidance of doubt. To comply with LDP Policy DM13 Design and Resources and W2 Waste Management Proposals.

3. To limit the impact of the development on the public highway. To limit the scope of the development to non-hazardous waste only. In the interests of the protection of public amenity and the environment. To comply with LDP Policy DM13 Design and Resources, W2 Waste Management Proposals and T1 Travel, Traffic and Transport Infrastructure.

4. To provide detail and certainty on the progress of infilling and completing the restoration of the site. To comply with LDP Policy DM4 Landscape , DM13 Design and Resources, W2 Waste, and insofar as it is applicable, the principles of M5 Restoration and Aftercare.

5. To maintain the scheme in an up to date condition to reflect the progress of the infill and restoration of the site. To comply with LDP Policy DM13 Design and Resources, W2 Waste.

6. To enable the site operator and the local planning authority to monitor progress with the infill, capping and restoration of the site and to ensure that the development is carried out in compliance with the approved pre-settlement, phasing and final restoration plans. To comply with LDP Policy DM13 Design and Resources, W2 Waste.

7. To avoid dereliction and potential harm to the environment which could arise from decaying vehicles, plant, machinery and equipment. To comply with LDP Policy DM13 Design and Resources, W2 Waste.

8. In the interests of the amenity of residents and visitors to the area, including along the local highway route. To comply with LDP Policy DM13 Design and Resources, W2 Waste.

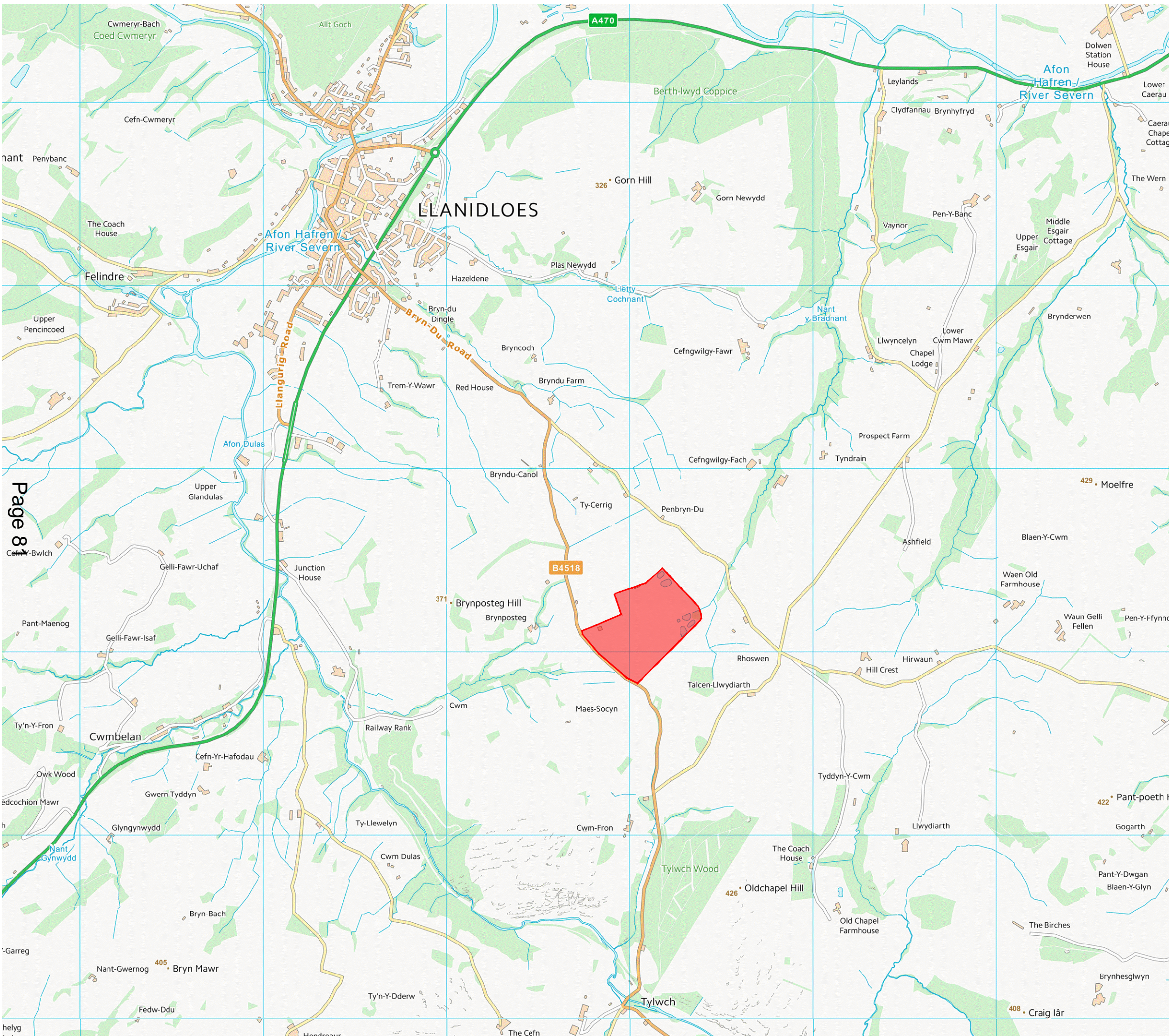
9. In the interests of the amenity of residents and visitors to the area. To comply with LDP Policy W2 Waste.

10. In the interests of highway safety, including avoiding the siltation of the highway drainage gulleys. In the interests of the amenity of residents and visitors to the area who may be adversely affected from debris, mud and consequent dust that may be raised along the local highway route. To comply with LDP Policy DM13 Design and Resources and W2 Waste.

11. In the interests of the protection of water resources and the natural environment. To comply with LDP Policy DM13 Design and Resources, W2 Waste.


12. Reason: To minimise light pollution in the open countryside and maintain dark skies. To comply with LDP Policy DM7 Dark Skies and External Lighting.

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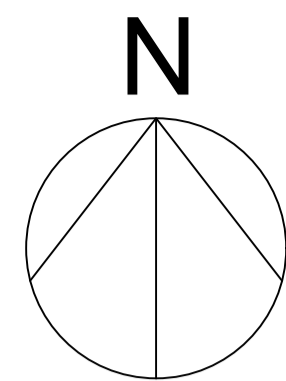
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PI	ISSUED FOR COMMENT	EJD	NF	NF	15.03.18
REV	MODIFICATIONS	BY	RE	AP	DATE
POTTERS WASTE MANAGEMENT					
PROJECT: BRYN POSTEG LANDFILL SITE					
TITLE: SITE LOCATION PLAN					
DRAWN BY		DATE			
EJD		15.03.2018			
REVIEWED BY		SCALE @ A3	JOB REF:		
NF		1:20000	3456		
AUTHORISED BY		ISSUE	REVISION		
NF		SI	PI		
DRAWING NUMBER					
3456-CAU-XX-XX-DR-G-1801					
					

Registered Office: InTec, Parc Menai, Bangor, Gwynedd, LL57 4FG Company Registered No: 06716319

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296700E

296800E

296900E

297000E

297100E

297300E

297400E

297500E

282400N

282300N

282200N











282100N

282000N

281900N

281800N

Key:

-  Post settlement proposed contour
-  Existing vegetation to be retained
-  Proposed native woodland
-  Proposed native scrub
-  Proposed specimen tree
-  Proposed species rich grassland
-  Proposed native hedge
-  Existing bund planted with native trees and shrubs
-  Proposed access or existing
-  Existing settlement lagoon (to remain)

Notes:
 Drawing based upon Caulmert Drawing:
 Proposed Revised Final Contours dated 14.03.18
 Reference: 3495 CAU-XX-DR-S-1813 Rev P2

V5	JB	PW	JB	22.03.19
V4	JB	PW	JB	15.08.18
V3	SG	JB	JB	25.06.18
V2 - existing veg added	SG	JB	JB	13.06.18
V1	SG	JB	JB	11.06.18
Issue	Drawn	Checked	Approved	Date

Tirlun Barr
 Chartered Landscape Architects
 Tirlun Barr Limited, 100, Green Lane, Dublin 15, Ireland
 Tel: 01 854 6000 Fax: 01 854 6001

Sundorne Products Ltd.

Project Title
**BRYN POSTEG
 LANDFILL SITE**

Drawing Title
RESTORATION PROPOSALS

Drawing Number
18/03/RP/01

Size	Scale	Issue
A1	1:1250	V5

EXISTING PASTURE

EXISTING ACCESS

EXISTING WASTE TRANSFER STATION

EXISTING BUND

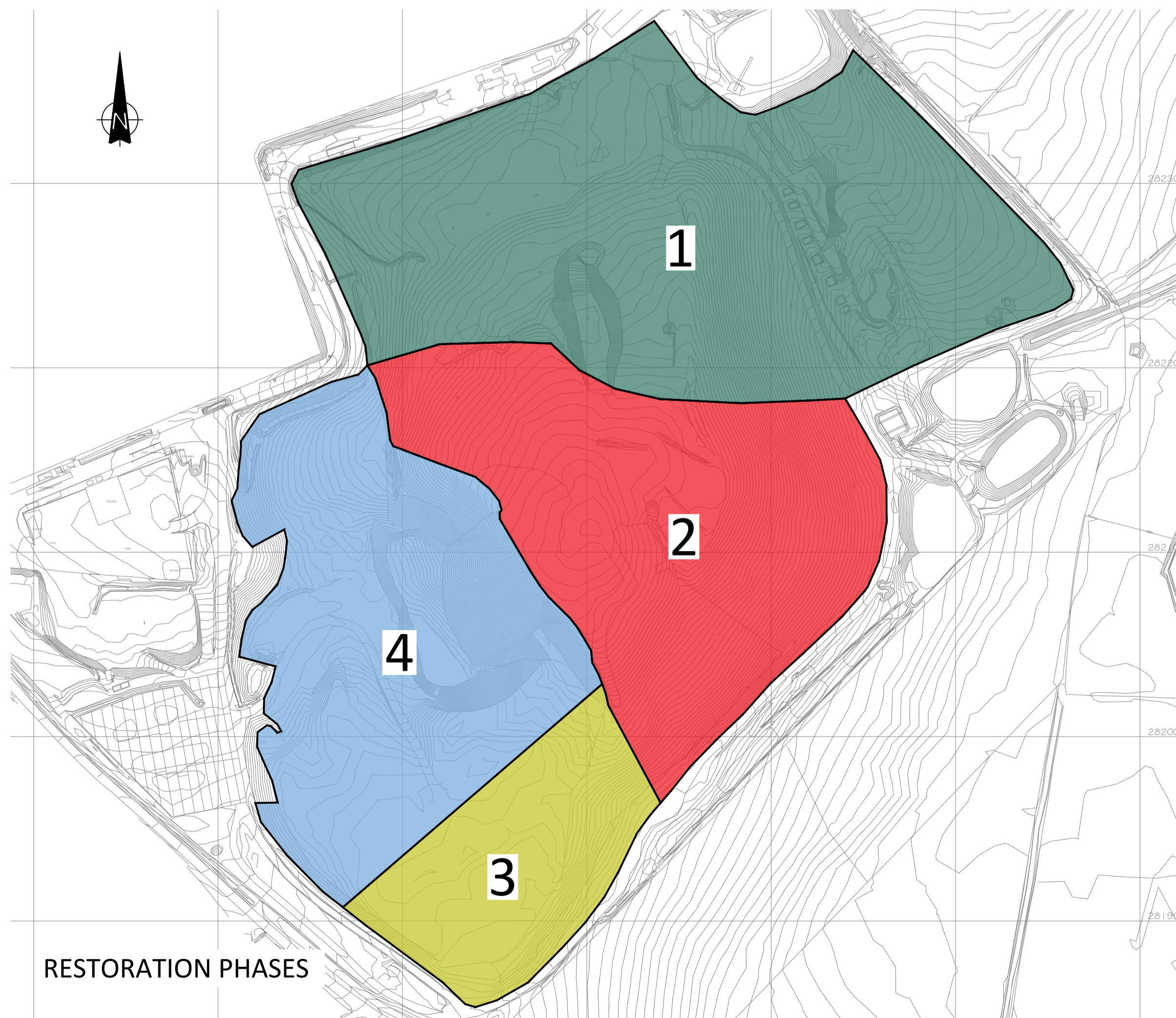
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- LEGEND - LANDFILLING**
- PHASE 1 LANDFILLING
 - PHASE 2 LANDFILLING
 - PHASE 3 LANDFILLING
- LEGEND - CAPPING WORKS**
- PHASE 1 CURRENTLY CAPPED
 - PHASE 2 CAPPING
 - PHASE 3 CAPPING
 - PHASE 4 CAPPING
- LEGEND - RESTORATION**
- PHASE 1 RESTORATION
 - PHASE 2 RESTORATION
 - PHASE 3 RESTORATION
 - PHASE 4 RESTORATION



Area No	Landfill Activities		Capping Activities		Restoration Activities	
	Start	Finish	Start	Finish	Start	Finish
All	Month 1	Month 24	Oct-19	Month 26	Month 1	Month 49
	Oct-19	Sep-21	Jun-20	Oct-22	Oct-19	Oct-23
1	Month 1	Month 8	Currently	Currently	Month 1	Month 11
	Oct-19	May-20	Capped	Capped	Oct-19	Aug-20
2	Month 9	Month 16	Month 9	Month 15	Month 12	Month 21
	Jun-20	Jan-21	Jun-20	Dec-20	Sep-20	Jun-21
3	Month 17	Month 24	Month 20	Month 25	Month 22	Month 36
	Feb-21	Sep-21	May-21	Oct-21	Jul-21	Sep-22
4			Month 32	Month 37	Month 37	Month 49
			May-22	Oct-22	Oct-22	Oct-23
Starting Date for the phased programme;					1st October 2019	
Details Summary			Details based on the following Drawings;			
Landfill Volume	m ³	116,657	Restoration Proposals			
Landfilled Tonnage	T	99,158	Dwg No. 3495 CAU.XX.XX.DR.S.1813 Rev P3			
Annual Tonnage	T / yr	49,579.23	Proposed Revised Final Contours			
Assumed waste density	T / m ³	0.85	Dwg No. 18/03/RP/02			
Landfilling period	Years	2	Date:	Table No;	1	
Volume of soils required	m ³	63,033	16.04.19	Revision No;	3	

REV	MODIFICATIONS	BY	RE	AP	DATE
P5	REVISED TABLE 1 AND LABELS	EJD	JC	JC	16.04.19
P4	REVISED TABLE 1 AND LABELS	EJD	JC	JC	25.02.19
P3	REVISED TABLE 1 AND LABELS	EJD	JC	JC	22.02.19
P2	CLIENT REVISIONS	EJD	JC	JC	18.12.18
P1	ISSUED FOR COMMENT	EJD	JC	JC	29.11.18
POTTERS WASTE MANAGEMENT					
PROJECT: BRYN POSTEG LANDFILL SITE					
TITLE: SITE PHASING PLAN					
DRAWN BY	EJD	DATE	30.11.2018		
REVIEWED BY	JC	SCALE @ A1	1:2000	JOB REF:	3456
AUTHORISED BY	JC	ISSUE	S1	REVISION	P5
DRAWING NUMBER: 3456-CAU-XX-XX-DR-S-1815					
 engineering environmental planning					

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- o Prior to the commencement of clearance work site staff will be subject to a toolbox talk regarding reptiles and amphibians the project ecologist.
- o Vegetation modification
- o Affected grassland is to be kept short prior and during the proposed works
- o Protective fencing is to be erected around the western and northern boundaries to prevent impact to existing hedgerows and habitat of higher suitability for amphibians and reptiles
- o Any excavations are to be backfilled at night to ensure no newts or other wildlife become trapped - where this is not possible ramps will be provided to allow escape

Having reviewed the identified measures I considered that the approach identified is acceptable and that subject to adherence to the Method Statement there would be no likely negative impacts to the local great crested newt population, in addition the measures proposed would also serve to protect any reptile species present at or around the site.

Therefore it is recommended that adherence to the identified above RAMS is secured through an appropriately worded planning condition.

Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting proposed to be erected as part of the proposed extensions. If external lighting is proposed then measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

Landscape Planting Scheme

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

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

The mitigation, avoidance measures and recommendations identified in section 4 of the Ecological Assessment and in the Great Crested Newt Reasonable Avoidance Measures method statement produced by Turnstone Ecology dated August 2018 and September 2019 shall be adhered to and implemented in full and maintained thereafter.

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, December 2018), 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 design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's 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.

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

Reason: To comply with Powys County Council's LDP Policy DM4 in relation to ecological qualities of the landscape and 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 consider it would be appropriate to include the following informatives;

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

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

It is therefore an offence to:

Deliberately capture, injure or kill a great crested newt;

Deliberately disturb an great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;

Damage or destroy a great crested newt breeding site or resting place;

Intentionally or recklessly disturb a great crested newt; or

Intentionally or recklessly obstruct access to a breeding site or resting place.

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

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.

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.

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.

PCC-(N) Highways

20th Jan 2020

The Highway Authority objects to the above named application for the following reasons;

Due to the fact that the access to the proposed development is narrow and no improvements can be made, the access road serving this development will not be adopted by the Highway Authority. Consequently, a Management Company will need to be set up by the developer for the long-term maintenance of the highway, footways and all on site infrastructure.

In addition, private road signage should be erected at the entry to this development in accordance with Section 31 of the Highways Act 1980. Furthermore, we would advise that all marketing for this development should include details that the road is private and shall remain so.

Should the Planning Authority be minded to grant consent to the proposed development, the Highway Authority request that the following conditions be applied.

The development shall be carried out in accordance with drawing numbers S103.3A.2.200 Rev B & Site Plan (dated 21/07/19).

Notwithstanding the submitted details on drawing numbers S103.3A.2.200 Rev B & Site Plan (dated 21/07/19) the Highway Authority wish the following conditions to be applied to any consent given.

1. 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 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
2. 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 10m 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.
3. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of (vehicles in accordance with the requirements of CSS Wales Parking Standards) not less than one car per bedroom together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence
4. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course material or (a suitably bound material which is to be approved in writing by the LPA) for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

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

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

7. Any vehicular entrance gates installed within the application site shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

Hafren Dyfrdwy

22nd Jul 2019

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

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

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

PCC-Affordable Housing Officer

No reply received in time of writing this report

WG - Highways Directorate

27th Aug 2019

I refer to your consultation of 19/07/2019 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road directs that any permission granted by your authority shall include the following condition:

1) No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road. The form and detailed design of the drainage to be incorporated within the proposal shall be agreed with the Planning Authority in consultation with the Welsh Government.

The above condition is included to maintain the safety and free flow of trunk road traffic.

Ward Councillor

26th Jul 2019

Following a recent meeting of the LLandysilio Community Council, I wish that the above application is determined by the Committee. Main reasons being:- They have serious issues regarding the narrow entrance ie single track which if passed will be the service entrance / roadway for 15 dwellings.

The land is also not in the development plan.

We would also like to request that a site meeting is arranged for all Committee members prior to the application coming to Committee and if possible for the application to be heard in Welshpool as the travelling down to Llandrindod Wells is proving difficult for the Chairman and Clerk.

Community Council

3rd Aug 2019

Re: 19/0943/OUT - Erection of 7 Affordable dwellings etc at the Four Crosses Inn

Llandysilio Community Council have considered the above application at a meeting held on Thursday 25th July 2019.

They wish to OBJECT to the application. County Councillor Arwel Jones has requested that the application be considered by the Planning Committee and we would respectfully request that a site visit is held so that the Committee can see the access difficulties and that the Planning Committee meeting is held in Welshpool.

The reasons for Objection are as follows;-

1. Contrary to Policy SP3 - Affordable Housing Target

The Local Development Plan makes provision for the release of land outside the settlement boundaries in order to address local needs. A planning application has recently been granted for 24 affordable dwellings on another site and another application for 37 affordable

dwelling is currently under consideration. There is also a development of 49 homes adjacent to the Village Boundary which will also include 14 affordable homes. There is enough development already in Four Crosses and the surrounding area and no more exception sites are needed.

2. Contrary to Policy DM13 - Design and Resources

a) This is a fundamental Policy within the Local Development Plan and asks that any development shall have regard to the qualities and amenity of the surrounding area, local infrastructure and resources. The access to this development only allows 2 vehicles to pass each other in the immediate bellmouth and then narrows to single width only. There is already permission for the conversion of the Pub to 3 dwellings and a further permission for the addition of 4 dwellings to the rear of the Pub. All these properties, 14 in total with this application, will be using this single width access. With an average of 3 cars a household this would mean 52 cars using this access. The access is onto a busy section of road leading to the Garage/Costcutter and School/Village Centre - no evaluation has taken place to show what would happen if vehicles were queuing to enter the site due to the presence of vehicles exiting.

b) The Community Council is also concerned that the Refuse Vehicle will be too large to enter the site and therefore recycling boxes and wheelie bins will be left on the pavement. This number of dwellings will result in a large number of such bins and will obstruct the pavement.

3. Contrary to Policy T1- Travel, Traffic and Transport Infrastructure

a) This Policy seeks to maintain an efficient flow of traffic for all transport users. The application states that the CSS Wales Parking Standards 2008 have been used to justify the parking levels and this site fits within those standards as Urban and Sub-Urban. The Community Council disagree with this assessment as Four Crosses is a rural Village and the 13 designated parking spaces are not adequate. Reference is made to issuing residents with an Active Travel Plan and that most will cycle/walk or use Public Transport. The reality in a village such as Four Crosses is that employment within the Village is limited and that most travel to Welshpool, Newtown, Oswestry or Shrewsbury. There is only one bus a day to Shrewsbury and although there is a more frequent bus service to Oswestry and Welshpool there are not at a suitable time for someone working 9 a.m to 5 p.m. There needs to be at least 3 per property plus extra for any visitors as parking on the B4393 should be prevented.

b) The Planning statement also confirms that only vehicles under 7.50 Ton will be able to access the site - the Community Council is concerned that if any larger vehicles try to access the site then this could lead to vehicles trying to reverse onto the busy section of

the B4393. This could also lead to problems with the Emergency Services if for instance a Fire Engine needed access.

c) Powys County Council, Highways Dept have stated, in the earlier application on this site, that they would not adopt the Highway and Footways and that a Management Company would need to be formed. This confirms that development on this site is unsuitable.

We look forward to notification of the date of the Planning Committee.

Wales & West Utilities - Plant Protection
Team

19th Jul 2019

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Environmental Protection

25th Jul 2019

Re: Erection of 7 affordable dwellings and associated works | Land Adjacent To Former Four Crosses Inn Four Crosses Powys SY22 6RE.

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

Noise: The application relies on an acoustic report submitted previously for an adjacent development site, which is also relevant here. Environmental Protection would recommend a condition in order to protect the amenity of the residents from road noise, as follows:

"The proposed development must be constructed in line with the findings of the acoustic report (Project Number 1818319 Dated 17th January 2019) to mitigate noise from the A483 Trunk Road."

Construction-phase noise control: Due to the residential nature of the setting, Environmental Protection would recommend that measures are in place to control the level of noise disturbance to neighbouring properties during the construction phase of the development.

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

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

0800-1800 hrs Monday to Friday

0800-1300 hrs Saturday

At no time on Sundays and Bank Holidays

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

PCC-Ecologist

20th Aug 2019

Thank you for consulting me with regards to planning application 19/0943/OUT which concerns an application for the erection of 7 affordable dwellings and associated works at land adjacent to Four Crosses Inn Four Crosses.

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

The data search identified 85 records of protected and priority species within 500m of the proposed development with no records found for the site itself. Species recorded within 500m of the proposed development include bat species; noctule and pipistrelle, badger, otter, barn owl and house sparrow.

Two statutory designated sites were identified within 500m of the proposed development;

- o SAC - Montgomery Canal approximately 404m from the proposed development
- o SSSI - Montgomery Canal approximately 404m from the proposed development

No non-statutory designated sites were identified within 500m of the proposed development.

Having taken into account the location of the designated sites and the nature of the proposed development it is considered that there would be no likely negative impacts directly or indirectly to the sites and/or their associated features.

The proposed development is located within the curtilage of an existing building and is likely to impact areas of hard standing, semi-improved grassland and amenity planting, habitats considered to be of relatively low ecological value.

Preliminary Ecological Assessment

I have reviewed the Ecological Assessment Report produced by Turnstone Ecology dated August 2018 - I consider that the survey methods and effort employed were in accordance with current National Guidelines.

I note that the Ecological Assessment Report produced by Turnstone Ecology takes into consideration the whole site and has been submitted to inform previous planning applications 18/0294/OUT, 18/0293/FUL and 19/0943/OUT. Therefore, below I will only be commenting on information relating to and affecting the habitats and potential species impacted within development boundary relating to 19/0943/OUT.

The report details the findings of a phase 1 habitat survey and protected fauna and habitat suitability assessment undertaken in May 2018 as well as the results of an associated desk based study. Habitats identified within and immediately adjacent to the proposed development site include;

- o Buildings and hard standing
- o Garden
- o Grassland
- o Hedgerows
- o Trees

Great Crested Newts - European Protected Species

I note that there are three ponds within 100m of the proposed development site. I am aware that these ponds were recently subject to eDNA sampling by NMWTRA (North and Mid Wales Trunk Road Agent) in 2019. Two of the 4 ponds sampled - the pond to the south approx. 85m from the proposed development and a pond approximately 790m to the north - returned positive results for GCN eDNA confirming the presence of this species in close proximity to the development site - consideration has therefore been given for the potential suitability of the development site to support Great Crested Newts - Great Crested Newts being a European Protected Species.

It is considered that the Ecological Assessment Report submitted as part of the application does not give a detailed enough assessment of the habitats present on the development site to identify any suitable habitat/refugia for GCN's and enable the LPA to determine

whether the proposed development would result in negative impacts to GCN or habitat suitable to support this species. Given the lack of suitable terrestrial habitat immediately surrounding the identified ponds and the proximity of the development site to one of the ponds where GCN eDNA was confirmed it is considered that the proposed development site may be of terrestrial value for GCN's i.e. the proposed development is located within 250m of a GCN pond and as such is considered to be within the core ranging area of this species. As such the proposed development may result in a negative impact to the favourable conservation status of great crested newts on and around the site.

Therefore in light of the new information regarding the presence of GCN in the area and given the presence of potentially suitable terrestrial habitat on the development site, nature of the proposed works, proximately of the identified ponds and connectivity to the wider habitat it is considered that there is insufficient information with regards to potential impacts to Great Crested Newts, a European protected species, to determine this application. Further information is required to be submitted prior to determination of the application.

This information is required to be submitted prior to determination of the application, until this information is submitted it is considered that the application currently fails to demonstrate that it would comply with the requirements of the Conservation of Habitats and Species Regulations 2017 and Powys LDP policy DM2.

Great crested newts are European protected species the animals and their resting and breeding habitats are fully protected under European law, where impacts to EPS are identified, the LPA have to apply the three tests of the Habitats Regulations to ensure that there will be no adverse impact on the favourable conservation status of the EPS. In order for the LPA to satisfy this requirement, full details of the potential impacts and proposed mitigation, are required to be submitted for approval prior to determination.

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"

As eDNA results have confirmed presence of GCN in the vicinity a detailed assessment of the habitats present and affected by the proposed development is required to determine whether there is suitable habitat present to support GCN, the significance of the impact of the proposed development to this species and need for avoidance, mitigation and/or

compensation measures to ensure that there would be no negative impact to the favourable conservation status of the species in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017 and Powys LDP policy DM2.

If great crested newts and/or suitable terrestrial habitat are confirmed to be present at the site and the development cannot be amended to avoid impacting these areas then appropriate mitigation and compensation measures will need to be identified to demonstrate that the proposed development would not result in negative impacts to the favourable conservation status of great crested newts. Any compensation measures for loss of habitat will need to be clearly identified on architectural plans and submitted prior to determination of the application.

In accordance with the requirements of Environment (Wales) Act 2016 the LPA is required to seek opportunities to provide enhancements for biodiversity through development. Consideration should be given to incorporation of features for biodiversity including provision of bird and bat boxes or native species landscaping within the proposed development that would provide additional benefits to biodiversity above that which is required to maintain biodiversity at the site. Any biodiversity enhancement measures proposed should be clearly indicated on submitted plans so that their implementation and long term maintenance can be secured through a planning condition.

PCC-Building Control

22nd Jul 2019

Building Regulations application required.

Public Responses

Single objection has been received from a local resident. The objection relates to the potential loss of daylight to his property.

Planning History

18/0294/OUT - Erection of 4 dwellings and formation of associated access and parking (Outline). Approved

18/0293/FUL - Change of use of public house (A3) to 3 dwellings and the creation of a ground and first floor extension. Approved

P/2014/0760 - Full: Conversion of existing public house (A3 use class) into 3 residential units (C3 use class), together with erection of 2.no dwellings and 2.no car ports and all other associated works. Refused and upheld on appeal.

P/2016/0005 - Conversion and extension of public house (use class A3) including partial demolition to form 3 no. dwellings, erection of 2 no. detached dwellings, 2 no. car ports and all associated works (resubmission of application P/2014/0760). Refused

Principal Planning Constraints

Unclassified highway (U4908);
Trunk road;

Principal Planning Policies

National Policy

Planning Policy Wales (Edition 10, 2018)

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

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

Technical Advice Note (TAN) 11: Noise (1997)

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

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

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

Technical Advice Note (TAN) 24: The Historic Environment (2017)

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

Welsh Government Circular 008/2018 - Planning requirement in respect of the use of private sewerage in new development, incorporating septic tanks and small sewage treatment plants

Local Policy

Powys Local Development Plan (2018)

SP1 – Housing Growth

SP3 – Affordable Housing Target

SP5 – Settlement Hierarchy

SP6 – Distribution of Growth across the Settlement Hierarchy

SP7 – Safeguarding of Strategic Resources and Assets

DM2 – The Natural Environment

DM7 – Dark Skies and External Lighting

DM6 – Flood Prevention Measures and Land Drainage

DM13 – Design and Resources

H1 – Housing Development Proposals

H3 – Housing Delivery

H4 – Housing Density

H6 - Affordable Housing Exception Sites

T1 – Travel, Traffic and Transport Infrastructure

Powys Residential Design Guide (2020)

Powys Supplementary Planning Guidance Biodiversity and Geodiversity (Adopted October 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 itself is located to the east of the A483 trunk road and within the south western part of the settlement of Four Crosses. The site has a flat topography and some screening from the A483 highway by a small embankment, shrubs, trees and a hedge. The beer garden/land associated with the former public house abuts the northern and western part of the site.

The site incorporates parts of a rear car park and beer garden of the former Four Crosses Inn, which was a vacant public house closed in April 2014. Subsequently planning permission has been granted for its conversion into residential dwellings (planning application 18/0293/FUL). A further application (18/0294/OUT) was also recently granted for the construction of 4 dwellings on the site to the west of the former public house and south of the current application site.

The application is for outline planning permission for the construction of 7 affordable units with all other matters, except access, reserved for consideration. The application is supported by an indicative site layout, which illustrates that the site is capable of accommodating 7 dwellings with associated car parking provision.

Principle of Development

LDP policy H1 seeks to ensure that housing development is appropriately located and suitable in scale and type to meet strategic policies SP1, SP3, SP5 and SP6. Housing development proposals are only permitted in defined towns and large villages where they are located on sites allocated for housing or on other suitable sites within the development boundary. On sites outside of development boundaries but which form logical extensions to the settlement, affordable housing may be permitted in accordance with policy H6 - Affordable Housing Exception Sites.

Powys Local Development Plan (2018) Policy H6 states the following:

Proposals for the development of affordable housing to meet a proven, unmet local need in Towns, Large Villages, Small Villages and Rural Settlements will be permitted where:

1. The proposed development is of a size, scale and tenure commensurate with the defined need and appropriate to the settlement tier, and accords with the requirements of Policy H1; and
2. The site is solely for affordable housing and there are clear and adequate arrangements to ensure that the benefits of affordable housing are secured for initial and subsequent occupiers, in accordance with the requirements of Policy SP3.

The Community Council's comments are noted; however, it is important to note that Policy H6 is a traditional exception site policy, which allows the development of sites for 100% affordable housing to meet local needs in locations not normally acceptable for residential development in accordance with PPW and TAN 2.

The above policy notes that sites adjacent to Towns and Large Villages are likely to be suited to accommodating the larger affordable housing schemes and therefore these sites are reserved for development by Registered Social Landlords, or equivalent organisations, or the Strategic Housing Authority. Single unit developments by individuals will not be acceptable in these locations. In this instance, the proposal is for seven affordable units.

Four Crosses is identified as a large village in the Powys Local Development Plan (2018). The application site is partially within the development boundary and the rest of the site is outside. Officers consider the remainder of the site to be a logical extension to the settlement and given the size and facilities offered in the settlement, it is considered that the settlement has the capacity to accommodate the proposed dwellings.

The said policy also aims to help sustain rural communities and retain people in their local communities by allowing the development of small-scale affordable homes to meet local identified housing need. The Powys Local Development Plan (2018) also emphasises that new affordable homes should be of a size, scale and tenure that are commensurate with the defined need. The design of social housing is governed by various standards and minimum requirements, such as the Development Quality Requirements and Welsh Housing Quality Standards issued by the Welsh Government.

In this instance, the applicant has been in contact with the Powys County Council Affordable Housing Team and Registered Social Landlords. It has been confirmed that there is no interest from them to develop the site. The provided evidence of need for intermediate affordable housing within the community has been provided from the Tai Teg register to the applicant. This only identified a low level of need but this is a relatively new register and therefore it would be reasonable to assume that there are further hidden needs not currently captured by this evidence.

Therefore, given that it is a relatively small site, the Officers recommend that an exception be made on the basis that the site does not appear to be suitable for larger development, hence no interest has been shown by an RSL or SHA and therefore it can be released for intermediate affordable housing.

Therefore, it is considered that the principle of providing residential dwellings at the site complies with LDP Policies SP1, SP5, SP6, H1 and H6 subject to a condition requiring an affordable housing scheme to be submitted for approval prior to commencement.

Scale, Design and nature of development

Policies H3 and H4 of the development plan seek to ensure that developments are designed to make the best use of land and are of a scale that is appropriate to the location and needs of the population. The appearance of a development, its scale and its impact on its surroundings are key considerations when dealing with any planning application and Policy DM13 sets out the main material considerations for assessing the acceptability of a scheme in regard to these matters. In addition, further guidance is provided by the Powys Residential Design Guide. Policy advises 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.

This application is in outline form with appearance, landscaping, layout and scale being reserved for future consideration. The indicative site layout details a cul-de-sac formation, consistent with the surrounding built form, whilst the scale of the proposed dwellings is considered to be in keeping with those adjoining the site. Development in the locality is generally a mix of low density, low rise traditionally built detached, semi-detached and terraced housing of brick and stone construction with some commercial property interspersed. The former Four Crosses Inn is a detached brick and tile property.

LDP Policy H4 states that all housing development proposals should seek to make the most sustainable and efficient use of land with the guide range of housing density in large villages being 27+ units per hectare. In addition, Policy H4 states that density may be varied where justified by evidence of local circumstances or constraints. The proposal for seven dwellings would have a density of over 40 (43.7) dwellings per hectare. Planning Policy Wales encourages higher densities in towns and villages which are settlements best served by public transport. Given the national and local planning policy support for higher density developments provided by LDP Policy H4, it is considered that the proposed density is acceptable.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating seven dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties.

Highway safety

LDP policy T1 and DM13 part 10 indicate that development proposals should meet all highway access requirements, (for all transport users), vehicular parking standards and demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development.

The Community Council has expressed their concern in respect of the access. Vehicular access to the site would be gained via the existing means of vehicular access off the U4908 unclassified highway with no alterations to the existing access proposed.

The Local Highway Authority has advised that it objects to the application due to the fact that the access to the proposed development is narrow and no improvements can be made. In addition, the access road serving this development will not be adopted by the Highway Authority. Consequently, a Management Company will need to be set up by the developer for the long-term maintenance of the highway, footways and all on site infrastructure.

However the Local Highway Authority also advise that should the Planning Authority be minded to grant consent to the proposed development, the Highway Authority request that a number of highway safeguarding conditions are attached to the consent notice. The comments expressed by the Community Council are noted in respect of the access. Officers consider that recommendation to refuse this application due to the fact that the existing access is narrow and that it will not be adopted by the Highway Authority is unjustified considering that there were no objections on the recently approved scheme for four dwellings. The Officers therefore, consider that the existing access point can serve the proposed development without detriment on the highway safety.

Welsh Government Transport Section have not objected to the proposal subject to the use of a condition relating to the prevention of surface water drainage discharging onto public highways and agreement of drainage proposals.

Taking into account the advice from the Local Highway Authority and the Transport Section of the Welsh Government, subject to the use of recommended conditions, it is considered that the proposal would meet highway access and parking requirements in accordance with LDP Policies DM13 and T1.

Landscape and Visual Impact

Policy DM4 seeks to ensure that new developments do not have an unacceptable adverse effect on the valued characteristics and qualities of the Powys landscape. The characteristics and qualities of the Powys landscape are recorded in LANDMAP, the strategic evidence base to support landscape based decision making in Wales.

Development boundaries distinguish the towns and large villages from the open countryside, which surrounds them.

As the development is partially contained within defined development boundary of Four Crosses, no requirements for an assessment of landscape impact in accordance with policy DM4 is required in this instance.

Impact on residential amenity

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 12) which states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

The proposed site is immediately opposite the existing dwelling known as Ivy House. The occupier of the said dwelling has objected and has stated that as a result of the proposal the occupiers will lose daylight in the late afternoon/evening time. In terms of overshadowing, the Residential Design Guide advises that where new development is less than 40 metres from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2 metres. The detailed design could take account of the overshadowing guidelines and as such would be considered at reserved matters stage.

Details relating to design and appearance are reserved for future consideration but Officers consider that the amenities of neighbouring properties can be safeguarded through sensitive design and siting which will be reviewed appropriately by Development Management in considering any future application for the approval of reserved matters.

The Environmental Health officer has recommended a condition in respect of timing for construction to further protect amenity during the construction phase. Taking into account the above together with the comments from Council's Environmental Health department, it is concluded that the amenities enjoyed by the occupants of nearby or proposed properties would not be unacceptably affected in accordance with LDP Policy DM13.

Impact on heritage assets

Setting of listed building - Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Planning Authority to have special regard to the desirability of preserving listed buildings or their settings. This requirement is reinforced through Planning Policy Wales, TAN24 and LDP Policy SP7.

The War Memorial located to the south of the application site (across the class two highway) is a grade II listed structure. The list description states that the memorial is a simple granite Celtic-style cross on tapered plinth and squared base. It has a dressed face to the plinth with commemoration of the Great War. Whilst the proposal would lead to a visual change in the locality, the memorial is located on the outskirts of the village and adjacent to the trunk road. Given the location across the highway and that the memorial already sits at the edge of the village, it is considered that the proposal would not have an unacceptable adverse impact upon the setting of the identified listed structure in accordance with the relevant legislation and national and local planning policy and guidance.

Ecological impact

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

The additional information submitted has been provided in response to a request for further information to enable the Local Planning Authority to assess the potential impacts of the proposed development to biodiversity.

Given the potential for the site to support protected species - namely great crested newts, a Reasonable Avoidance Method Statement (RAMS) has been submitted. The County Ecologist recommended that adherence to the identified RAMS is secured through an appropriately worded planning condition.

In respect of Wildlife Sensitive Lighting Plan, the County Ecologist recommends that careful consideration will need to be given to any external lighting proposed. If external lighting is proposed then measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is also secured through an appropriately worded condition.

It is also recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that a landscape planting scheme is secured through an appropriately worded condition.

Overall, taking into account the advice from the Council's Ecologist, subject to the use of conditions and informatives it is concluded that the proposed development would not unacceptably adversely affect any natural environment assets in accordance with Planning Policy Wales, TAN5 and LDP Policies DM2 and DM7.

Foul drainage

It is proposed to dispose foul drainage to the mains sewerage system which is the preferred method of foul drainage and as such it is concluded that the proposal would be served by an adequate means of foul drainage in accordance with LDP Policy DM13.

Recommendation

The scheme brings forward seven affordable properties to Four Crosses at this site, which is supported by Development Management. The recommendation is one of approval subject to conditions specified below:

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. 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 100% affordable dwellings;
 - ii) 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);
 - iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
5. 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 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

6. 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 10m 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.
7. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of (vehicles in accordance with the requirements of CSS Wales Parking Standards) not less than one car per bedroom together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence
8. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course material or (a suitably bound material which is to be approved in writing by the Local Planning Authority) for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
9. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
10. No surface water drainage from the site shall be allowed to discharge onto the county highway.
11. Any vehicular entrance gates installed within the application site shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
12. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
13. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road. The form and detailed design of the drainage to be incorporated within the proposal shall be agreed with the Planning Authority in consultation with the Welsh Government.

14. The proposed development must be constructed in line with the findings of the acoustic report (Project Number 1818319 Dated 17th January 2019 submitted as part of planning application 18/0294/OUT) to mitigate noise from the A483 Trunk Road.

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

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

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

16. The mitigation, avoidance measures and recommendations identified in section 4 of the Ecological Assessment and in the Great Crested Newt Reasonable Avoidance Measures method statement produced by Turnstone Ecology dated August 2018 and September 2019 shall be adhered to and implemented in full and maintained thereafter.

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

18. 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.

Reasons

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. In order to ensure that the dwellings serve an affordable need in perpetuity in accordance with the Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (October 2018), Policies SP1, SP5, SP6 of the Powys Local Development Plan (2018), and Planning Policy Wales (2018).
5. – 11. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18: Transport (2007) and Planning Policy Wales (Edition 10, 2018).

12. – 13. 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.

14. – 15. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy DM13 of the Powys Local Development Plan and Planning Policy Wales.

16. – 17. To comply with Powys County Council's LDP Policy DM4 in relation to ecological qualities of the landscape and 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.

Informative notes for Developer/Applicant

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

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

It is therefore an offence to:

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

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

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Reptiles - Wildlife & Countryside Act 1981 (as amended)

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

It is therefore an offence to:

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

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

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

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

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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73 Applications

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Parish Name	Decision	Date Application	Application No.	Application Type	Date Decision	Proposal	Location
Abbey Cwm-Hir Community	Approve	20/12/2019	19/1844/DIS	Discharge of Condition	19/02/2020	Application to discharge planning conditions 12,13 & 14 attached to planning approval 18/1087/FUL (lighting, hedgerow & landscaping schemes)	Cwmverdy Abbey Cwm-Hir Llandrindod Wells LD1 6PG
	Approve	20/12/2019	19/2022/FUL	Full Application	02/03/2020	Change of use of land to provide siting of three glamping pods, creation of vehicular access, installation of a septic tank and all associated works	Land At Cefn Pawl Abbeycwmhir Llandrindod Wells LD1 6PG
Aberhafesp Community	Approve	05/12/2019	19/1861/HH	Householder	24/02/2020	Demolition of existing shed and erection of a single storey extension to side of existing dwelling.	Sunny View Caravan Park Bwlch-Y-Ffridd Newtown SY16 3JF

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	Approve	18/02/2020	20/0301/NMA	Non-Material Amendment	06/03/2020	Application for a non-material amendment to planning approval 19/0083/RES in respect of altering the approved plans	Plot At Brynffynnon Bwlch-y-ffridd Newtown Powys SY16 3JA
Abermule And Llandyssil Community	Approve	06/09/2019	19/1422/FUL	Full Application	06/03/2020	Erection of a manure store and all associated works	Land Near To Upper Bryn Farm Abermule Montgomery Powys SY15 6JW
Banwy Community	Approve	21/08/2019	19/0830/FUL	Full Application	27/02/2020	Change of use of land from agriculture to tourism to site 6 'Glamping units', installation of a septic tank, soakaway and a toilet/shower block	Pwll-Yr-Hwch Llangadfan Welshpool SY21 0QH
Beguildy Community	Approve	13/01/2020	20/0108/DIS	Discharge of Condition	24/02/2020	Discharge of condition 8 from planning approval 19/0674/FUL in relation to a landscaping scheme	The Fron Lloyney Knighton Powys LD7 1RH

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Berriew Community	Approve	10/01/2020	20/0079/VAR	Discharge/Modification of S106	24/02/2020	Modification of section 106 application attached to permission M/2001/0438 relating to occupancy	The Lawtons Berriew Welshpool Powys SY21 8BE
Caersws Community	Approve	12/12/2019	19/2030/FUL	Full Application	10/03/2020	Erection of a dwelling, garage, formation of vehicular access and all associated works	Plot 2 Maes Y Cwm Llanwnog Caersws Powys
Castle Caereinion Community	Approve	09/09/2019	19/0959/LBC	Listed Building Consent	24/02/2020	Listed building consent for alterations to the main door to the property	Penllwyn Castle Caereinion Welshpool Powys SY21 9AS
Churchstoke Community	Approve	08/01/2020	20/0090/HH	Householder	02/03/2020	Demolition of the existing garage and erection of a replacement garage with living area above	The Barns Hyssington Montgomery Powys SY15 6EG

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Clyro Community	Approve	06/11/2019	19/1675/FUL	Full Application	24/02/2020	Erection of a replacement dwelling with annexe, demolition of 2 no. outbuildings and all associated works	Wyecliff Hay-On-Wye Hereford HR3 5RS
	Consent	16/09/2019	19/1496/FUL	Full Application	28/02/2020	Construction of a cabin for holiday use, access improvements and associated works	Penycae Bungalow Clyro Hereford HR3 6JU
	Split Decision	19/07/2018	18/0262/DIS	Discharge of Condition	19/02/2020	Discharge of conditions 5, 6, 7, 8, 9 and 10 of planning consent P/2017/1220	Barn F Cabalva Farm Whitney-On-Wye Hereford HR3 6EX
	Split Decision	19/07/2018	18/0265/DIS	Discharge of Condition	19/02/2020	Discharge of conditions 5, 6, 7, 8, 9 & 10 of planning consent P/2013/0130	Cabalva Farm Whitney-On-Wye Hereford HR3 6EX
Dwyriw Community	Approve	12/02/2020	20/0196/NMA	Non-Material Amendment	28/02/2020	Application for a non-material amendment to planning approval P/2015/0846 to change the material of the machinery shed to green box section steel sheets instead of timber	Fraithwen Adfa Newtown SY16 3DB

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Erwood Community	Refused	07/10/2019	19/1645/OUT	Outline planning	21/02/2020	Erection of a rural enterprise dwelling, creation of access and all associated works (all matters reserved)	Land Off Minor Road Between Crickadarn And Llaneglwys Erwood Builth Wells LD2 3BQ
Felin-Fach Community	Approve	03/01/2020	20/0014/FUL	Full Application	27/02/2020	Conversion of Gamekeepers lodge to a dwelling	Game Keepers Lodge Llandefalle Brecon Powys LD3 0UU
Forden With Leighton & Trelystan Com	Approve	18/04/2019	19/0676/DIS	Discharge of Condition	06/03/2020	Discharge of condition of planning approval P/2018/0706 - 18/0299/LBC in relation to proposed window details	Brook House U2477 From Junction With B4388 At Tafalog Via Leighton Farm Buildings To Brook A Leighton Welshpool SY21 8HJ
Gladestry Community	Approve	07/08/2018	18/0356/DIS	Discharge of Condition	09/03/2020	Discharge of conditions 11, 15, 16, 19, 22 & 23 of planning consent P/2016/0616	Church House Newchurch Kington Powys HR5 3QD

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	Consent	01/10/2019	19/1522/RES	Reserved Matters	28/02/2020	Reserved matters application for details of access, appearance, landscaping, layout and scale in connection with outline planning approval P/2015/1078 for erection of 5 dwellinghouses and garages	Land Adjoining Church Barn Gladestry Kington Powys
Hay Community	Split Decision	31/10/2016	DIS/2016/0192	Discharge of condition	09/03/2020	Discharge of conditions 3, 4, 5, 6, 7, 8, 9, 10, 11 & 15 of planning permission P/2015/0729	9 Birch Close Hay-on-wye Powys HR3 5TL
Kerry Community	Approve	30/05/2019	19/0710/FUL	Full Application	06/03/2020	Erection of three new broiler accommodation buildings, conversion of existing free range building into a broiler accommodation building, renewables shed, feed bins, and associated yard area and infrastructure	Glanmiheli Farm Chicken Units Kerry Newtown Powys SY16 4LN

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Approve	20/11/2019	19/1876/LBC	Listed Building Consent	02/03/2020	Internal alterations to include provision of a disabled toilet, new internal walls, and fire-proofing and external alterations to include partial demolition of boundary wall and construction of an access ramp, and installation of an extractor grill and iron grate over coal chute	1 The Old School House Kerry Newtown Powys SY16 4NU
Approve	20/11/2019	19/1880/FUL	Full Application	19/02/2020	Change of use from dwelling to tea room	1 The Old School House Kerry Newtown Powys SY16 4NU
Approve	08/01/2020	20/0078/HH	Householder	19/02/2020	Erection of a single storey extension	Chartwell Sarn Newtown Powys SY16 4EY

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Llanbadarn Fawr Community	Approve	09/01/2020	20/0099/FUL	Full Application	28/02/2020	Erection of a dwelling	Plot 40 Meters North West Of Studio Cottage Crossgates Llandrindod Wells Powys LD1 6RX
Llanbadarn Fynydd Community	Approve	06/02/2020	20/0217/DIS	Discharge of Condition	06/03/2020	Application to discharge condition 3 of P/2018/0080	Tynypant Llananno Llandrindod Powys LD1 6TT
Llanbister Community	Approve	15/01/2020	20/0058/FUL	Full Application	19/02/2020	Erection of a straw shed	The Lands Llanbister Road Llandrindod Wells Powys LD1 6UG
Llanbrynmair Community	EIA Required	01/10/2019	19/1681/SC	Scoping Opinion	26/02/2020	Scoping opinion under regulation 14 of the EIA (Wales) regulations 2017 for the proposed increase in tip height for turbines	Carno 3 Wind Farm Carno Caersws Powys SY17 5JS

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Llandrindod Wells Community	Approve	20/01/2020	20/0146/TPO	Works to Trees subject to a TPO	19/02/2020	Application for works to trees subject to Tree Preservation Order.	6 Crabtree Green Llandrindod Powys LD1 6EP
Llanelwedd Community	Approve	31/01/2020	20/0181/NMA	Non-Material Amendment	27/02/2020	Application for non material amendments to permission 19/1017/FUL to amend approved plans and reposition and increase dwelling footprint	Talarddu Llanfaredd Builth Wells Powys LD2 3UE
Llanerfyl Community	Approve	20/12/2019	19/2080/DIS	Discharge of Condition	05/03/2020	Application to discharge condition 3 of planning consent 19/1393/FUL	Llyssun Llanerfyl Welshpool SY21 0EL
Llanfrynach Caereinion Community	Approve	15/11/2019	19/1710/HH	Householder	28/02/2020	Erection of a two storey side extension	Clyniarth Cottage Cyfronydd Welshpool SY21 9HB
Llangurig Community	Approve	18/11/2019	19/1672/FUL	Full Application	25/02/2020	Roofing of a livestock yard	Lower Glynbrochan Llanidloes Powys SY18 6PL

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Page 124	Approve	28/11/2019	19/1995/FUL	Full Application	27/02/2020	Conversion and extension of an agricultural building to a residential dwelling and the creation of a new vehicular access and installation of septic tank	Minffordd Rhos Y Wrach Llangurig Llanidloes Powys SY18 6SH
	Approve	23/12/2019	19/1981/FUL	Full Application	25/02/2020	Roofing for manure store	Lower Glynbrochan Llanidloes Powys SY18 6PL
	Approve	30/12/2019	19/2062/FUL	Full Application	27/02/2020	Construction of a covered manure store and all associated works	Pantdrain Llangurig Llanidloes SY18 6SA
Llangynog Community	Approve	06/01/2020	20/0050/FUL	Full Application	02/03/2020	Erection of an agricultural storage building	Land Adjoining Rhydyfelin Llangynog Powys SY10 0HH
Llanidloes Community	Approve	11/02/2020	20/0294/NMA	Non-Material Amendment	19/02/2020	Application for a non-material amendment to planning approval P/2016/1204 in relation to enlarging the snug and porch roof	Land At Parc Derwen Fawr Llanidloes Powys

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Approve	17/02/2020	20/0287/DIS	Discharge of Condition	03/03/2020	Discharge of condition 8 of planning approval 19/1578/FUL in relation to conservation plan and method statement	Smithfield Market Gorn Road Llanidloes Powys SY18 6DE
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Llanidloes
Without
Community

Approve	14/11/2019	19/1689/FUL	Full Application	25/02/2020	Erection of roofing over the existing manure store	Glyn Farm Van Llanidloes Powys SY18 6NE
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Approve	12/12/2019	19/2034/FUL	Full Application	25/02/2020	Construction of covered area over existing livestock yard	Glyn Farm Y Fan Llanidloes Powys SY18 6NE
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Llanrhaeadr-Ym-
Mochant
Community

Approve	13/12/2019	19/2033/FUL	Full Application	04/03/2020	Construction of a slurry store and all associated works	Ty Cerrig Llanrhaeadr-ym-mochnant Oswestry Powys SY10 0DA
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	Approve	10/01/2020	20/0092/FUL	Full Application	06/03/2020	Erection of a cover of an existing cattle yard and all associated works	Ty Cerrig Llanrhaeadr-Ym-Mochnant Oswestry SY10 0DA
Llanyre Community	Approve	22/01/2020	20/0119/TPO	Works to Trees subject to a TPO	19/02/2020	Application for works to a tree subject to a Tree Preservation Order	Copeland Cagebrook Lane Llanyre Llandrindod Powys LD1 6DY
Llywel Community	Approve	10/01/2020	20/0109/FUL	Full Application	06/03/2020	Change of use of stables to 2 no. holiday let 1-bed cottages and associated works	Holiday Letting Units Blaencydach Llywel Brecon Powys LD3 8RD
Machynlleth Community	Approve	14/01/2020	20/0049/HH	Householder	27/02/2020	Single storey side extension, replacement of windows and replacement render	8 Ffordd Mynydd Griffith Machynlleth SY20 8DD
Manafon Community	Approve	18/09/2019	19/1523/FUL	Full Application	27/02/2020	Proposed pod development (3 no. pods), improved vehicular access and associated works	Tan Y Dderwen Llanfair Caereinion Welshpool SY21 0DG

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Meifod Community	Approve	06/01/2020	20/0087/DIS	Discharge of Condition	02/03/2020	Discharge of condition 9 of planning approval 19/1387/REM in relation to landscaping	Twl Barn Pentre'r-beirdd Guilsfield Powys SY21 9DN
	Approve	07/01/2020	20/0006/FUL	Full Application	06/03/2020	Erection of a silage clamp and all associated works	Little Broniarth Pentre'r-Beirdd Guilsfield SY21 9DJ
Mochdre Community	Approve	24/10/2019	19/1739/DIS	Discharge of Condition	06/03/2020	Discharge of condition 3, 4, and 6 from planning consent P/2016/0509 in respect of external materials and landscaping	Glanrhyd Llanidloes Road Newtown SY16 4HZ
	Approve	18/11/2019	19/1773/FUL	Full Application	27/02/2020	Construction of 4 no. holiday lodges, erection of associated stable block, formation of vehicular access road, parking areas, community parking area, pond, installation of sewage treatment plant and all associated works	Land At Pwll Glas Mochdre Newtown Powys SY16 4JP

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Montgomery Community	Approve	20/11/2019	19/1795/FUL	Full Application	24/02/2020	Change of use of land and 2 buildings from a warehouse for motorcycle sales, service and repairs to general industrial (B2) purposes	Unit 1 & 2 Workshops Montgomery Powys SY15 6RH
	Approve	14/02/2020	20/0211/TRE	Works to trees in Conservation Area	09/03/2020	Removal of a dawn redwood tree in a conservation area	Ty'r Carw Princes Street Montgomery Powys SY15 6PY
Nantmel Community	Approve	09/08/2019	19/1215/FUL	Full Application	19/02/2020	Change of use of land for the siting of 3 shepherds huts and decking and creation of a new access and installation of treatment plant	Development Of Shepherd Huts 200 Meters North Of Upper Dolau Nantmel Rhaeadr Gwy Powys
New Radnor Community	Approve	28/01/2020	20/0192/TRE	Works to trees in Conservation Area	25/02/2020	Removal of a purple beech tree and an oak tree	Castle Cottage Mutton Dingle New Radnor Presteigne Powys LD8 2TL

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Newtown And Llanllwchaiarn Community	Approve	25/10/2019	19/1650/LBC	Listed Building Consent	27/02/2020	Demolition of 2x outhouses/aviaries	Rock House Rock Farm Newtown Powys SY16 3BH
	Approve	31/12/2019	19/1906/FUL	Full Application	24/02/2020	Change of use of part of the second floor from Business to Assembly and Leisure	Second Floor The Royal Welsh Warehouse Old Kerry Road Newtown SY16 1BH
Old Radnor Community	Approve	21/10/2019	19/1735/FUL	Full Application	26/02/2020	Conversion of a barn to an open market residential dwelling, to include formation of parking and turning areas, and all associated works	Pentre Farm Old Radnor Presteigne LD8 2RP
	Approve	16/01/2020	20/0029/HH	Householder	04/03/2020	Erection of double garage	Upper House Burlingjobb Presteigne Powys LD8 2PW

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Painscastle Community	Approve	17/12/2019	19/2056/FUL	Full Application	24/02/2020	Siting of 3 camping pods, creation of vehicular access, installation of a septic tank and associated works	Land At Great House Farm Llandeilo Graban Builth Wells Powys LD2 3JE
Pen-y-bont Fawr Community	Approve	07/10/2019	19/1644/FUL	Full Application	04/03/2020	Construction of new classroom extension to replace existing portacabin, and demolition of existing conservatory	Pennant County Primary School Dolafon Estate Pen-Y-Bont-Fawr Oswestry SY10 0PD
	Approve	28/11/2019	19/1913/HH	Householder	19/02/2020	Erection of a front porch	21 Y Ddol Pen-y-bont Fawr Oswestry Powys SY10 0NP

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Presteigne Community	Approve	16/10/2019	19/1652/REM	Removal or Variation of Condition	02/03/2020	Section 73 application to vary condition no. 2 attached to outline planning permission P/2016/0128 to allow an extension of time in which to submit a reserved matters approval for Plot 2	Land North Of Clatterbrune Clatterbrune Presteigne Powys LD8 2LB
	Approve	13/01/2020	20/0110/DIS	Discharge of Condition	28/02/2020	Application for the discharge of condition 3 from planning permission 19/1056/LBC with regards to woodwork details	Tan House Broad Street Presteigne Powys LD8 2AG
	Split Decision	08/10/2019	19/1726/DIS	Discharge of Condition	09/03/2020	Application to discharge conditions 3, 4, 6, 7, 8, 9, 10 and 12 of planning approval 19/0235/FUL	Warren Villa Garage Wherby Lane Presteigne Powys LD8 2DP

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Trefeglwys Community	Approve	10/01/2020	20/0021/DIS	Discharge of Condition	25/02/2020	Application to discharge conditions 5, 7 and 8 from planning approval 18/0430/FUL in relation to woodland report, range plan and lighting	Upper Ffrydd Trefeglwys Caersws SY17 5QS
Welshpool Community	Approve	29/07/2019	19/1270/DIS	Discharge of Condition	27/02/2020	Application to discharge condition no. 4 (wall & roof materials) attached to Listed building consent P/2017/0795 (alterations and extension to dwelling)	38 Salop Road Welshpool Powys SY21 7EA
Yscir Community	Approve	06/02/2020	20/0222/TPO	Works to Trees subject to a TPO	28/02/2020	Application for works to trees within a TPO zone	Cradoc Golf Club Cradoc Brecon Powys LD3 9LP
Ystradgynlais Community	Consent	05/09/2019	19/1363/HH	Householder	03/03/2020	Erection of an extension	38 Tanyrallt Abercrave Swansea Powys SA9 1XF

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Consent	26/11/2019	19/1933/DIS	Discharge of Condition	03/03/2020	Application to discharge conditions 5, 6, 7, 8 and 17 of planning approval P/2018/0293	Land Adj To 22 Heol TWRCH Lower CWMTWRCH Ystradgynlais Powys SA9 2TD
Refused	08/07/2019	19/0973/HH	Householder	02/03/2020	Erection of a second storey rear extension	2 Penrhos Varteg Cottages Neath Road Ystradgynlais SA9 1PR

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CYNGOR SIR POWYS COUNTY COUNCIL.

Planning, Taxi Licensing and Right of Way Committee

19th March 2020**REPORT AUTHOR:** Principal Planning Officer, Development Management**REPORT TITLE:** Planning Enforcement Policy and Procedure

REPORT FOR: Discussion

A draft Planning Enforcement Policy and Procedure is attached for Members of the Committee to consider and comment upon.

This would replace the existing enforcement policy (published on the Council's website). It proposes:

- A simplified and streamlined approach to outlining the enforcement policy and procedure for ease of reference for members of the public and Officer consideration.
- Updated list of the type of enforcement action which can be taken and its purpose.
- Amended policies for ease of consideration for members of the public and the Council.
- Introduction of an expediency flow-chart.
- Introduction of a mandatory enforcement complaint form to ensure the correct information is obtained and received upfront to allow the Authority to fully investigate the complaint without any unnecessary delay in seeking further information (e.g. site location, description of development, etc).
- Updated investigation targets in line with Welsh Government's requirements.
- A new Enforcement website interface for members of the public to find out information and to report complaint.

Recommendation	Reason
<p>To obtain the comments of the Planning, Taxi Licensing and Right of Way Committee on Powys County Council's:</p> <ul style="list-style-type: none"> • Draft Planning Enforcement Policy and Procedure (Appendix A) • Draft Complaint Form (Appendix B) • Draft Website interface / text (Appendix C) 	<p>To obtain comments prior to seeking approval of the policy from the Portfolio Holder / Cabinet, as appropriate.</p>

Contact Officer: Gemma Bufton
Tel: 01597 827161
Email: planning.services@powys

Head of Service: Gwilym Davies

Corporate Director: Nigel Brinn



Powys County Council

Draft Planning Enforcement Policy and Procedure

March 2020

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Appendices

Appendix 1- Planning Enforcement Flowchart

This Document is available on request in alternative formats (Large print type/ Braille/ on tape).

1. Introduction

Effective enforcement underpins the whole Development Management function ensuring that unacceptable development does not prevent the delivery of the vision of the Local Planning Authority (LPA) set out in the development plan.

'Unauthorised development' is development carried out without the necessary planning permission or development carried out in contravention of a condition or limitation attached to a planning permission.

Welsh Government's Development Management Manual provides guidance on when enforcement action is appropriate:

<https://gov.wales/development-management-manual>

Procedural guidance describing the tools available to address unauthorised development are set out in Annex 14 of the Development Management Manual and in Welsh Office Circular 24/97: Enforcing Planning Control: Legislative Provisions and Procedural Requirements:

<https://gov.wales/sites/default/files/publications/2019-05/enforcing-planning-control-legislative-provisions-and-procedural-requirements-circular-2497.pdf>

This policy document does not repeat this guidance but should be read in conjunction.

2. An Efficient and Effective Process

Responsibility for determining whether proposed development should be granted planning permission rests initially with the Local Planning Authority (LPA); as does the decision on whether unauthorised development should be allowed to continue or should be enforced against.

Although it is not normally a criminal offence to carry out development without first obtaining any necessary planning permission, such action is to be discouraged.

When considering enforcement action, the decisive issue for the LPA is whether the unauthorised development would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Enforcement action should be commensurate with the planning impacts caused by the unauthorised development; it is usually inappropriate to take formal enforcement action against a trivial breach of control. The intention should be to remedy the effects of the unauthorised development, not to punish the person(s) carrying out the operation or use. Nor should enforcement action be taken simply to regularise

development for which permission had not been sought but which is otherwise acceptable.

The integrity of the development management process depends on the readiness of the Council as local planning authority to take enforcement action when it is considered expedient to do so. The Council accepts that quick initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and more difficult to stop. It also recognises the importance of establishing effective controls over unauthorised development and acknowledges the need for constructive communication to take place prior to the consideration of enforcement action. The Council will not condone wilful breaches of planning law, but it will exercise discretion about taking enforcement action if it is considered expedient to do so.

3. How to make an Enforcement Complaint

If a person believes that there has been a possible breach of planning control, they should complete an **Enforcement Complaint Form** ([Hyperlink to document required – make sure it is in editable format](#)). On completion this should be sent to:

planning.enforcement@powys.gov.uk

or by post to:

Planning Services, Powys County Hall, Spa Road East, Llandrindod Wells, Powys, LD1 5LG

Enforcement Complaints will not be investigated without the completed mandatory form.

All complaints received will be treated as confidential and every effort will be made to ensure that the identity of a complainant remains confidential.

This information will not be given in response to a Freedom of Information Request.

4. Service Objectives

We aim to:

- Acknowledge all Enforcement complaints within 5 working days of receipt. The acknowledgement will inform the complainant of the allocated complaint reference number.
- Have 'investigated' the complaint within 84 days. 'Investigated' means that the LPA has considered the alleged breach of planning control and advised the complainant of their investigation. The clock starts on the day

that the enforcement complaint is received by the LPA. The clock stops when the LPA has concluded and notified the complainant that either:

- (a) No breach of planning control has occurred; or
 - (b) A breach has occurred but planning enforcement action is not expedient; or
 - (c) A breach has occurred, and planning enforcement action will need to be pursued.
- Where a breach has occurred, and planning enforcement action will need to be pursued to resolve an enforcement complaint as soon as reasonably possible. The enforcement complaint will be resolved when one of the following positions have has been reached:
 - (a) Planning permission is subsequently granted through a planning application or enforcement appeal.
 - (b) An enforcement or breach of condition notice is complied with.
 - (c) The breach of control is ceased by the developer owner / occupier.
 - (d) Direct action by the authority removes the breach of control.

The complainant will be informed of the resolution.

5. Planning Enforcement Policies

The local planning authority recognises the importance of establishing effective controls over unauthorised development, to assist in the preservation and enhancement of the qualities of both the built and natural environment and to protect public amenities.

As local planning authority, the Council will exercise all reasonable powers granted under the Town & Country Planning Act 1990 (as amended), Planning (Listed Buildings & Conservation Area) Act 1990, including all other subordinate legislation, regulations and orders, to control all unauthorised development effectively.

In considering whether it is expedient to start enforcement action, the LPA will take into account the Development Plans, the Human Rights Act 1998 and all other material considerations.

POLICY PEP1- WHERE ENFORCEMENT ACTION IS NOT EXPEDIENT

In most circumstances where a breach has occurred, we will seek to negotiate to resolve the situation. In appropriate cases, we will also negotiate to achieve remedial works to remedy the breach. In these cases, providing the breach has been satisfactorily resolved, the County Council will not take enforcement action unless the breach were to persist or recur.

It will therefore not be expedient for an Enforcement notice to be issued where:

1. An assessment of the breach has concluded that the resulting harm is negligible or 'de minimis'
2. A retrospective application to regularise the unauthorised development has been submitted and subsequently approved by the Local Planning Authority
3. The breach results in only a slight variation in excess of what would have been permitted by virtue of the Town and Country Planning (General Permitted Development) Order 1995 and as amended in 2013 (or as amended thereafter)
4. The harm was temporary and has already ceased
5. An alternative site is discussed and a clear timeframe for the development to relocate is specified and agreed

POLICY PEP2- WHERE ENFORCEMENT ACTION IS EXPEDIENT

Where breaches of planning control are causing significant harm to the environment or local amenity and we are unable to remedy the situation by negotiation, then we may consider it expedient to take appropriate formal enforcement action after an assessment of the breach.

It will therefore be expedient for an Enforcement Notice to be issued where:

1. Evidence that a breach of planning control has occurred and that it has caused demonstrable harm to interest of acknowledged importance
2. Where an agreed timetable for relocation is ignored
3. Unauthorised mineral working/waste disposal which is causing unacceptable harm to public amenity and there is little likelihood of the matter being resolved voluntarily or through negotiations
4. Where a building or land is in a condition that unacceptably adversely affects the amenity of the area. Where negotiations have failed consideration will be given to serving a Section 215 notice
5. Works to a listed building which materially affect its character and appearance
6. Displaying of an advertisement which causes serious harm to the amenity of the surrounding area and/or represents a risk to public safety
7. Removal of a tree subject to a Tree Preservation Order or located within a Conservation Area of amenity value. The loss of which has caused harm to the surrounding area
8. Removal of an 'important' hedgerow in accordance with the Hedgerow Regulations 1997

POLICY PEP3- WHERE UNAUTHORISED DEVELOPMENT COULD BE MADE ACCEPTABLE THROUGH THE IMPOSITION OF CONDITIONS

Where unauthorised development causes unacceptable injury to public amenity or damage to a statutorily designated site but could be satisfactorily overcome through the imposition of conditions, the Council will consider serving an Enforcement Warning Notice (EWN).

Use of an EWN to secure a retrospective planning application can ensure that an acceptable form of development is achieved without the Local Planning Authority having to over enforce.

The Council will not issue an EWN unless there is reasonable prospect of the development being granted planning permission.

The serving of an EWN by the County Council does not however guarantee that planning permission will be granted.

POLICY PEP3- BREACH OF CONDITION

Where planning permission has been granted for development subject to planning conditions, the conditions shall be complied with in full subject to an assessment of their appropriateness. Where there is a failure to comply with those conditions, the Council can serve a Breach of Condition Notice or an Enforcement Notice.

If it is a condition precedent that has not been complied with then an Enforcement Notice must be served for unauthorised development and the issuing of a temporary stop notice will also be considered.

There is no right of appeal against a Breach of Condition Notice and the failure to comply with such a Notice is a criminal offence.

6. Types of Enforcement Action

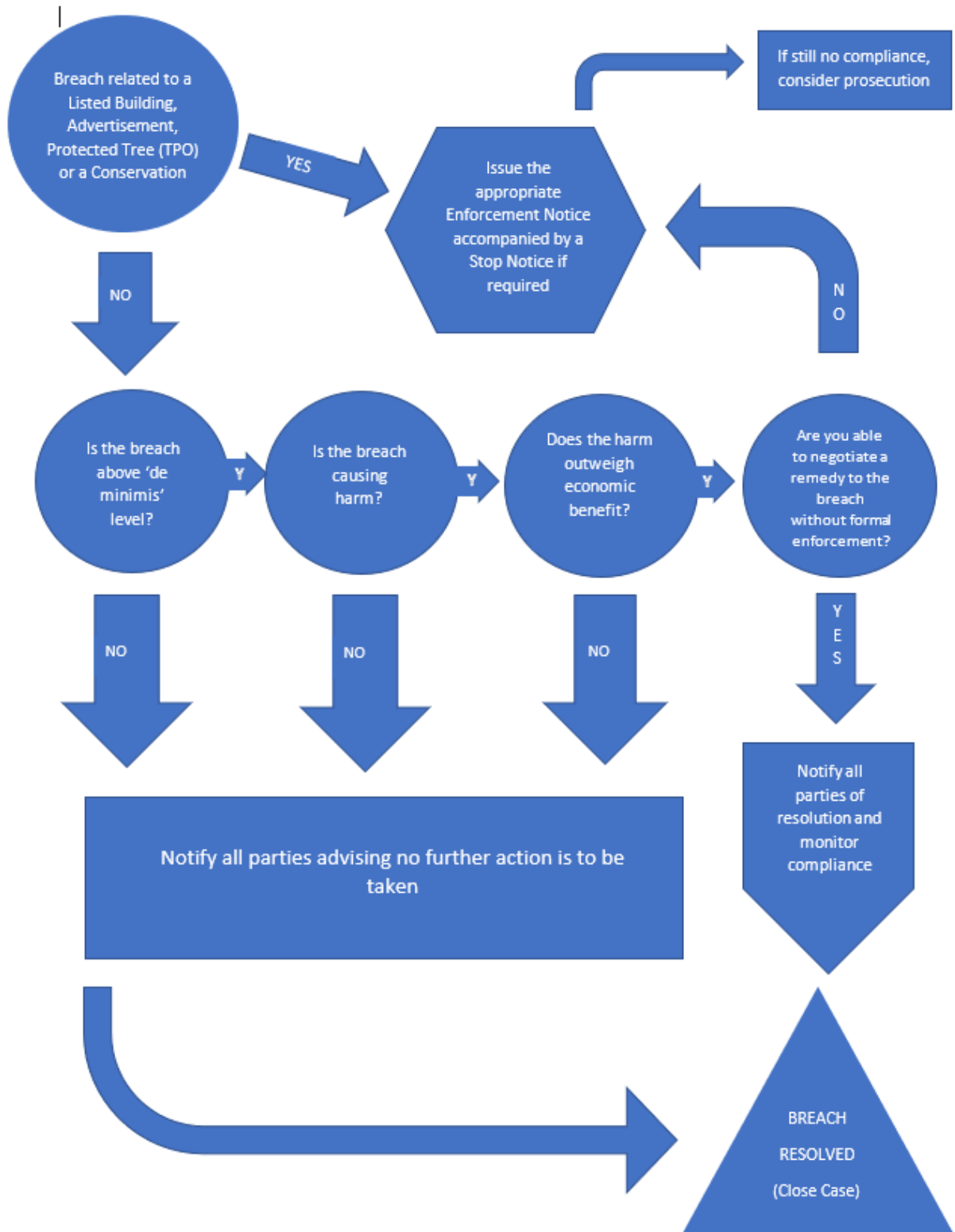
Type of enforcement action	Purpose
Planning Contravention Notice (PCN)	Requires persons to divulge information in respect of land and activities. This is often the first formal step in resolving a breach of planning control. Failure to provide information requested through a PCN can result in a fine of up to £1,000, whilst providing false information can result in a fine of up to £5,000.
Enforcement Warning Notice (EWN)	An enforcement warning notice (EWN) is intended for use where the LPA considers that an unauthorised development could potentially be made acceptable with control. The serving of an EWN will provide a clear

	<p>signal to the developer that, if a retrospective planning application is submitted, adequate control could be applied to the development to make it acceptable. Without planning conditions, the unauthorised development is unacceptable, further enforcement action is expedient and will be taken.</p>
Enforcement Notice	<p>The most common notice used to deal with a breach of planning control. It is served when the Council is satisfied that there has been a breach of planning control and that it is expedient to take action. An Enforcement Notice will specify the breach, the steps that must be taken to remedy the breach and a specified time period for compliance. The recipient of an Enforcement Notice has a right of appeal to the Planning Inspectorate and can do so before the notice comes into effect. Failure to comply with an Enforcement Notice can result in a fine, the value of which will be set by the Court.</p>
Breach of Condition Notice	<p>To secure compliance with conditions specified within a planning permission. A minimum of 28 days will be given for compliance. There is no right of appeal against a Breach of Condition Notice. Failure to comply with a Breach of Condition Notice can result in a fine of up to £1,000.</p>
Stop Notice	<p>Must be accompanied by an Enforcement Notice and served at the same time. A stop notice will ensure that any activity that may irrevocably harm the amenity, public safety or natural environment ceases. A stop notice can be used to ensure that work does not continue when an appeal is lodged against an Enforcement Notice. Failure to comply with a Stop Notice can result in a fine, the value of which will be set by the Court.</p>
Temporary Stop Notice	<p>As above, but only valid for 28 days and cannot be re-issued following that period. This will be used when a potential breach requires immediate action and will allow the council time to investigate the potential breach. Failure to comply with a Temporary Stop Notice can result in a fine, the value of which will be set by the Court.</p>
Injunction	<p>There may be exceptional cases where an injunction can be sought whether or not enforcement action has been taken. Due to the high costs involved an injunction is only used as a last resort and where the Council determines that other action is unlikely to succeed.</p>
Section 215 Notice – Town and Country Planning Act 1990	<p>This Notice is served on owners of buildings/land to remedy the existing condition, so it no longer adversely affects the local visual amenity. A Section 215 Notice</p>

	<p>will detail the steps require to remedy the existing condition and the timescale for compliance. Failure to comply with a S215 Notice can result in a fine of up to £1,000.</p>
Prosecution	<p>If there is a failure to comply with a Notice, the Council may seek prosecution, which will be sought at a Magistrate's or Crown Court. A successful prosecution could result in a fine.</p>
Confiscation orders under the Proceeds of Crime Act 2002 (POCA)	<p>Once a valid effective Enforcement Notice is breached, the Council can where appropriate pursue a confiscation order under POCA. The initial preparations for the confiscation order are made in tandem with the prosecution, and an Accredited Financial Investigator will carry out all the investigations into the defendant's financial situation. Where a conviction is secured, the confiscation order process will normally commence with an application by the Local Planning Authority.</p>
Offences	<p>Unauthorised works to Listed Buildings, demolition within a Conservation Area, works to a tree subject to a Tree Preservation Order (TPO) or within a Conservation Area and displaying an Advertisement are all 'offences' under the Town and Country Planning Act 1990 and therefore could be subject to prosecution.</p>

Appendix 1- Expediency Flowchart

When considering whether to use planning enforcement powers, The Council must consider the expediency of such action. The flow chart below will help us to determine whether it is expedient to take enforcement action.



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POWYS COUNTY COUNCIL

Draft (March 2020) - Planning Enforcement Complaint Form

Prior to completing this form please read the Planning Enforcement Policy and Procedure.

PLEASE NOTE

1. We require all complaints relating to possible breaches of planning control to be submitted with this mandatory complaint form for an investigation to proceed.
2. Fields marked with * are mandatory.
3. Powys County Council is the data controller for the personal information you provide on this form. Your information will be used in the exercise of our official authority and will not be used for any other purpose. We will not share your data with third parties unless we are required or permitted to do so by law.

Data protection law describes the legal basis for our processing your data as necessary for the performance of a public task. For further information about how Powys County Council uses your personal data, including your rights as a data subject, please see our corporate [privacy notice](#) on our website.

COMPLAINANT'S DETAILS		OFFICE USE ONLY (do not use)	
*Full Name:		Reference No:	
Telephone Number:		Date Received:	
*Address:		Previous History/ Notes:	
Email Address:		Officer:	
DETAILS OF THE SITE LOCATION AND ALLEGED OFFENDER			
*SITE LOCATION: (PLEASE BE AS SPECIFIC AS POSSIBLE INCLUDING FULL POSTAL ADDRESS, GRID REFERENCE AND ATTACHING A LOCATION PLAN WHERE POSSIBLE)		*NAME OF OWNER/OCCUPIER (IF DIFFERENT) OF THE LAND:	

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***PLEASE PROVIDE DETAILS OF THE LOCATION OF THE PROPOSED SITE IN RELATION TO YOUR ADDRESS:**

DETAILS OF THE ALLEGED BREACH OF PLANNING CONTROL

***Which of the following does the breach of planning control relate to:** (Please tick one or more relevant boxes below)

Erection of a building/structure:		Works in a Conservation Area:		Breach of Condition:	
Change of use of land/building:		Hedgerow Removal:		Works not completed in accordance with planning consent:	
Works to a Listed Building:		High Hedge:		Other:(Please state below)	

ALLEGED UNAUTHORISED DEVELOPMENT

***DETAILS OF THE ALLEGED UNAUTHORISED DEVELOPMENT:** (PLEASE INCLUDE AS MUCH DETAIL AS POSSIBLE E.G. IF THE WORKS RELATE TO BUILDING OPERATIONS PLEASE SPECIFY WHAT WORKS HAVE BEEN COMPLETED TO DATE)



POWYS COUNTY COUNCIL

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*WHAT DATE DID THE ALLEGED WORKS START:	D	D	M	M	Y	Y	
WHAT DATE DID THE ALLEGED WORKS FINISH:	D	D	M	M	Y	Y	
*PLEASE PROVIDE DETAILS OF THE HARM BEING CAUSED BY THE ALLEGED BREACH OF PLANNING CONTROL:							
*PLEASE PROVIDE EVIDENCE TO SUPPORT YOUR COMPLAINT: (PHOTOGRAPHS, TELL US ABOUT VISITOR NUMBERS, TRAFFIC MOVEMENT, DATES AND TIMES OF ACTIVITIES OR VEHICLE REGISTRATIONS.)							

PLEASE RETURN COMPLETED FORMS TO planning.enforcement@powys.gov.uk

OR BY POST TO: Planning Services, Powys County Hall, Spa Road East, Llandrindod Wells, Powys, LD1 5LG.

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Draft Website Text (March 2020)

PLANNING ENFORCEMENT

Development Management investigates possible breaches of planning control and aims to resolve these using the most appropriate means or action. The Development Management team is responsible for enforcing control for all planning matters including minerals in the Powys Local Planning Authority area (excluding National Park Areas).

What is a breach of planning control?

A breach of planning control is defined in the Town and Country Planning Act 1990 as:

"the carrying out of a development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted".

Examples of breaches of planning control:

- Building work, engineering operations and material changes of use, which are carried out without planning permission, where planning permission is required
- Development which has planning permission but is not carried out in accordance with the approved plans
- Failure to comply with conditions or the terms of a legal agreement attached to a permission or consent
- Advertisements that require express consent under the Advertisement Regulations, but are displayed without consent being granted*
- Demolition within a conservation area, without conservation area consent, when it is required*
- Works carried out to a "listed" building, which affect its historic character or setting, without listed building consent being granted*
- Failure to comply with the requirements of a planning legal notice (e.g.) enforcement, discontinuance, stop notice, etc*

*These items constitute an offence.

The Council will not become involved in matters that are purely neighbourly disputes and cannot become involved in boundary disputes.

What information do we need when you make a complaint?

- We will need the precise location of the site or property to which the complaint relates
- The exact nature of concern i.e. the potential breach of planning control
- The identity of the person/ organisation responsible and the date and/or time the breach began
- The complainant's details (name and address etc) are also required as anonymous complaints are not accepted. If you do not wish to divulge your details, then you can contact your local councillor and ask that they submit the complaint on your behalf

- We require that all complaints relating to possible breaches of planning control are submitted with the mandatory complaint form for an investigation to proceed

How to make a complaint

Please let us know if you would like us to investigate a possible breach of planning control by completing the mandatory [Planning Enforcement Complaint Form](#). The completed form should be sent to:

planning.enforcement@powys.gov.uk

Or by post to:

Planning Services, Powys County Hall, Spa Road East, Llandrindod Wells, Powys, LD1 5LG.

What happens to your complaint?

- We will acknowledge receipt of your complaint within five working days if a postal address or email address is provided
- We will endeavour to inform you within 84 working days of receipt of your complaint how the Council intends to pursue the matter
- More information about the enforcement process is available via the Welsh Government [Development Management Manual](#).
- Powys County Council's Enforcement Policy and Procedure is available at the following link.
(insert hyperlink once completed)

Confidentiality & Data Protection

Every effort will be made to keep the identity of the complainant confidential. Please note that anonymous complaints will not be investigated.

Powys County Council is the data controller for the personal information you provide. Your information will be used in the exercise of our official authority and will not be used for any other purpose. We will not share your data with third parties unless we are required or permitted to do so by law.

Data protection law describes the legal basis for our processing your data as necessary for the performance of a public task. For further information about how Powys County Council uses your personal data, including your rights as a data subject, please see our corporate [privacy notice](#) on our website.