

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

<b>Application No:</b>	P/2017/0010	<b>Grid Ref:</b>	330432.21 312640
<b>Community Council:</b>	Trewern	<b>Valid Date:</b>	<b>Officer:</b> 20/01/2017 Kate Bowen
<b>Applicant:</b>	E M & A R Paddock, c/o Agent		
<b>Location:</b>	Land adjoining The Fron, Middletown, Welshpool, Powys, SY21 8EN		
<b>Proposal:</b>	Outline: Residential development of up to 25 dwellings, construction of vehicular access, car parking facilities and attenuation pond		
<b>Application Type:</b>	Application for Full Planning Permission		

### Reason for Committee determination

The application is a departure from the adopted plan and is recommended for approval. In addition, the Local Member (County Councillor Dawn Bailey – prior to local elections) used their ‘call-in’ powers to request Committee determination.

### Site Location and Description

The application site is located on the north western side of the A458 trunk road and to the east of All Saints Church. The site rises from the trunk road towards the north west (towards Middletown Hill) and forms part of a larger field which is currently in agricultural use. The field is bound by hedgerows along the north eastern and western boundaries with a hedgerow and post and rail fencing along the southern boundary with the trunk road. The application site extends to 1.82ha.

The application is submitted in outline with access to be considered at the outline stage for the erection of up to 25 dwellings, construction of vehicular access and attenuation pond with various indicative scales as set out below:

- 14, 2/3 bedroomed semi-detached houses (7.5m x 5.5m);
- 7, 3/4 bedroomed detached dwellings (ranging from 7.7m x 8.5m to 8.7m x 11m); and
- 4, 4/5 bedroomed detached dwellings (ranging from 11m x 12m to 11m x 13m).

The submission indicates alterations to the existing means of access to the land off the trunk road with parking provision allocated for each dwelling. The proposal also includes an attenuation pond and a public open space in the western and south western corner of the application site. Initially the indicative layout included a car parking area for visitors to the neighbouring All Saints Church, however this element has been removed from the indicative layout plan with reconsultation having taken place.

### Consultee Response

Trewern Community Council

Trewern Community Council considered this planning application at its meeting on 21 February 2017.

We are concerned about the access from the proposed site onto the A458. We would want to be satisfied that creating a new access for up to 25 houses would not create a safety hazard on this stretch of road.

We recognise the benefit of providing car parking for the church which does not at present exist.

As a Community Council we have not received any representations from local residents about this proposed development.

#### PCC Building Control

Building Regulations application required.

#### PCC Highway Authority

As the principal access is served off the A458 Trunk road I have no objection and I assume Transport Wales will respond accordingly. I would suggest that a footway is at least constructed across the frontage of the applicant's site.

With regard to the internal design of the proposed residential estate then the reserved matters application needs to accord with the following conditions:-

- HC9** Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than **1 car per bedroom (maximum of 3)** excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
- HC10** The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in **15** and shall be retained at this gradient for as long as the dwellings remain in existence.
- HC11** Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of **0.45 metres** in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
- HC14** Any internal side-road junctions shall have a corner radii of **6 metres**.
- HC15** The centre line radii of all curves on the proposed estate road shall be not less than **20 metres**.
- HC19** No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.

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

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

#### PCC Environmental Health

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

1. Prior to the commencement of development a report shall be submitted to and approved by the local planning authority detailing the provisions for the control of noise, vibration and dust for the construction-phase of development.
2. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:
  - 0800-1800 hrs Monday to Friday
  - 0800-1300 hrs Saturday
  - At no time on Sundays and Bank Holidays

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

#### Wales & West Utilities

No response received.

#### Severn Trent Water (STW)

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

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

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

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

a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution.

#### PCC Countryside Services

Countryside Services recommends that the application be refused as it does not take into account the existence of restricted byway 5, Middletown, Trewern.

I write to confirm that the above restricted byway would be obstructed by plots 22 and 23 of the above proposal, and as such it is our duty to point out that it is a criminal offence to obstruct, or to interfere with a public right of way without lawful authority or excuse.

It is strongly recommended that the applicant checks their proposals against the Definitive Map, which is the legal record of the location and status of public rights of way, and give full consideration to redesigning the proposed development so that it does not obstruct the public right of way.

The Definitive Map is held in the Council's Gwalia Offices, Ithon Road, Llandrindod Wells, and can be viewed by appointment.

If redesigning the layout of the development is not a possible option, the applicant will need to apply for a legal diversion (Public Path Order) of the public right of way affected. However, this is a complex and lengthy legal procedure, which takes a minimum of six months to process and costs at least £2,000. The County Council is not obliged to make a diversion order and success of a Public Path Order cannot be guaranteed.

The Council will also expect any new or diverted routes to be created to a minimum width and of a suitable surface, at the developer's expense.

Development over, or illegal interference with, a public right of way before a diversion order application has been fully processed, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way.

It is expected that all development proposals will be in-line with the guidance set out in the Powys County Council's '*Rights of Way and Development - A Practitioners Guide*', available from Countryside or Planning Services' upon request or on-line at

<http://www.powys.gov.uk/index.php?id=1756&L=0>

#### PCC Affordable Housing Officer

No response received.

#### PCC Ecologist

No response received.

#### PCC Land Drainage

No response received.

## Natural Resources Wales (NRW)

Thank you for consulting Natural Resources Wales (letter dated 24/01/2017) regarding the above.

NRW has commented on this proposal at pre- application stage (our original response letter to the developer is attached for your information).

Our position on the proposed scheme has not changed since our pre- application comments as (i) no new information has been provided, and (ii) the scheme has not been modified, and (iii) we are not aware of changes to planning policy or relevant legislation that may affect our advice/position.

We have however additional comments/clarifications to make with reference to:

- Planning Pollution Plan,
- Additional ecological advice
- Rectification of error with reference to the potential effect of the proposal on the River Wye SAC.

### **Summary of conditions:**

**Condition 1 – Pollution Prevention Plan (PPP):** The submission of an appropriate Pollution Prevention Plan (PPP) for the construction phase must be submitted to the satisfaction of your authority prior to commencements of works.

**Condition 2 – CEMP:** No development shall take place (including ground works, site clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local Planning authority.

### **Pollution Prevention Plan (PPP):**

A watercourse passes immediately adjacent to the North West corner of the proposal. This water course feeds into the Trewern Brook which is designated as Site of Special Scientific Interest (SSSI) for its geological features.

Our response letter to Berrys' pre application consultation refers to the proximity of the site to the River Wye SAC, this was a cut and paste mistake on our part and we apologise for any confusion it may have caused.

Our recommendations on pollutions made in our letter of 16/12/2016 remain valid and we recommend appropriate conditions are applied to secure the submission of a PPP prior to commencement of works.

**Condition 1 – Pollution Prevention Plan (PPP):** The submission of an appropriate Pollution Prevention Plan (PPP) for the construction phase must be submitted to the satisfaction of your authority prior to commencements of works.

### **Ecology:**

Our letter of 16/12/2016 suggested that a preliminary ecological assessment should be submitted with the planning application. No ecological report was made available to us in consultation at planning stage, however, based on the records we have available for the area and the habitat present on site, we would conclude that there will be no detrimental effect on any European Protected Species (EPS) that may be present on site provided an appropriate

Construction Environmental Management Plan (CEMP) is submitted to your authority prior to commencement of works (including site vegetation clearance) and implemented accordingly. The CEMP must include, but not exclusive of:

- Appropriate Reasonable Avoidance Measures (RAM) to avoid injuring otters, badgers and other protected species.
- Methodology for hedgerow relocation.
- Attenuation pond design and species composition list if applicable.
- Biosecurity Risk Assessment.
- A wildlife sensitive exterior lighting plan designed to retain dark corridors along boundary hedgerows and trees.
- Persons responsible for implementing the works;
- It may be possible to include the PPP within the CEMP and discharge both conditions with the submission of one document.

**Condition 2 – CEMP:** No development shall take place (including ground works, site clearance) until a CEMP has been submitted to and approved in writing by the local Planning authority.

All our comments made in our letter of 16/12/2016 with reference to Flood Risk and Surface Water Drainage, Biosecurity, Protected Sites, Foul Drainage, remain valid.

*Copy of pre application consultation response dated 16/12/2016 from NRW:*

Thank you for referring the above consultation received by us on 21st November 2016.

Please note that our comments are without prejudice to any comments we may wish to make when consulted on any subsequent planning applications or permit (either at pre-application or application stage) for the proposed development. At that time there may be new information available which we will need to take into account in making a formal response.

The granting of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

Based on the information submitted to us we have given advice on further information that should be included with a planning application and we have detailed the conditions that we would recommend to the Local Planning Authority (LPA) if they should grant planning permission.

### **Summary of Conditions**

Condition 1: A pollution prevention plan for the construction phase must be submitted with the planning application

Condition 2: Submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

### **Flood Risk and Surface Water Drainage**

Due to the size of the scheme flood risk has been considered although it is not located in any B, C1 or C2 flood risk zones as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004).

Surface water surface water run-off resulting from the proposed development requires effective management and advice should be sought from the Lead Local Flood Authority (Powys County Council).

We advise that any proposed scheme should ensure that run-off from the proposed development is reduced or will not exceed existing runoff rates. Details of adoption and management should also be submitted to ensure that the scheme/systems remain effective for the lifetime of the development.

Groundwater Protection: Principles and Practice (2013) Position Statement G13 (Sustainable drainage systems) applies to this development. We support the use of sustainable drainage systems (SuDS) for new discharges. Where infiltration SuDS are to be used for run-off from hard surfaces such as roads, car parking and public or amenity areas, they should have a suitable series of treatment steps to prevent the pollution of groundwater.

Further information is available in the following guidance:

- Welsh Government (2015) Recommended non-statutory standards for sustainable drainage (SuDS) in Wales – designing, constructing, operating and maintaining surface water drainage systems
- CIRIA (2015) SuDS manual (C753)

### **Pollution Prevention**

As a watercourse passes immediately adjacent to the North West corner of a pollution prevention plan should be created and implemented.

Condition 1: A pollution prevention plan for the construction phase must be submitted with the planning application

No material should be deposited within 10m of any watercourse without discussion with Natural Resources Wales.

All works at the site must be carried out in accordance with PPG5 and PPG6: 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which are available on the netregs website:

<http://www.netregs.org.uk/pdf/PPG%205%20-%20Oct%202007%20-%20replaces%20PPG%2023.pdf>

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of banded compound should be 110% of the capacity of the tank, all filling points, gauges, vents and sight glasses must be located within the bund. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund. Refuelling should be supervised at all times – and preferably done on an impermeable surface.

The activity of importing waste onto the site for use as, for example hardcore, must be either registered with Natural Resources Wales as an exempt activity under the Environmental Permitting Regulations 2010 if the activity meets the exemption criteria or undertaken under an Environmental Permit. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit or environmental permit for any material imported to the site.

The site is near the River Wye SAC. Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on Tel: 03000 653000.

### **European Protected Species**

No ecological information has been included in the pre-application documents. A preliminary ecological assessment should be included with the planning application. At the planning stage it is likely that we would encourage the relocation of the hedgerow rather than its replacement with a newly planted one. We would also encourage the habitat enhancements (pond and additional tree planting).

We would request Reasonable Avoidance Measure (RAMS) during the construction minimise injuries to badgers and other wildlife that may be using the site for foraging. We would request a wildlife sensitive exterior lighting plan

### **Biosecurity**

NRW consider biosecurity to be a material consideration in respect of this proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases. We would therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include appropriate measures or actions that aim to prevent INNS being introduced to the site for the duration of development.

Condition 2: Submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

### **Protected sites**

The nearest protected sites are Moel y Golfa SSSI and Trewern Brook SSSI. We do not consider it likely that they would be impacted by the proposal.

### **Historic Land Use**

In the planning application it would be advisable for the developer/applicant to confirm previous uses at the site and whether or not the site has been subject to potentially contaminative uses in the past.

### **Foul Drainage**

We note that the planning statement states in section 3.2.2 that the site can be served by mains foul drainage and water infrastructure. When connecting to the public sewerage system, Severn Trent Water should be consulted on the proposals and be requested to confirm that the sewerage and sewage disposal system serving the development has sufficient capacity to accommodate the additional flows generated as a result of the



development. This is to ensure that the development does not cause pollution of the water environment or potential deterioration in the Water Framework Directive classification.

#### Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website:

(<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>).

We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

#### Welsh Government Transport Section

##### *Correspondence dated 15/02/2017:*

I refer to your consultation of 24 January 2017 regarding the above application and advise that the Welsh Government as highway authority for the A458 trunk road directs that permission be withheld until further notice while additional information is sought from the applicant and/or information provided by the applicant is analysed to enable appropriate highway observations to be made;

1. The applicant must forward a suitably scaled drawing detailing the proposed access off the A458 trunk road, which must incorporate the following aspects:-

- a) Visibility Splays in both direction from a suitable set-back.
- b) Gradient of the access road and the A458 trunk road carriageway
- c) Access width and radii dimensions
- d) Access surfacing type along with depth and width dimensions
- e) Drainage details

The above aspects must conform to Volume 6 Section 2 Part 6 (TD 42/95) of the Design Manual for Roads and Bridges (DMRB).

##### *Correspondence dated 18/04/2017:*

I refer to your consultation of 7 April 2017 regarding the above application.

The access works for planning application P/2013/0224 was in-relation to ‘*Erection of an extension to the side of existing dwelling, formation of vehicular access and associated works (resubmission)*’, the current application now incorporates a different use factor for the site and therefore will require an access which is able to accommodate the predicted traffic movements. Therefore the applicant must forward a suitably scaled drawing detailing the proposed access off the A458 trunk road, which must incorporate the following aspects:-

- a) Gradient of the access road and the A458 trunk road carriageway
- b) Access width and radii dimensions
- c) Access surfacing type along with depth and width dimensions
- d) Drainage details

The above aspects must conform to Volume 6 Section 2 Part 6 (TD 42/95) of the Design Manual for Roads and Bridges (DMRB).

The applicant must also submit a Departure from Standard regarding the 2.4m set-back value, which in accordance with TD 42/95 of the DMRB should be 4.5m.

The Welsh Government as highway authority for the A458 trunk road directs that permission be withheld until further notice while additional information is sought from the applicant and/or information provided by the applicant is analysed to enable appropriate highway observations to be made.

*Correspondence dated 09/06/2017:*

I refer to your consultation of 24/01/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A458 trunk road directs that permission be withheld until further notice while additional information is sought from the applicant and/or information provided by the applicant is analysed to enable appropriate highway observations to be made;

- 1) The applicant must demonstrate how it is planned that pedestrians will access the church from the parking area.
- 2) The applicant must provide total annual average daily traffic (AADT) vehicle movements for the access. These are to include both the proposed residential development and the church car park.

*Correspondence dated 11/08/2017:*

I refer to your consultation of 4 August 2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A458 trunk road directs that any permission granted by your authority shall include the following conditions:

1. The access shall be laid out and constructed strictly in accordance with the approved drawing number SA24619/02 Rev B
2. The minimum visibility distances available for vehicles emerging from the proposed access shall be 160m in each direction, measured to a point at the nearer running edge of the trunk road carriageway. These visibility distances shall be available at point 4.5 metres from the running edge of the trunk road, measured along the centreline of the access road. The visibility splay so formed shall be free of any growth or obstruction, which would interfere with the minimum visibility requirements.
3. The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.
4. The width of the proposed means of access shall be 7.3m (minimum) for the first 15m. The access shall be constructed to appropriate standards with either concrete or bituminous surfacing from the running edge of the trunk road carriageway.

5. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed access shall be constructed such that the access does not drain onto the trunk road.

6. During the construction phase the applicant shall provide wheel-washing facilities or an alternative method to be approved by the Local Planning Authority in consultation with the Welsh Government at the site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site until construction is complete.

7. Adequate provision shall be made within the development to enable vehicles to turn around, so they may enter and leave the site in a forward gear.

8. The applicant must notify the Streetwork Department of the North and Mid Wales Trunk Road Agent on: [streetwork@nmwtra.org.uk](mailto:streetwork@nmwtra.org.uk) prior to the commencement of works that will affect the through traffic on the A458 Trunk Road, and agree a Traffic Management Plan.

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

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

a) The applicant should be advised that they will be required to enter into an Agreement with the Welsh Ministers under Section 278 of the Highways Act 1980 / Section 23 of the New Roads and Street Works Act 1991 to enable the Applicant to undertake agreed improvement works on the trunk road. This Agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. Without such an agreement in place, any consent that may be granted by the Planning Authority cannot be implemented.

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

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

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

Open Spaces Society

No response received.

Powys Ramblers Association

The applicant has not marked the right of way on the northern edge of the site or mentioned it in the design and access statement. Can the applicant please be made aware of the need to take account of this right of way as detailed plans for the development are drawn up assuming outline permission is granted. Some suitable boundary treatment e.g. hedges, fences, etc in this area, would be appropriate.

Can the applicant also be reminded of the importance of not obstructing the right of way during any development works and making sure that it is kept open at all times please.

#### Disability Powys

No response received.

#### PCC Education

No response received.

#### PCC Outdoor Leisure & Recreation

Outdoor Recreation Services would ask for a Section 106 contribution. Powys County Council unfortunately does not have a play area with fixed play equipment near to the proposed development, if the developer decided not to provide adequate play space on their land, then Outdoor Recreation would recommend that a monetary package to be offered to the local community council to upgrade an existing playground.

As part of the 106 planning gain, Outdoor Recreation Services usually apply the following terms –

All social housing, size or number of bedrooms is not a factor is £ 800.00 per property.  
All private housing up to three bedrooms is £ 1000.00 per property.  
All private housing over three bedrooms is £ 1200.00 per property.

We refer to the 6 Acre Standard.

#### Clwyd Powys Archaeological Trust (CPAT)

Thank you for the consultation on this application.

We recently checked this application on the planning register and I can confirm that there are no archaeological implications for the proposed development at this location.

#### Cadw

Thank you for your letter of 1 February 2017 inviting our comments on the planning application for the proposed development as described above.

The statutory role of Historic Environment Service (Cadw) in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and

development likely to have an impact on the outstanding universal value of a World Heritage Site. It is a matter for the local planning authority to then weigh our assessment against all the other material considerations in determining whether to approve planning permission, including any issues concerned with listed buildings and conservation areas.

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance. PPW explains that the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or not. Furthermore, it explains that where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. Paragraph 17 of Circular 60/96, *Planning and the Historic Environment: Archaeology*, elaborates by explaining that this means a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales.

The application area is located some 515m south of, and is overlooked by scheduled monument (MG0070) Cefn y Castell. This monument is located on the summit of Middletown Hill and comprises the remains of a hillfort, which probably dates to the Iron Age period c.800BC – AD74.

The proposed development will be an eastward extension of Middletown outside the existing village boundary into open fields. As such it will be clearly visible from the scheduled monument and will have an impact on the setting of the scheduled monument.

The application is accompanied by a heritage impact assessment which has assessed the impact of the proposed development on the setting of scheduled monument (MG007) Cefn y Castell. This has concluded that there will be an adverse impact on the setting of the scheduled monument but that this will not be significant. We concur with that conclusion and having carefully considered the information in the heritage impact assessment, along with other information available at Cadw, it is our opinion that the adverse impact of the development on the setting of scheduled monument (MG007) Cefn y Castell will be low. Therefore Cadw has no objections to the proposal.

#### PCC Built Heritage and Conservation Officer

Thank you for consulting me on the above application.

I note the proposal is close to a number of designated heritage assets namely;

#### Scheduled Ancient Monument

Cadw ID MG007 Cefn Y Castell Hillfort

#### Listed Buildings adjacent to the site

Ivy House Cadw ID 8688 included on the statutory list on 04/10/1989

#### Historic Environment Record excluding other designations

PRN 7725 Middletown Church (All Saints)  
PRN16362 Middletown Church (All Saints) Yard  
PRN 15738 Middletown  
PRN 37013 Middletown earthworks II

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, and paragraph 11 of Welsh Office Circular 61/96 which states “Sections 16 and 66 of the Act 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 6.5.11 of Planning Policy Wales 9th edition 2016 which states, “Where a development proposal affects 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.”

Powys Unitary Plan policies reflect national legislation and guidance; Powys Unitary Development Plan Policy Env14 (Listed Buildings) states that “proposals for development unacceptably adversely affecting a listed building or its setting will be refused”. UDP Policy SP3b states that “proposals for development should seek to protect, conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological, architectural and heritage conservation and historic interest”. UDP Policy GP1 states “development proposals will only be permitted if they take into account the following – the design, layout, size, scale, mass and materials of the development shall complement and where possible enhance the character of the surrounding area”.

I would advise of TAN24 that came into effect on 31 May which advises in section 1.25 and 1.26 that The setting of an historic asset includes the surroundings in which it is understood, experienced, and appreciated embracing present and past relationships to the surrounding landscape. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. Setting is not a historic asset in its own right but has value derived from how different elements may contribute to the significance of a historic asset.

It is for the applicant to provide the local planning authority with sufficient information to allow the assessment of their proposals in respect of scheduled monuments, listed buildings, conservation areas, registered historic parks and gardens, World Heritage Sites, or other sites of national importance and their settings. These principles, however, are equally applicable to all historic assets, irrespective of their designation. For any development within the setting of a historic asset, some of the factors to consider and weigh in the assessment include:

- The significance of the asset and the contribution the setting makes to that significance

- the prominence of the historic asset
- the expected lifespan of the proposed development
- the extent of tree cover and its likely longevity
- non-visual factors affecting the setting of the historic asset such as noise.

The definition of setting is addressed in the annexe to TAN24 Managing Setting of Historic Assets in Wales and explains that the setting of a historic asset includes the surroundings in which it is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape. Its extent is not fixed and may change as the asset and its surroundings evolve. The setting of a historic asset can include physical elements of its surroundings. These may be boundary walls, adjacent fields or functional and physical relationships with other historic assets or natural features. For example, the setting of a listed farmhouse might be its physical agricultural surroundings, both built and landscape features such as buildings, boundaries or fields.

TAN 24 advises (section 1.10) that Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) were published in 2011 and provide the basis upon which Cadw discharges certain statutory duties on behalf of the Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process.

There are six principles.

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

Applicants and other organisations are strongly encouraged to make use of these Conservation Principles when considering development proposals and other works to historic assets. It is important for those responsible to understand the heritage values and assess the significance of the historic assets that will be affected.

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

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

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

The historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset. The document continues with the following advice on page 15. Every reasonable effort should be made to eliminate or minimize adverse impacts on historic assets. Ultimately, however, it may be necessary to balance the benefit of the proposed change against the harm to the asset. If so, the weight given to heritage values should be proportionate to the importance of the assets and the impact of the change upon them. The historic environment is constantly changing, but each significant part of it represents a finite resource. If it is not sustained, its heritage values will be eroded or lost. In addition, its potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

“Conservation principles” establishes Values which should be attributed to heritage assets including;

- Evidential Value,
- Historical Value,
- Aesthetic Value,
- Communal value.

#### Evidential Value

Cefn y Castell is a designated Scheduled Ancient Monument

Ivy House was listed on 4th October 1989, and is referred to as an early to mid C18th house.

#### Historical Value

The place name Middleton appears as early as 1322 with the meaning middle settlement. (source CPAT Montgomeryshire Historic Settlements).

Ivy House is the oldest surviving property in the settlement which has a high percentage of modern dwellings including the land to the rear of Ivy House which appears to once been in the farmstead of Ivy House. It is noted that the stone wall continues past the current curtilage to plot at the rear (Chestnut Drive) As such Ivy House is a rare example of a farmstead in a village location.

#### Aesthetic Value

The site is currently open farmland to the NE of the village of Middletown which has a number of farms adjacent to the A458. The land slopes northwards towards Middletown Hill topped by Cefn y Castell and is an attractive entrance to the village, and given its proximity to the Shropshire border an attractive entrance into Powys.

#### Communal Value



The third principle contained within Conservation Principles is that heritage assets are a shared resource, valued by people as part of their cultural and natural heritage, and gives distinctiveness, meaning and quality to the places where we live providing a sense of continuity and a source of identity.

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

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

The document provides advice on how to assess the setting

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

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

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

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

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

The heritage assets have been identified and referred to in the Heritage Impact Assessment submitted with the application. Whilst submitted prior to TAN24 and its annexes, it is considered that the Heritage Impact Assessment addresses the requirement within Paragraph 1.26 of TAN 24 and paragraph 2.2 of the annexe to TAN24 on Managing the setting of Historic Assets.

“The setting of a historic asset can include physical elements of its surroundings. These may be boundary walls, adjacent fields or functional and physical relationships with other historic assets or natural features.”

The Cadw document advises on steps to be undertaken to define and analyse the setting with a series of questions.

- How do the present surroundings contribute to our understanding and appreciation of the historic asset today?
  
- Thinking about when the historic asset was first built and developed:
  - what were its physical, functional and visual relationships with other structures/ historic assets and natural features?
    - what topographic or earlier features influenced its location?
    - what was its relationship to the surrounding landscape/streetscape?
    - was it constructed to take advantage of significant views or to be a part of a significant view? Although there may be a 360 degree view, some areas of the view may be more significant than others.
  
- Thinking about changes since the historic asset was built:
  - has its function or use changed?
  - what changes have happened to the surrounding landscape/streetscape?
  - have changes happened because of changes to the historic asset or to its historical setting?
  - has the presence of the historic asset influenced changes to the landscape, for example, where a monument has been used as a marker in the layout of a field enclosure?
  - has the presence of the historic asset influenced the character of the surrounding landscape/streetscape?
  - have historic and designed views to and from the historic asset changed?
  
- Thinking about the original layout of the historic asset and its relationship to its associated landscape:
  - were these relationships designed or accidental?
  - how did these relationships change over time?
  - how do these relationships appear in the current landscape; are they visual or buried features?

Stage 2 should also identify the viewpoints from which the impact of the proposed change or development should be assessed, taking into account, for example:

- views to, from and across the historic asset that were designed and developed when the historic asset was first created — for example, in the case of a defensive or ritual structure
- views to, from and across the historic asset which are linked with a time in its history for example, a historic artistic depiction of the site
- important modern views to, from and across the historic asset – for example, popular visitor viewing points.

The site is agricultural land at the approach to the village and affords views of Middletown Hill above with the Scheduled Ancient Monument atop. Middletown Church (All Saints) is readily visible from the A548, Ivy House the listed building Cadw ID 8688 is also visible albeit to a lesser degree as there are a number of trees within the grounds of Ivy House.

The Heritage Impact Assessment addresses the impact of the setting on the Historic Assets.

Cefn y Castell is a Scheduled Ancient Monument and as such the setting of the monument is addressed by Cadw. However I would not disagree with the findings presented in the Heritage Impact Assessment in respect of this historic asset.

Ivy House is a listed building and it is for the Local Authority to assess the impact of a development on the setting of a listed building. It is noted from previous applications that the land to which the application relates has no historical relationship with Ivy House being farmland associated with Fron Farm, nevertheless being the first house actually within the settlement of Middletown the relationship between the site and the listed building should be assessed.

Ivy House is a gentleman's residence constructed with a garden between the house and the A458, with the associated Coachhouse to the rear. Whilst the application is made in outline with matters reserved, it is noted that the houses adjacent to the A458 are set back from, this serves as a barrier between the houses and the road and also to permit a car park for the church which is also part of this application. Whilst made in outline it is acknowledged that the access to the car park will require the proposed dwellings to be set back. In addition to the access road to the car park there is an area of public open space provided with the development that includes a pond and the siting of this area of public open space adjacent to the church again moves the development away from the boundary closest to the Ivy House.

Ivy House is significant in that it is the only listed building in Middletown and is believed to be the oldest surviving property in the settlement which has a high percentage of modern dwellings including the land to the rear of Ivy House which appears to once been in the farmstead of Ivy House.

Noting the indicative plans submitted with the application including the location of the car park for the church and the public open space and the resulting layout of the dwellings proposed, I would not disagree with the findings presented in the Heritage Impact Assessment in respect of this historic asset.

Middletown Church is included on the Historic Environment Record however is not statutory designated. Recent Guidance Historic Records in Wales issued by Cadw ISBN 978 1 4734 8710 9 on 21 April comes into effect on 31 May 2017 and from that date, this authority must have regard for the guidance in the discharge of its functions. The guidance advises in Paragraph 4.3 that the historic environment records are key sources of information that should be used to support the planning process, including the determination of planning applications. The information held in the historic environment records supports a proper consideration of the impact of a proposal on the historic environment, including advice on schemes to avoid or mitigate any adverse impacts.

Middletown Church (All Saints) has been addressed in the Heritage Impact Assessment. Whilst acknowledging that the development would result in some change to the setting of the church the assessment concludes that the development would have a negligible impact on its character or significance. The analysis of the siting of the church in the Heritage Impact Assessment as being an accident through land availability rather than any architectural or landscape aspirations of its builders not being an important factor in its significance is not disagreed with. Neither is the statement that the development would have a negligible impact on its character or significance. However the recent guidance on Historic Environment Records that came into effect on 31 May after the Heritage Impact Assessment was prepared

and submitted requires Local Planning Authorities to also have regard to the setting of Assets on the Historic Environment Record. The proposal will have an impact on the setting of this undesignated Historic Asset.

However step 4 of the guidance on the setting of Historic Assets requires Local Planning Authorities to consider any mitigation measures. In this regard the provision of the car park and the set back of the development to facilitate the access to the car park is acknowledged as is the location of the public open space adjacent to the car park.

The church at present is viewed at speed from the A458 and whilst there is car parking provision in Middletown, users of the church have to cross or walk along the A458 to access the church and the churchyard which contains a number of gravestones. The provision of a car park would enable access to the church to be easier. The advice on setting of historic assets advises that other less tangible elements such as sensory perceptions to be considered. The guidance addresses that the setting of a historic asset is not fixed and may change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset such as the loss of the surrounding elements that allow an asset to be understood or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting.

In this instance the indicative plan suggests that care has been taken in the setting of the designated Ivy House and Middletown Church. The distance between Middletown Church and the development and the location of the public open space have limited the impact of the proposal on its setting and provided a car park which can only be beneficial to the church by sustaining its use.

I would not disagree with the findings presented in the Heritage Impact Assessment in respect of this historic asset in that any negative impact on the setting of the church is compensated by the positive benefits to the church that this development affords.

The indicative layout suggest a standard layout which whilst not indicative of rural settlements and small villages in Powys, the degree of modern housing and their layout in Middletown is duly noted. However the site is at an important gateway to Powys and I would suggest that every care is taken in the design of the properties to reflect local distinctiveness and the local vernacular and in the choice of materials.

Taking into consideration national legislation, national guidance and policy some introduced after the application was submitted, Unitary Development Plan policies and the evidence contained in the application both in the submitted documents and the indicative layout, I would **not object** to the proposal on built heritage grounds, subject to consideration of appropriate design and materials at reserved matters stage.

#### PCC Minerals

No response received.

#### **Councillor Representations**

*County Councillor Dawn Bailey (Councillor at the time of submission of the application):*

Please note as Local Member I wish to call in this application for determination by the council's Planning Committee on the following planning grounds:

1. Proposed site is outside of the local settlement boundary and therefore does not align with planning policy.
2. Sufficient allocation for future growth within Middletown has been identified in the Powys Unitary Development Plan (UDP) and the emerging Powys Local Development Plan (LDP). This therefore gives rise to concern over the possible cumulative impact of over development within a community that has limited facilities.
3. Impact on local heritage assets including a Grade II Listed dwelling house, on neighbouring All Saints Church and the scheduled ancient hillside monument known as Cefn Y Castell.
4. Ecology and environment impact.
5. Surface water treatment and sustainable drainage system conditions to be satisfied.
6. Highway access onto A458 trunk road concerns particularly as the proposal includes car park facilities for neighbouring All Saints Church in addition to residential use.
7. Rights of Way issues.

I trust this request for committee determination will be considered.

### **Public Representations**

Following display of a site notice and publicity in the local press, no public representations have been received.

### **Planning History**

AGRI/2013/0040 - Demolition of an existing agricultural building and erection of a replacement general purpose agricultural building. Planning permission not needed 07/06/2013

P/2013/0224 - Erection of an extension to the side of existing dwelling, formation of vehicular access and associated works (resubmission). Conditional consent 23/04/2013

P/2012/0905 - Erection of an extension to the side of existing dwelling, formation of a new vehicular access and associated works. Application withdrawn

### **Principal Planning Constraints**

- Public Right of Way travels through application site;
- Outside of settlement development boundary;
- A458 trunk road;
- Grade II listed building (Ivy House) located approximately 80 metres to the west of the application site;
- MG007 Cefn y Castell Scheduled Ancient Monument (SAM) located approximately 515 metres to the north east of the application site;
- Moel y Golfa SSSI located approximately 560 metres to the east of the application site;

- Trewern Brook SSSI located approximately 430 metres to the south and south east of the application site;
- Mineral Buffer Zone located approximately 180 metres to the north west of the application site.
- Historic Environment Record excluding other designations:
  - PRN 7725 Middletown Church (All Saints)
  - PRN16362 Middletown Church (All Saints) Yard
  - PRN 15738 Middletown
  - PRN 37013 Middletown earthworks II

## **Principal Planning Policies**

### National Planning Policy and Other Guidance

Planning Policy Wales (Edition 9, November 2016)

TAN 1: Joint Housing Land Availability Studies (2015)  
 TAN 2: Planning and Affordable Housing (2006)  
 TAN 5: Nature Conservation and Planning (2009)  
 TAN 6: Planning for Sustainable Rural Communities (2010)  
 TAN 12: Design (2016)  
 TAN 15: Development and Flood Risk (2004)  
 TAN 16: Sport, Recreation and Open Space (2009)  
 TAN 18: Transport (2007)  
 TAN 20: Planning and the Welsh Language (2013)  
 TAN 24: The Historic Environment (2017)

Welsh Office Circular 13/97 - Planning Obligations

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

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

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

Fields in Trust Guidance for Outdoor Sport and Play – Beyond the 6 Acre Standard Wales (January 2017)

### Local Planning Policy

*Powys Unitary Development Plan (2010)*

UDP SP1 – Social, Community and Cultural Sustainability  
 UDP SP2 - Strategic Settlement Hierarchy  
 UDP SP3 – Natural, Historic and Built Heritage  
 UDP SP5 - Housing Developments  
 UDP SP6 – Development and Transport

## UDP SP9 – Local Community Services and Facilities

UDP GP1 – Development Control  
UDP GP2 – Planning Obligations  
UDP GP3 – Design and Energy Conservation  
UDP GP4 – Highway and Parking Requirements  
UDP GP5 – Welsh Language and Culture  
UDP ENV1 – Agricultural Land  
UDP ENV2 – Safeguarding the Landscape  
UDP ENV3 – Safeguarding Biodiversity and Natural Habitats  
UDP ENV4 – Internationally Important Sites  
UDP ENV5 – Nationally Important Sites  
UDP ENV7 – Protected Species  
UDP ENV14 – Listed Buildings  
UDP ENV17 – Ancient Monuments and Archaeological Sites  
UDP ENV18 – Development Proposals Affecting Archaeological Sites  
UDP CS3 – Additional Demand for Community Facilities  
UDP HP3 – Housing Land Availability  
UDP HP4 – Settlement Development Boundaries and Capacities  
UDP HP5 – Residential Developments  
UDP HP6 – Dwellings in the Open Countryside  
UDP HP7 – Affordable Housing within Settlements  
UDP HP8 – Affordable Housing Adjoining Settlements with Development Boundaries  
UDP HP9 – Affordable Housing in Rural Settlements  
UDP HP10 – Affordability Criteria  
UDP RL2 – Provision of Outdoor Playing and Recreation Space  
UDP RL6 - Rights of Way and Access to the Countryside  
UDP TR2 – Tourist Attractions and Development Areas  
UDP T2 - Traffic Management  
UDP DC3 – External Lighting  
UDP DC8 – Public Water Supply  
UDP DC9 – Protection of Water Resources  
UDP DC10 – Mains Sewerage Treatment  
UDP DC13 – Surface Water Drainage  
UDP DC17 – Cordon Sanitaires  
UDP MW22 – Buffer Zones

Powys Residential Design Guide (2004)

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

Powys Joint Housing Land Availability Study (2016)

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

## **Officer Appraisal**

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

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

Members will be aware that the examination of the LDP is currently in progress and at this current time the UDP is current adopted plan used for determining planning applications. For information purposes only, the entire field to which the application site forms part of was submitted as a candidate site for residential development as part of the LDP process (candidate site number 609). The Site Status report includes comments from the Planning Policy Section as follows:

*‘Sloping hillside land at village edge. Prominent in views due to setting. This agricultural land, currently dairy grazing, surrounds the existing church and walled churchyard. Site is adj to the current UDP development boundary for Middletown. After further analysis and considering stakeholder constraints, it is considered that a more appropriate site allocation has been identified elsewhere to meet the housing requirement of the settlement over the Plan period. This large site is therefore not required for land allocation even if the access constraints can be overcome’.*

#### Principle of development

As referred to within the Councillor representations, the proposed development lies wholly outside the development boundary of Middletown as detailed on UDP inset map M175 and would result in 25 dwellings being constructed outside the settlement boundary.

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

#### Housing land supply

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

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

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to



have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

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

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

Middletown is classified as a large village within the Powys Unitary Development Plan and four sites were allocated within the UDP for residential development (site M175 HA1 – Golfa Close extending to 0.81Ha, M175 HA2 – Land adjacent to the Caravan Park extending to 0.46HA, M175 HA3 – Land adjacent to the Methodist Chapel extending to 0.48Ha and M175 HA4 – Part OS0036 & 0041, west of Golfa Close extending to 0.74Ha). Three of the sites have been developed with M175 HA4 remaining undeveloped although application reference P/2017/0333 (Land adj Golfa Close) for erection of up to 9 dwellings relates to part of this allocated site and is pending determination. In addition, an application for erection of up to 9 dwellings (P/2017/0548 - Land adjoining Penyfoel Farm) is also pending determination as is an application for up to 5 dwellings at Land adjacent to Middletown (P/2017/0464) and an application for up to 4 dwellings at Land opposite South Bank (P/2017/0551).

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

### Sustainable location

The previous County Councillor for the area raised concern over the possible cumulative impact of over development within a community that has limited facilities. Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to 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 (Section 5). Therefore, when providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

As noted above, Middletown is identified as a large village within the UDP and it is noted that the settlement is served by a range of community services and facilities including village hall, church and public house. It is also noted that the village is served by a bus route and is located approximately 14 miles from Shrewsbury and 6 miles from Welshpool. The site itself is already served by a pedestrian footway to the community facilities, although pedestrians would need to cross the A458 trunk road to access the facilities.

Whilst Middletown is classified as a large village within the UDP currently and UDP Policy HP4 indicates that the capacity of such large villages is generally sites up to 10 dwellings, it is noted that an allocated site within the LDP is proposed which could accommodate 19 dwellings. In addition, the services and facilities in Middletown and the good transport links to the surrounding larger centres such as Welshpool and Shrewsbury are such that it is considered that the settlement has the capacity to accommodate the proposed 25 dwellings. As identified above, it is noted that there are other applications for residential development in Middletown which are pending determination and careful consideration will need to be given at the time of their determination as to whether the overall capacity in terms of sustainability of Middletown would be exceeded as a result of the cumulative residential development.

Overall, taking all the above factors into account, on balance, it is considered that the proposed additional residential development in this location would accord with the provisions of Planning Policy Wales in so far as it is a sustainable location and would be in accordance with the sustainable development principle through its contribution towards the well-being objectives.

#### Affordable housing

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

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

The outline submission indicates a mixture in the scale of dwellings, however Members are advised that this scale is indicative only with scale being a reserved matter for future consideration. Nevertheless, it is considered that there is scope to provide dwellings to match the need in the area and whilst the proposed provision of 5 dwellings would equate to a lower proportion of affordable housing than that identified within the UDP, Development Management has taken account of the latest evidence on affordable housing as provided by the LDP evidence. Therefore, on this basis, it is considered that the provision of 5 units as affordable housing is acceptable and it is recommended that a condition should be attached to require the submission of a scheme for the provision of affordable housing including the phasing of the scheme.

## Design and impact upon character and appearance of the area

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

The proposed development would be an eastward extension of the current built form of Middletown, outside the existing settlement boundary into open fields. The land forms parts of a larger field and the field slopes northwards towards Middletown Hill and therefore the site is prominent in views and is sensitive to visual change, as with many edge of settlement sites. The site would be highly visible from the A458 trunk road and the public right of way which travels along the north eastern boundary of the site and would also be visible from other public rights of way, highways and residential properties in the wider area. It is also noted that the existing residential development Middletown on the northern side of the trunk road rises from the trunk road in a comparable manner to that proposed.

The indicative layout resembles a modern residential layout which is broadly comparable to the existing modern development seen in the settlement. More importantly it shows that up to 25 dwellings could be accommodated on the site. Detailed design will follow at a later date (if this application is permitted) and this will give the opportunity to ensure the dwellings are designed in an appropriate manner to accord with the character of the settlement.

The properties in the locality consist of a mixture of one and two storey detached properties, predominantly of brick and render which are predominantly modern dwellings. The proposed scale of two storeys is not considered to be out of character with the locality. Overall a mix of two/three and four/five bedroom properties over two storeys are detailed within the scheme and this is considered to be appropriate.

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

## Impact upon amenities enjoyed by the occupants of neighbouring properties

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

The north western corner of the application site is located approximately 38 metres from the rear gardens of the properties on Chestnut Drive. Given the distance involved which meets the guidelines set out within the Residential Design Guide, the proposal would not

unacceptably affect the amenities enjoyed by the occupants of the properties on Chestnut Drive and vice versa in accordance with UDP Policy GP1.

In terms of construction noise, the Council's Environmental Health department has advised that as a large development in close proximity to existing residential properties, conditions to require the submission, approval and implementation of measures for controlling noise, vibration and dust during construction and the restriction of audible operations and deliveries etc to permitted hours. Taking into account this advice, the scale of the development and the potential for the impact upon the amenity of nearby residential properties, it is considered that the recommended conditions are reasonable.

An agricultural building permitted under reference AGRI/2013/0040 is located to the east of the application site and to the south east of plots 23 and 24 as identified on the indicative layout. The building replaced previous agricultural buildings to the rear of the dwelling known as The Fron. The notification submission in 2013 indicated that the building was required in connection with a holding extending to 7.48ha and would be used for the storage of farm equipment as well as housing straw and hay feed. In addition, it was stated that the building would be used to house pigs reared on the holding as well as sheep during bad weather and potentially cattle grazing the land.

The building is located approximately 7m from the attached garage of plot 23 and 21m from the side/rear elevation of plot 24 as shown on the indicative layout. Neither of these dwellings are indicated to directly overlook the building, however the proximity to the agricultural building closest to the appeal site would potentially give rise to odour, noise and disturbance to future occupiers of the proposed dwellings. The domestic use of the dwelling houses and the garden areas, would have the potential to be disturbed by increased potential for odours emanating from the building. There would also be disturbance from activity within the building by movement associated with the farming activity and therefore, there is the potential for conflicts arising from noise and odour between the two uses. However, it is also noted that the current site and associated building appears to be a very low-key farming enterprise on a small holding, part of which is subject to the application before Members, thereby reducing the holding size even further. In addition, given that the layout is indicative, amendments could be proposed to mitigate any impacts further. Overall, in terms of the impact from the agricultural building, given the limited agricultural activity noted on site, together with the small size of the original holding and the possibility of design changes, it is not considered that the apparent limited use of the agricultural building would be harmful to the living conditions of proposed occupiers of the proposed dwellings with regard to noise, odour, loss of privacy and disturbance in accordance with UDP Policies GP1 and DC17.

#### Impact upon heritage assets

##### *Setting of Scheduled Ancient Monument*

As referred to within the Councillor representations the application site is located approximately 515m south of, and is overlooked by scheduled monument (MG0070) Cefn y Castell. This monument is located on the summit of Middletown Hill and comprises the remains of a hillfort, which Cadw advises probably dates to the Iron Age period c.800BC – AD74.

There is a policy presumption in favour of preserving the setting of scheduled ancient monuments. Planning Policy Wales explains that the desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or not. UDP Policy ENV17 states that development which would unacceptably affect the site or setting of a scheduled ancient monument will not be permitted.

Cadw has advised that the proposed development would be clearly visible from the scheduled monument and would have an impact on the setting of the scheduled monument. The application is accompanied by a heritage impact assessment which assesses the impact of the proposed development on the setting of the scheduled monument which concludes that there will be an adverse impact on the setting of the scheduled monument but that this will not be significant. Cadw also conclude that the adverse impact of the development on the setting of scheduled monument (MG007) Cefn y Castell will be low. Therefore Cadw has no objections to the proposal.

Whilst there will be some impact upon the setting of the identified scheduled ancient monument, this impact must be weighed against all of the other material considerations.

#### *Setting of listed building*

As identified within the Councillor representations, the application site is located to the east of Ivy House which is a grade II listed building and adjacent to All Saints Church which is included in the Historic Environment Records.

In terms of listed buildings, the authority is required have special regard to the desirability of preserving the listed buildings or their settings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. UDP Policy ENV14 states that proposals unacceptably adversely affecting a listed building or its setting will be refused taking into account the desirability of preserving the listed building and its setting, the importance of the building, the effects of the proposal on any particular features and the contributions of the building to the local scene.

A Heritage Impact Assessment has been submitted with the application which addresses the impact on the setting of Ivy House which is the only listed building in Middletown. Otherwise, the settlement has a high proportion of modern properties including the modern dwellings situated on the land at the rear of Ivy House. The land to which the application relates has no historical relationship with Ivy House being farmland associated with Fron Farm, nevertheless being the first house within the settlement boundary of Middletown as travelling from the east, the relationship between the site and the listed building has been assessed by the Council's Built Heritage Officer with the details included within the Officer's response above. Whilst the car park has been removed from the indicative layout, the area of land to the west and south west of the application site is indicated to be public open space which retains the detachment from Ivy House referred to within the Built Heritage Officer's report.

Taking into account the contents of the submission, the Heritage Impact Assessment and the Built Heritage Officer's comments, it is concluded that the proposed development would not unacceptably adverse the setting of Ivy House in accordance with the recently updated/introduced national planning policy and guidance and UDP Policy ENV14.

### *Historic Environment Record (All Saints Church)*

As identified within the Councillor representations, the application site is adjacent to All Saints Church which is included in the Historic Environment Record. Given that the church is included in the Record, planning policy suggests that consideration upon the impact upon the heritage asset and its setting is required.

The Heritage Impact Assessment concludes that the development would have a negligible impact on the character or significance of the church. The analysis of the siting of the church in the Heritage Impact Assessment as being an accident through land availability rather than any architectural or landscape aspirations of its builders not being an important factor in its significance is not disagreed with by the Built Heritage Officer. Neither is the statement that the development would have a negligible impact on its character or significance. However, the Built Heritage Officer has advised that the proposal will have an impact on the setting of the church. The church at present is viewed at speed when travelling along the A458 highway but is highly visible from the A458 highway because it is adjacent to agricultural land at present. Whilst the provision of a car park would have enabled access to the church to be easier and would have benefitted the church, taking into account that the proposal still includes an area of public open space between the church and the proposed dwellings, it is concluded that this distance would result in the proposed development having a limited impact upon the setting of the church.

### *Archaeology*

There is a policy presumption for safeguarding archaeological remains, whether scheduled or not. CPAT has confirmed that there are no archaeological implications for the proposed development.

### Highway access and parking requirements

It is proposed to upgrade the existing vehicular access onto the A458 highway. The County Councillor and Community Council raised concerns over this access particularly as the proposal included car park facilities for the Church in addition to the proposed residential use. As advised above, the proposal has been amended to remove the car parking facilities. This is because the Welsh Government Transport Section required additional information on the traffic movements associated with the site including the church car parking and how the church would be accessed from the car park. Following this request, the car park has been removed from the application and whilst the benefits of the car park in assisting visitors to the church are acknowledged, it is not considered that the development would cause undue strain upon the church that would reasonably warrant the provision of a car park. Therefore, it is not considered that it is reasonable to refuse the application on the basis that the car park has been removed from the application. However, at the time of writing the report, additional comments from the Welsh Government have not been received regarding the revised plan and as such these will be included as an update for Members prior to committee.

Otherwise, the Welsh Government Transport Section requested additional detail on the visibility splays, gradient, width and radii, surfacing and drainage in respect of the access onto the trunk road as well as traffic movements associated with the residential development. Amended plans and additional information has been received which addresses the request and the final response from the Welsh Government removes the objection subject to the use

of conditions. On the basis of this response, it is considered that the proposal would make adequate provision for highway access and safety off the A458 trunk road subject to the use of the recommended conditions.

In respect of the internal estate road, the Council's Highway Authority has suggested that a pedestrian footway is provided along the frontage of the site in a westerly direction (along the northern edge of the trunk road). Whilst there is a pedestrian footway along the southern side of the trunk road, to avoid the necessity to cross the trunk road to access the facilities offered in the settlement, it is agreed that such provision would be beneficial and reasonable. Otherwise, it is recommended that the conditions recommended by the Highway Authority are attached to any consent granted to ensure that the detailed layout reflects the requirements.

#### Foul drainage

It is proposed to connect to the public sewerage system which is the preferred method of disposal. Severn Trent Water has advised that they have no objection to the development and therefore Development Management is satisfied that the sewage disposal system has sufficient capacity to accommodate the additional flows generated as a result of the development. Severn Trent Water has advised that a condition should be attached to any consent granted to require the details of the foul drainage and as such it is recommended that such a condition should be attached to any consent granted to ensure a satisfactory means of drainage in accordance with UDP Policy DC10.

#### Flood risk and surface water drainage

The site is not located within B, C1 or C2 flood risk zones as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004) and as such the site is not known to be at risk from flooding.

The County Councillor raised concern over surface water treatment. UDP Policy DC13 requires development proposals to make adequate provision for land drainage and surface water disposal. In terms of surface water run-off, the submission indicates that surface water is to be disposed to soakaways. However, no surface water drainage details/drawing(s) or an indication as to how the impermeable areas within the proposed application site will be drained/disposed, have been submitted, apart from an indication that an attenuation pond will be used. Therefore, to ensure adequate surface water drainage is provided for and to ensure that run-off from the proposed development is reduced or will not exceed existing runoff rates, it is considered reasonable and necessary to attach a condition to any consent granted to require the submission, approval and implementation of a surface water drainage scheme in accordance with UDP Policy DC13.

#### Ecology

County Councillor representations raised concern over ecology and environment impact. The Council's Ecologist and NRW have been consulted on the proposal with the following comments having been received in respect of protected sites, species and biosecurity.

#### *Protected sites*

A watercourse passes immediately adjacent to the north west corner of the proposal. NRW has advised that this water course feeds into the Trewern Brook which is designated as a Site of Special Scientific Interest (SSSI) for its geological features. In order to prevent pollution to this SSSI, NRW has recommended that the submission, approval and implementation of a pollution prevention plan is conditioned to prevent pollution from entering the watercourse and affecting the SSSI. On the basis of this advice, to ensure that there is satisfactory provision for protecting the nationally important site in accordance with Planning Policy Wales, TAN5 and UDP Policy ENV5, it is recommended that such a condition is attached to any consent granted.

### *Protected species*

The application is not accompanied by an ecological report. However, NRW has advised that based on the records that NRW has available for the area and the habitat present on site, they conclude that there will be no detrimental effect on any European Protected Species (EPS) that may be present on site provided an appropriate Construction Environmental Management Plan (CEMP) is submitted, approved and implemented. It is recommended that such a condition is attached to safeguard protected species and provide appropriate mitigation measures in accordance with Planning Policy Wales, TAN5 and UDP Policy ENV7.

### *Biosecurity*

NRW consider biosecurity (invasive non-native species (INNS) and diseases) to be a material consideration in respect of this proposal. NRW has advised that any consent includes the imposition of a condition requiring the submission, approval and implementation of a Biosecurity Risk Assessment. Taking into account NRW's advice and the contents of UDP Policy DC15, it is considered that such a condition would be appropriate.

### Restricted byway

County Councillor representations raised concerns over rights of way issues. Powys Countryside Services and the Ramblers Association have also both raised concern that the submission has not taken into account the existence of restricted byway 5, Middletown, Trewern. The initial indicative layout showed that the restricted byway would be obstructed by plots 22 and 23. The revised indicative layout plan has altered the positioning of plots 22 and 23 resulting in the byway being accommodated without having to travel through the plots and being restricted. Therefore, it is accepted that a layout can be achieved that would not physically impact upon the byway.

In terms of the impact upon the environmental setting of the byway, UDP Policy TR2 states that the environmental setting of established tourist attractions (which includes public rights of way) shall not be unacceptably adversely affected by proposed development. The indicative layout demonstrates that the byway would travel past the rear gardens of two of the proposed dwellings. Users of this right of way would also have views of the whole development as the right of way travels along the higher part of field. In addition, there are also more distant public rights of way in the locality which enable access to Middletown Hill and to the south of the A458 trunk road from which the proposed development would be visible. The proposed development would introduce a visual change to the locality which users of the rights of way would be aware of in comparison to the existing appearance of agricultural use. However, given that the proposed development is considered to be acceptable in terms of its



relationship with the existing development in the settlement of Middletown and would be reasonably well related to the existing settlement, it is not considered that the environmental settings of the rights of ways would be unacceptably adversely affected, subject to appropriate landscape planting which would be considered further at the reserved matters stage.

### Recreation provision

PPW requires local planning authorities to provide a framework for well-located sport, recreation and leisure facilities which should be sensitive to the needs of users, attractive, well designed, well maintained, safe and accessible to all. This requirement is further detailed in Technical Advice Note 16. UDP Policy RL2 states that housing development proposals shall include provision for safe and accessible outdoor playing and recreation areas. In respect of recreation provision, the indicative layout provides for recreation by the inclusion of public open space in the western and south western parts of the application site. The Outdoor and Recreation department of the Council have advised that there is no Council play area with fixed play equipment near to the proposed development. It is noted that there is a play area with fixed play equipment (a LEAP – Local Equipped Area for Play aimed at children who can go out to play independently) adjacent to the village hall, approximately 134 metres from the south western corner of the application site and approximately 363 metres from the north eastern part of the application site. This is within the Fields in Trust walking distance guideline (400m) for LEAPs, however taking into account the location of the play area across the trunk road, concern is expressed that this equipped play area would not be safe and accessible for children even where the children are of an age where they could go out and play independently. However, the Outdoor Recreation Department has not raised concern over this aspect.

The Fields in Trust guidance also recommends that for 10-200 dwellings, a Local Area for Play (a LAP) (equipped for very young children) and a Locally Equipped Area for Play (a LEAP) should be provided approximately 400 square metres in size and with a 20m minimum separation between the activity zone and the habitable room façade of dwellings. The Fields in Trust guidance is over and above the 6 acres standard referred to by the Outdoor Recreation department but draws out new recommendations for accessibility, for flexible application of standards and the minimum dimensions of formal outdoor space. Given that the existing LEAP play area is not particularly accessible for occupiers of the proposed dwellings being across the trunk road and that the public open space indicated is in excess of 400 square metres, in accordance with the 6 acre standard and the Fields in Trust Guidance, it is considered that it would be reasonable and practicable to require an equipped area of play to be provided on the application site to serve the development. The provision and long term maintenance of this would be secured via a section 106 agreement (planning obligation).

### Impact upon education facilities

UDP Policy CS3 states that where the scale of a new development proposal is such that it would create the need for new or upgraded community facilities which includes education facilities, a planning condition or planning obligation will be necessary to ensure the provision of or contribution towards the necessary facilities. The nearest Powys primary school to the development is in Trewern. Unfortunately, at the time of writing the report, the Council's Education department had not responded to the consultation and therefore the capacity of

Buttington Trewern County Primary school is not known. A response from the Education department has been requested prior to the Committee meeting.

### Loss of agricultural land

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

### Mineral Buffer Zone

The application site is located approximately 180 metres to the south east of the Mineral Buffer Zone associated with Middletown Quarry (igneous/metamorphic mineral). The operational status of this quarry is listed as active within the UDP with the estimated completion dated listed as 2042 for the main site with the extension's completion date listed as 2061.

UDP Policy MW22 states that within buffer zones, proposals that are likely to be incompatible with the mineral working operation will form the subject of rigorous examination and proposals that would be unacceptably adversely affected or prejudice the mineral working operations will be refused.

Residential development is a proposal that may be incompatible with mineral working operations due to amenity issues. However, in consideration that the application site is outside of the buffer zone of the quarry, and that there are other residential properties closer to the buffer zone, it is considered that the proposal would not be unacceptably adversely affected by the listed quarry or would not prejudice the mineral workings in accordance with UDP Policy MW22.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP Policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Middletown has not been identified as one of these settlements it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Trewern ward reported that 14.7% of the population were able to speak Welsh. This is an increase from the 2001 census which stated that 10.7% of the population of the Trewern ward were able to speak Welsh. In terms of housing provision, one way in which the developer can demonstrate that the language has been taken into account is by ensuring that there is provision of affordable homes. This approach does not seek to restrict occupancy on grounds of linguistic criteria but recognises that those meeting the affordable housing eligibility criteria are more likely to be able to support the Welsh language and culture. Given that the development would provide 20% of the dwellings as affordable

dwellings (a total of 5 dwellings) which is considered an appropriate level of affordable homes at this location and that a phasing scheme could be included within the affordable housing condition to ensure that the affordable dwellings are not the last dwellings to be constructed or never get constructed, it is considered that the development would not result in a detrimental impact upon the cultural or linguistic vitality of the settlement of Middletown, the Trewern ward or Powys.

### Other legislation

#### *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### **RECOMMENDATION**

Whilst there would be an impact upon the setting of a Scheduled Ancient Monument and a historic asset (All Saints church) recorded within the Historic Environment Records and the proposed development is a departure from the development plan, it is considered that the Council's current lack of housing supply weighs in favour of approving the proposed development in a sustainable location. Therefore subject to the receipt of final responses from Welsh Government Transport and the Education Department, it is recommended that the application is approved subject to the conditions set out below and subject to the applicant entering into a section 106 agreement to secure the following:

- A management agreement for on-site open space/play area (to secure provision, retention and maintenance); and
- Education contribution (if necessary following Education Department's response).

## Conditions:

1. Details of the layout, appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of any of the dwellings and retained in perpetuity.
6. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units/bed spaces;
  - the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
  - the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
7. Prior to commencement of works, a Pollution Prevention Plan (PPP) for the construction phase must be submitted to and approved in writing by the Local Planning Authority. The development must be carried out in accordance with the approved Pollution Prevention Plan.
8. No development shall take place (including ground works, site clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and

approved in writing by the Local Planning Authority. The CEMP must include, but not be exclusive of:

- Appropriate Reasonable Avoidance Measures (RAM) to avoid injuring otters, badgers and other protected species;
- Methodology for hedgerow relocation;
- Attenuation pond design and species composition list if applicable;
- Biosecurity Risk Assessment;
- A wildlife sensitive exterior lighting plan designed to retain dark corridors along boundary hedgerows and trees;
- Persons responsible for implementing the works.

9. Prior to the commencement of development a report shall be submitted to and approved in writing by the Local Planning Authority detailing the provisions for the control of noise, vibration and dust for the construction-phase of the development. The development shall be carried out in accordance with the approved report.
10. The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.
11. Upon the submission of the reserved matters referred to in Conditions 1 and 2, a scheme for the provision of a footway along the northern side of the A458 trunk road in a westerly direction from the vehicular access shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of any dwellings hereby approved the approved footway shall be fully completed.
12. Within 28 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.45 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
13. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom (maximum of 3) excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
14. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
15. Any internal side-road junctions shall have a corner radii of 6 metres.
16. The centre line radii of all curves on the proposed estate road shall be not less than 20 metres.
17. No dwelling shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard

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

18. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.
19. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
20. 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.

21. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.
22. The access shall be laid out and constructed strictly in accordance with the approved drawing number SA24619/02 Rev B
23. The minimum visibility distances available for vehicles emerging from the proposed access shall be 160m in each direction, measured to a point at the nearer running edge of the trunk road carriageway. These visibility distances shall be available at point 4.5 metres from the running edge of the trunk road, measured along the centreline of the access road. The visibility splay so formed shall be free of any growth or obstruction, which would interfere with the minimum visibility requirements.
24. The width of the proposed means of access shall be 7.3m (minimum) for the first 15m. The access shall be constructed to appropriate standards with either concrete or bituminous surfacing from the running edge of the trunk road carriageway.
25. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed access shall be constructed such that the access does not drain onto the trunk road.

26. During the construction phase the applicant shall provide wheel-washing facilities or an alternative method to be approved by the Local Planning Authority in consultation with the Welsh Government at the site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site until construction is complete.
27. Adequate provision shall be made within the development to enable vehicles to turn around, so they may enter and leave the site in a forward gear.
28. The applicant must notify the Streetwork Department of the North and Mid Wales Trunk Road Agent on: [streetwork@nmwtra.org.uk](mailto:streetwork@nmwtra.org.uk) prior to the commencement of works that will affect the through traffic on the A458 Trunk Road, and agree a Traffic Management Plan.

**Reasons:**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010) and Technical Advice Note 15 – Development and Flood Risk (2004).
6. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys Affordable Housing for Local Needs Supplementary Planning Guidance (2011), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
7. To ensure that the development does not adversely affect the Trewern Brook SSSI in accordance with Planning Policy Wales (2016), Technical Advice Note 5: Nature Conservation and Planning (2009) and Policies SP3 and ENV5 of the Powys Unitary Development Plan (2010).
8. To ensure that the proposed development has no detrimental effect on any European Protected Species (EPS) in accordance with Planning Policy Wales (2016), Technical Advice Note 5: Nature Conservation and Planning (2009) and Policies SP3 and ENV7 of the Powys Unitary Development Plan (2010).
9. To mitigate the impact of the construction phase of the development upon the amenities enjoyed by the occupants of neighbouring residential properties in accordance with Policy GP1(3) of the Powys Unitary Development Plan (2010).
10. To maintain the safety and free flow of trunk road traffic in accordance with Policies GP1 and GP4 of the Powys Unitary Development Plan (2010).
11. to 19. To ensure that adequate provision is made for highway safety in accordance with Policies GP1 and GP4 of the Powys Unitary Development Plan (2010).
20. To mitigate the impact of the construction phase of the development upon the amenities enjoyed by the occupants of neighbouring residential properties in accordance with Policy GP1(3) of the Powys Unitary Development Plan (2010).
21. In order to ensure the affordable housing remains affordable in perpetuity in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys

Affordable Housing for Local Needs Supplementary Planning Guidance (2011), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016). 22 to 28. To maintain the safety and free flow of trunk road traffic in accordance with Policies GP1 and GP4 of the Powys Unitary Development Plan (2010).

## **Informative Notes**

### *Restricted Byway:*

Restricted Byway 5, Middletown, Trewern passes very close to the development. The applicant/developer is reminded it is an offence to interfere with the surface of a public right of way and should be minded when undertaking works to not obstruct the byway.

### *Please note the advice from Natural Resources Wales (NRW):*

We advise that any proposed scheme should ensure that surface water run-off from the proposed development is reduced or will not exceed existing runoff rates. Details of adoption and management should also be submitted to ensure that the scheme/systems remain effective for the lifetime of the development.

Groundwater Protection: Principles and Practice (2013) Position Statement G13 (Sustainable drainage systems) applies to this development. We support the use of sustainable drainage systems (SuDS) for new discharges. Where infiltration SuDS are to be used for run-off from hard surfaces such as roads, car parking and public or amenity areas, they should have a suitable series of treatment steps to prevent the pollution of groundwater.

Further information is available in the following guidance:

- Welsh Government (2015) Recommended non-statutory standards for sustainable drainage (SuDS) in Wales – designing, constructing, operating and maintaining surface water drainage systems
- CIRIA (2015) SuDS manual (C753)

No material should be deposited within 10m of any watercourse without discussion with Natural Resources Wales.

All works at the site must be carried out in accordance with PPG5 and PPG6: 'Works in, near or over watercourses' and 'Working at construction and demolition sites' which are available on the netregs website:

<http://www.netregs.org.uk/pdf/PPG%205%20-%20Oct%202007%20-%20replaces%20PPG%2023.pdf>

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of banded compound should be 110% of the capacity of the tank, all filling points, gauges, vents and sight glasses must be located within the bund. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund. Refuelling should be supervised at all times – and preferably done on an impermeable surface.



The activity of importing waste onto the site for use as, for example hardcore, must be either registered with Natural Resources Wales as an exempt activity under the Environmental Permitting Regulations 2010 if the activity meets the exemption criteria or undertaken under an Environmental Permit. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit or environmental permit for any material imported to the site.

*Please note the comments from Welsh Government Transport:*

a) The applicant should be advised that they will be required to enter into an Agreement with the Welsh Ministers under Section 278 of the Highways Act 1980 / Section 23 of the New Roads and Street Works Act 1991 to enable the Applicant to undertake agreed improvement works on the trunk road. This Agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. Without such an agreement in place, any consent that may be granted by the Planning Authority cannot be implemented.

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

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

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

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