

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2016/0796	Grid Ref:	308602.37 290319.98
Community Council:	Mochdre	Valid Date:	Officer: 28/07/2016 Tamsin Law
Applicant:	Melrose Developments, Shrewsbury Business Park, c/o Willow House East, Shrewsbury, SY2 6LG		
Location:	Land to the south of A489 West of Mochdre Brook, Newtown, Powys, SY16 4HZ		
Proposal:	Outline application for erection of up to 60 dwellings and construction of vehicular access		
Application Type:	Application for Outline Planning Permission		

The reason for Committee determination

The proposed development constitutes a departure from the adopted Powys Unitary Development Plan.

Site Location and Description

The site subject to this application is located adjacent to the Newtown development boundary, therefore for the purposes of the Powys Unitary Development Plan (UDP) is defined as open countryside.

The site is located on an irregular shaped parcel of land bound to the north by the A489 Trunk Road, to the east by an area of open space, Mochdre Brook and the Mochdre Industrial Estate, to the south by a Listed Building and Glandulas caravan site, and to the west by the caravan site and an area currently being developed as part of the Newtown Bypass Scheme.

Consent is sought in outline for the erection of up to 60 dwellings with a 20% affordable housing contribution. Open space will be provided for within the development. All matters apart from access have been reserved for future consideration.

Consultee Response

Mochdre CC

Following discussion the council was in full agreement that the above application should be rejected for the following reason:

1) The proposed development is not of a scale, form and design and general character to reflect the overall appearance of the settlement and surrounding area:

The proposed development falls within the small Community Council area of Mochdre with Penstrowed, mainly within the boundary of the settlement of Penstrowed. This is a relatively quiet agricultural area with a small number of farms and individual residential properties scattered within it. There is a Parish Church and there are some light commercial enterprises also. Thus the proposed 60 dwellings are not of a density consistent with other residential property in this area. The proposed development, which is not part of the LDP for the Community Council area, is substantial and will not be capable of being integrated into the settlement without unacceptably adversely affecting the scale, character and overall appearance of the area.

Thus the Council feels that the application should be rejected because it does not conform to Policy HP5 – Residential Developments.

The council was also in full agreement that the above application should be reviewed for the following reasons:

1) Affordable Housing:

On page 20 of the Design and Access Statement accompanying the application it states that the development will contribute to the provision of affordable housing in accordance with Policy HP7. It also anticipates that the more recent LDP will have a revised guide-line of 20% provision (reduced from the stated 30-35%) in this area of Powys which, if the development were to comprise of 60 dwellings, would result in 12 dwellings being affordable. However, the Composite Version LDP – Deposit with Focussed Changes, January 2016 which was submitted to the Planning Inspectorate by Richard Pitts on 20th May, 2016 (page 80 – copy enclosed) shows a revision of this figure from 20% to 30% for Central Powys. This means that if the development were to comprise of 60 dwellings, this should result in 18 dwellings being affordable.

2) Flood Risk:

The proposed development is in a flood risk area (very close to the Mochdre Brook) and comprises a large area of hardstanding in a variety of forms - roads, driveways, etc. The materials for these areas should be chosen carefully - they should be block paviors or equivalent to enable water to drain through where possible, rather than run off.

The Council trusts that you will take its observations into account when making your deliberations.

Powys Highways

Can you confirm that a new footway will be provided to the site from where the existing footway terminates along Llanidloes Road. It does mention this within the D&A Statement but cannot see any plans that detail this.

With regard to the internal layout then the parking would need to accord with the CSS All Wales Parking Guidelines and there appears to be many properties off a private drive. As a guide on internal estate roads we only accept three. However, I appreciate this is only an indicative layout.

Powys Building Control

Building Regulations approval will be required.

Severn Trent Water

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

Waste Water Comments

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

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

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

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals.

Powys Rights of Way

Countryside Service does not support the proposed development as it does not provide for the existing public rights of way at the proposed site and will invariably obstruct them.

The success of incorporating public rights of way into a development scheme depends on ensuring that they are well catered for at design stage and some thought is put in as to their future maintenance.

Unfortunately, this has not always been the case with developments throughout Powys. Poor design has often burdened Powys County Council with unresolvable maintenance issues.

We therefore would like to point out at this stage we will not accept poor design that would lead to development over, or illegal interference with a public right of way.

The applicant should be aware that they have a responsibility to protect public rights of during development and that any agreed works to accommodate existing or new public rights of way are in place on completion.

Consideration should therefore be given to:

- Width of a public right of way especially if it is to be enclosed.
- The surface of a right of way depending on its status and location.
- Clear responsibility of future maintenance including boundaries and surfacing.
- Lighting depending on location
- Proximity of car parking (i.e. potential to block access)
- Attention paid to least restrictive access (Equalities Act 2010)

- Associated development such as fencing and gates.
- Diverting a public right of way

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>

For more information and an application form for a Public Path Order please contact the Rights of Way Officer, Sian Barnes (01597 827595) sian.barnes@powys.gov.uk

Powys Built Heritage

Thank you for consulting me on the above application. Since my previous comments dated 14 November 2016 there have been changes to national guidance with TAN24 and its annexes which were issued and came into effect on 31 May 2017. Tan 24 and its annexes supersedes and cancels Welsh Office Circular 61/96 which I previously referred to and as such I would therefore be grateful if you could substitute these comments for my previous comments to take into account the revised national guidance.

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

Glandulais Farmhouse grade II Cadw ID 15623 included on the statutory list on 16/05/1988,
Glanhafren Hall Gateway grade II Cadw ID 17328 included on the statutory list on 26/09/1996
Glanhafren Hall grade II Cadw ID 17327 included on the statutory list on 26/09/1996
Apple House at Glanhafren grade II Cadw ID 17329 included on the statutory list on 26/09/1996

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 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.

There are four heritage values which need to be understood before the significance of the asset can be assessed.

- Evidential value
- Historical value
- Aesthetic value
- Communal value

Evidential Value

This derives from those elements of an historic asset that can provide evidence about past human activity.

Glandulais Farmhouse is situated at the end of a farm road on the South side of the A489. The house is surrounded by open pasture, with a caravan park on the West side. Glandulais is a 2 storey house facing north with a single storey extension to west. The house was included on the list as a prominently sited Regency farmhouse, of special interest for the survival of its original interior plan form and detail.

Historical Value

An historic asset might illustrate a particular aspect of past life or it may be associated with a notable family, person, event or movement. These illustrative or associated values of an historic asset may be less tangible than its evidential value but will often connect past people, events and aspects of life with the present and are not so easily diminished by change as evidential values and are harmed only to the extent that adaption has obliterated them or concealed them.

Glandulais is a prominently sited Regency Farmhouse with good internal detailing.

Aesthetic Value

This derives from the way in which people draw sensory and intellectual stimulation from an historic asset through its form, external appearance or setting.

The farmhouse set in open farmland retains its agricultural character despite the modern caravan park to the west.

The detailing of the property and their chosen prominent location and the views currently afforded of them are important and evoke a sense of the past and an appreciation of agricultural practises in the late C18th and C19th.

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. The Conservation Principles identify heritage assets as having the 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.

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development.”

However, I would also refer to more recent guidance in paragraph 6.5.11 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.”

TAN24 which was issued and came into effect on 31 May 2017 addresses setting with some of the factors to consider and weigh in the assessment including

- 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

Paragraph 1.26 identifies the other factors that may affect the setting of an historic asset to include inter-visibility with other historic or natural features, tranquillity, noise or other potentially polluting development though it may have little visual impact.

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”.

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

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 as;

Glandulais Farmhouse grade II Cadw ID 15623 included on the statutory list on 16/05/1988,
Glanhafren Hall Gateway grade II Cadw ID 17328 included on the statutory list on 26/09/1996
Glanhafren Hall grade II Cadw ID 17327 included on the statutory list on 26/09/1996
Apple House at Glanhafren grade II Cadw ID 17329 included on the statutory list on 26/09/1996

Glandulais Farmhouse is listed as a prominently sited Regency farmhouse of special interest for the survival of its original interior plan form and detail. The listing describes it as a 2 storey house facing north with single storey extension to west and 2 storey extension to rear.

The property was built as a farmhouse in a prominently sited location with views of farmland in front of the house with the principal windows looking over the farmland. I note the description of the house and its setting with in the accompanying Heritage Impact Assessment July 2016, Mercia heritage Series No 977. The farmhouse was constructed with its principal views looking north over farmland towards the current A489. The list description refers to a stair hall with drawing room and dining room to right and left, with the open-well stair containing scrolled tread ends fluted balusters and wreathed handrail, and the drawing room containing a fluted timber mantelpiece and a plaster ceiling with musical trophy within huck oval classical border decorations. The house was clearly constructed for someone of status and the prominent siting referred to in the list description is duly noted.

Glanhafren Hall is a C17th house with a new front added in c1810 and is listed as a well preserved early C19th house in a prominent rural location. The three storey house faced south towards its gateway onto the A486. The Apple House is to the north of the principal house and is listed as an ornate and distinctive dovecote of the later C19th and for group value with Glanhafren Hall. The group of buildings is attractive and has a number of associated buildings appropriate for a building of its age and scale including a walled garden. I note the description of the house and its setting with in the accompanying Heritage Impact Assessment July 2016, Mercia heritage Series No 977.

Cadw document Setting of Historic Assets in Wales advises on how to consider the setting of listed buildings. "Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape. It often extends beyond the property boundary or 'curtilage' and into the

surrounding landscape or townscape. Although many historic assets are visible and their settings are obvious, those that are buried also have a setting. “

“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 instance the setting of a listed farmhouse might be its physical agricultural surroundings, both built and landscape features such as buildings, boundaries or fields”. ”

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.

Glandulais was constructed on a prominent site overlooking farmland and with its principal and highly decorated rooms overlooking that farmland. This would suggest that it was constructed with the intention to be seen from the road and to view the land from the principal rooms of the house.

Since its construction a caravan park has been constructed to the west of the property, however this is screened in good part by mature trees, and it is not within the principal views of the house or from the house, and as such the historic and designed views have not changed significantly since its construction.

The proximity of the Newtown by-pass is noted and it joins the A489 in close proximity to the building to the west of the property. It is noted that the bypass will have an impact on the setting of Glandulais and that the by pass will possibly afford views of the property from the south and west which are currently not easily afforded. However, taking the Cadw guidelines into consideration, it is not considered that these are the principal views of the listed building, and as such it is considered that the impact of the by-pass on the visual setting of the listed building is clearly much less significant than the current proposal.

The proposal would involve the erection of no more than 60 dwellings in the area of land immediately to the north of Glandulais Farmhouse, infilling the field between the A489 and the listed farmhouse. This would clearly impact on the setting of the listed building as it is currently a farmhouse in a prominently sited location overlooking farmland, if approved the proposal would effectively remove the views of the prominently sited farmhouse from the A489, which is the principal view of the listed building and would appear to have been designed to be seen from the road.

Whilst I note the mitigation referred to in the Heritage Impact Assessment July 2016, Mercia heritage Series No 977, that is to retain the existing hedgerow between the two fields north of the house and by making part of the access drive to the houses closest to the listed building appear like a formal approach drive to it. I note that the Heritage Impact Assessment in 6.1.1.02 considers that there will still inevitably be a degree of change to this element of the setting of the listed building, the proposed design of this part of the internal road system will be in sympathy with the status of the house and the design of its entrance front. It is understood that this is undertaken to alleviate the adverse impact of the development. The application is made in outline and as such the road layout within the estate could be subject to change, however irrespective of the design of the proposed development it is considered that the erection of such a large number of houses between the road and the front of the dwelling will screen the development and as such the setting would be adversely and severely affected.

Glanhafren Hall is to the west of the development site and is sited to the north of the A489. The house faces southwest towards the A489 and towards its listed gateway. The proposed development will be in relative close proximity to the listed gateway, however given its location south of the A489, I could not conclude that the proposal would have a significant impact on the setting of the listed gateway. The Apple House at Glanhafren is not readily visible from the A489 as it is sited to the north of the house and to the west of the walled garden, and as such I could not conclude that the proposal would have a significant impact on the setting of the apple house at Glanhafren.

Whilst it is considered that the proposal would not have a significant impact on the setting of the 3 listed buildings at Glanhafren Hall, I would consider that the proposal would have a severe and adverse impact on the setting of Glandulais Farmhouse, and potentially an impact on the economic viability of the long term preservation of this listed building and by the screening of the house from the A489 the development would remove the contribution the listed building makes to the countryside.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have due regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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 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”.

National legislation and guidance and current UDP Policies and emerging LDP policies seek to protect historic assets as detailed above in ; Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Planning Policy Wales paragraphs, 6.4.6 and 6.5.5 (not scheduled archaeology), 6.5.11 (listed buildings) and 6.2.1 (landscapes), in the guidance on Historic Records in Wales that came into effect on 31 May, TAN24 and its annexe Setting of Historic Assets in Wales and Powys Unitary Development Plan Policies Env14, SP3b, and GP1 .

Whilst noting the reference to the current lack of housing land supply issues, and whilst accepting that housing provision is a material consideration, I am minded of 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.” Planning Policy Wales therefore places the primary material consideration to be the special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest.

I am aware of recent appeal decisions in Herefordshire and Gloucestershire where the balance of achieving housing land supply was considered against the legal requirements to

have special regard to the desirability of preserving listed buildings, or their setting which were subsequently dismissed in part because of the impact on the setting of the heritage assets.

I would also refer to a recent appeal within Powys where housing was refused on the grounds it would affect the setting of a listed building which was dismissed, and in making the decision the Inspector noted that whilst the setting of the property has been comprised to a degree by modern residential development, nonetheless this cannot justify additional development that would further erode its setting”

The Inspector addresses views of the listed building

“The proposed dwellings would have a significant detrimental impact on the open spacial/visual relationship that has existed for many years and on the historic function and relationship of the land to the listed house; little of the sense of that historic relationship would remain.”

In addressing the housing land supply the Inspector noted that “Clearly the lack of a 5 year supply is a significant material consideration that weighs in favour of the proposal. Technical Advice Note 1: Joint Housing Land Availability Studies 2015 (TAN 1), states that the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national policies. However for the reasons given previously the benefits from the proposal in terms of the contribution to housing land supply do not outweigh the considerable conflict with the development plan and national planning policy which seeks to safeguard heritage assets”

I would therefore wish to OBJECT to P/2016/0796 and would recommend refusal for the following reason.

The development would adversely affect the setting of the designated heritage asset Glandulais Farmhouse which lies to the south of the application site. The farmhouse is a Regency farmhouse prominently sited with its principal and formal rooms overlooking farmland to its north. The existing setting to this listed building has a rural character and appearance appropriate for a farmhouse which is reinforced by the rural outlook over the application site but is also part of the setting when travelling along the A439 in either direction. It is considered that large-scale development in this location would fundamentally change the character and appearance of this site just outside Newtown in a manner that would adversely affect the setting of Glandulais farmhouse by introducing a more suburban character to this current rural area. In addition to the listed building being screened from its principal views from the A489, the proposal by virtue of its size would effectively remove the farmland character from the setting of this large Regency Farmhouse. As a result of the significant and demonstrable adverse impacts outlined above , it is considered that the proposal is contrary to national legislation and policy in terms of Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, Paragraphs 6.2.1 and 6.5.11 of Planning Policy Wales 9th edition 2016, TAN24 and its annexe Setting of Historic Assets in Wales and Local Plan Policies Policy SP3b, ENV14 and GP1.

Powys Affordable Housing

I am happy to support the application as long as the following guidelines are adhered to;

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

Powys Ecologist

1st Response

Ecological Topic		Observations
EIA Screening Requirement	No	The site area is understood to be 4.3 hectares and includes 60 dwellings. Therefore, it is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development. A Screening Opinion for Environmental Impact Assessment will therefore not be required.
Protected Species & Habitats ¹	European Species ☒	<u>Bats</u> There is potential for bats to be roosting in mature trees located immediately adjacent and along the boundary of the proposed development within the wooded corridor of the Mochdre Brook and a mature oak located within the northwestern field boundary of the field to the north of the A489. These trees are to be retained but could be indirectly affected by construction activities or temporary or permanent lighting associated with the proposed development. The wooded corridor of the Mochdre Brook and hedgerow field boundaries are likely to be used by bats for foraging and/or commuting. The Ecological Assessment undertaken by Turnstone Ecology in July 2016 confirms this, particularly for the river corridor,

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

where numerous pipistrelles and one lesser horseshoe bat were recorded foraging. Not all of the bat activity survey data has been included in this initial report, and it should be provided when the surveys have been completed along with any additional recommendations/mitigation arising from it. BIS data also shows that the Mochdre Brook is well-used by common and soprano pipistrelle bats. See Summary of Recommendations below for mitigation required.

Otters

Evidence of otters has been recorded along the Mochdre Brook and River Severn, which converge approximately 150m downstream of the proposed development. Although suitable habitat for otter resting sites was recorded within the wooded corridor of the Mochdre Brook to the east of the proposed development, no evidence of active holts or resting places was recorded during the Ecological Assessment undertaken by Turnstone Ecology in July 2016. Otter activity along the river corridor could be disturbed/affected by construction activities or temporary or permanent lighting associated with the proposed development. See Summary of Recommendations below for required mitigation.

Dormice

The BIS data provides records of dormice along the wooded valley of the Mochdre Brook to the south of the proposed development area. The Ecological Assessment undertaken by Turnstone Ecology in July 2016 identified the wooded corridor of the Mochdre Brook as providing potentially suitable habitat for dormice but the hedgerows forming the field boundaries were considered to be too fragmented and poorly connected to wooded areas. However, due to the close proximity of suitable woodland, dormouse records approximately 390m to the south and also ancient semi-natural woodland approximately 215m to the west and 450m to the south, it is considered that a precautionary approach should be taken and any hedgerow removal undertaken under an ecological watching brief for dormice (see Summary of Recommendations below).

	<p>UK Species <input checked="" type="checkbox"/></p>	<p><u>Badgers</u> No evidence of badgers was recorded during the Ecological Assessment undertaken by Turnstone Ecology in July 2016 but it is considered that they may use habitats within the proposed development site for foraging occasionally and could therefore suffer some disruption during construction. See Summary of Recommendations below for required mitigation.</p> <p><u>Nesting Birds</u> All the hedgerows, scrub and trees within the area of proposed development provide suitable habitat for nesting birds. Any clearance/removal of these habitats during the bird nesting season (March – August inclusive) could therefore cause damage/disturbance to nesting birds. See Summary of Recommendations below for required mitigation.</p> <p><u>Reptiles</u> The presence of reptiles within the area of proposed development is considered unlikely but due to the presence of potential reptile habitat, such as hedgerows and scrub and a nearby record of slow-worm from the BIS data, some mitigation will be required to minimise the risk of harm to the more common reptile species. See Summary of Recommendations below for required mitigation.</p>
	<p>Section 7 Species & Habitats <input checked="" type="checkbox"/></p>	<p>In addition to the species discussed above, the BIS data includes nearby records of white-letter hairstreak, hedgehog, house sparrow and starling, all listed as species of principal importance for the conservation of biodiversity in Wales under Section 7 of the Environment (Wales) Act 2016. Lowland mixed deciduous woodland, hedgerows and rivers are listed as habitats of principal importance for the conservation of biodiversity in Wales under Section 7 of the same Act.</p> <p>The mitigation required for other protected species described above and retention of all mature trees and the majority of the hedgerows present at the site (other than a small section removed for access), along with pollution prevention measures in relation to the Mochdre Brook, would ensure that any impacts on these</p>

		species and habitats is minimal. See Summary of Recommendations below for required mitigation. The additional planting proposed and seeding and management of Field B to create lowland meadow habitat, also listed on Section 7, (as described in the Ecological Assessment by Turnstone Ecology, July 2016) would also help to maintain and enhance the biodiversity present at the site, in accordance with the Environment (Wales) Act 2016.
	LBAP Species & Habitats <input checked="" type="checkbox"/>	Hedgehog and slow-worm are also listed on Powys LBAP. See comments in UK species and Section 7 species above.
Protected Sites	International Sites (within 2km) ² <input checked="" type="checkbox"/>	The River Wye SAC is located approximately 7.3km to the south. Although otter is a highly mobile feature of this SAC, and otters could be slightly affected by the proposed works due to potential disturbance during construction and also potentially by lighting during construction and operation, it is very unlikely that the proposed development would have a significant impact on the SAC due to the different river catchment involved and the distance and nature of the proposed works. Therefore a Habitats Regulations Assessment will not be required.
	National Sites (within 500m) ³ <input checked="" type="checkbox"/>	Three SSSIs are located within 2km of the proposed works but due to the scale and nature of the works and the features of the sites, it is unlikely that there would be any significant impacts.
	Local Sites (within 500m) <input type="checkbox"/>	None present that could be affected by the proposed works.
Invasive Non-Native Species	Unknown	None were mentioned in the Ecological Assessment report provided by Turnstone Ecology in July 2016. However, should any be encountered during the works, NRW should be consulted for advice in order to prevent the spread of non-native invasive plant species in the wild.
Cumulative Effect	Unknown / Unconfirmed	The agreed route of the Newtown Bypass is adjacent to the development site location. The Ecological Assessment report (Turnstone Ecology, July 2016) references the findings of the ES for that project for various protected

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

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

	<p>species. However, due to the low level of ecological impact anticipated for this scheme and the mitigation proposed which should negate any adverse impacts, it is unlikely that there would be a cumulative effect.</p>
<p>Summary of recommendations / further assessment or work</p>	<p>All of the mitigation included within Sections 4.3 and 4.4 of the Ecological Assessment report (Turnstone Ecology, 2016), should be undertaken, along with any further mitigation/recommendations arising from the additional bat surveys when these are completed. In addition, it is considered that a precautionary approach should be taken in relation to potential impacts on dormice and any hedgerow removal should be undertaken under an ecological watching brief by an ecologist licensed to handle dormice. This should include a hand search for dormouse summer nests / hibernating dormice immediately prior to the hedgerow removal, according to guidance provided in the Dormouse Conservation Handbook (Natural England, 2006). It is recommended that wych elm or English elm is included in the species mix for the proposed planting at the site, as the foodplant of the white-letter hairstreak, recorded nearby.</p>
<p>Recommended Conditions</p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p>1) The recommendations identified in Sections 4.3 and 4.4 of the Ecological Assessment Report by Turnstone Ecology dated 25th July 2016, including measures for minimising impacts on species and habitats, as well as habitat creation, shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.</p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p>2) A report detailing the results of the additional bat activity surveys discussed in Section 2.3.2 of the Ecological Assessment Report by Turnstone</p>

Ecology dated 25th July 2016 shall be provided to the LPA prior to the commencement of works and any recommendations/mitigation arising from this should be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

3) Any hedgerow removal shall be undertaken under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for summer dormouse nests or hibernating dormice depending on the season.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

4) Prior to commencement of development, a detailed Biodiversity Enhancement Plan (including consideration of Section 7 species and the proposals for tree and hedgerow planting and lowland meadow creation and management), shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

5) Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of

Mochdre Brook, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

6) A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

8) Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in

relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Informatives

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

It is an offence for any person to:

- Intentionally kill, injure or take any bats.

- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any

- otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

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

It is an offence for any person to:

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Relevant UDP Policies	SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 4: Internationally Important Sites ENV 7: Protected Species
Comments on Additional Information	Click here to enter text.

2nd Response

Ecological Topic		Observations
EIA Screening Requirement	No	Powys County Council have confirmed (28/07/16) that a Screening Opinion for Environmental Impact Assessment will not be required.
Protected Species & Habitats ⁴	European Species	<p>⊗ A Preliminary Ecological Assessment report was completed by Turnstone Ecology (July, 2016) and was updated in October 2016 with additional information. These observations are based on the October 2016 PEA and the additional information provided therein. The PEA generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009). The PEA involved a Phase 1 habitat survey, protected fauna survey, Habitat Suitability Assessment and a search of European Protected Species records held within 2km of the development site (although not via the local Biodiversity Information Service). Bat activity surveys have been completed in July, August and September 2016.</p> <p><u>Bats</u> There is potential for bats to be roosting in mature trees located immediately adjacent and along the boundary of the proposed development within the wooded corridor of the Mochdre Brook and a mature oak located within the northwestern field boundary of the field to the north of the A489. These trees are to be retained but could be indirectly affected by construction activities or temporary or permanent lighting associated</p>

⁴ Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

with the proposed development. According to the Ecological Assessment by Turnstone Ecology (October 2016) the wooded corridor of the Mochdre Brook and hedgerow field boundaries are used by bats for foraging and/or commuting. BIS data also shows that the Mochdre Brook is well-used by common and soprano pipistrelle bats. See Summary of Recommendations below for mitigation required.

Measures to mitigate potential impacts associated with vegetation removal and increased lighting are provided in section 4.4.3 of the Ecological Assessment by Turnstone Ecology (October 2016).

Otters

Evidence of otters has been recorded along the Mochdre Brook and River Severn, which converge approximately 150m downstream of the proposed development. Although suitable habitat for otter resting sites was recorded within the wooded corridor of the Mochdre Brook to the east of the proposed development, no evidence of active holts or resting places was recorded during the Ecological Assessment undertaken by Turnstone Ecology. Otter activity along the river corridor could be disturbed/affected by construction activities or temporary or permanent lighting associated with the proposed development, mitigation measures are provided in section 4.4.5 of the Ecological Assessment Report (October 2016).

Dormice

The BIS data provides records of dormice along the wooded valley of the Mochdre Brook to the south of the proposed development area. The Ecological Assessment by Turnstone Ecology identified the wooded corridor of the Mochdre Brook as providing potentially suitable habitat for dormice but the hedgerows forming the field boundaries were considered to be too fragmented and poorly connected to wooded areas. However, due to the close proximity of suitable woodland, dormouse records approximately 390m to the south and also

		<p>ancient semi-natural woodland approximately 215m to the west and 450m to the south, it is considered that a precautionary approach should be taken and any hedgerow removal undertaken under an ecological watching brief for dormice (see Summary of Recommendations below).</p>
	<p>UK Species</p>	<p><input checked="" type="checkbox"/></p> <p><u>Badgers</u> No evidence of badgers was recorded within the Ecological Assessment by Turnstone Ecology but it is considered that they may use habitats within the proposed development site for foraging occasionally and could therefore suffer some disruption during construction, therefore mitigation measures are provided in section 4.4.2 of the report.</p> <p><u>Nesting Birds</u> All the hedgerows, scrub and trees within the area of proposed development provide suitable habitat for nesting birds. Any clearance/removal of these habitats during the bird nesting season (March – August inclusive) could therefore cause damage/disturbance to nesting birds, and mitigation measures are provided in section 4.4.7 of the Ecological Assessment report by Turnstone Ecology.</p> <p><u>Reptiles</u> The presence of reptiles within the area of proposed development is considered unlikely but due to the presence of potential reptile habitat, such as hedgerows and scrub and a nearby record of slow-worm from the BIS data, some mitigation will be required to minimise the risk of harm to the more common reptile species, as specified in section 4.4.9 of the Ecological Assessment report by Turnstone Ecology.</p>
	<p>Section 7 Species & Habitats</p>	<p><input checked="" type="checkbox"/></p> <p>In addition to the species discussed above, the BIS data includes nearby records of white-letter hairstreak, hedgehog, house sparrow and starling, all listed as species of principal importance for the conservation of biodiversity in Wales under Section 7 of the Environment (Wales) Act 2016. Lowland mixed deciduous woodland, hedgerows and rivers are listed as habitats of principal</p>

		<p>importance for the conservation of biodiversity in Wales under Section 7 of the same Act.</p> <p>The mitigation required for other protected species described above and retention of all mature trees and the majority of the hedgerows present at the site (other than a small section removed for access), along with pollution prevention measures in relation to the Mochdre Brook, would ensure that any impacts on these species and habitats is minimal.</p> <p>The additional planting proposed and seeding and management of Field B to create lowland meadow habitat, also listed on Section 7, as described in the Ecological Assessment by Turnstone Ecology, would also help to maintain and enhance the biodiversity present at the site, in accordance with the Environment (Wales) Act 2016.</p>
	<p>LBAP Species & Habitats</p>	<p>☒ Hedgehog and slow-worm are also listed on Powys LBAP. See comments in UK species and Section 7 species above.</p>
Protected Sites	<p>International Sites (within 2km)⁵</p>	<p>☒ The River Wye SAC is located approximately 7.3km to the south. Although otter is a highly mobile feature of this SAC, and otters could be slightly affected by the proposed works due to potential disturbance during construction and also potentially by lighting during construction and operation, it is very unlikely that the proposed development would have a significant impact on the SAC due to the different river catchment involved and the distance and nature of the proposed works. Therefore a Habitats Regulations Assessment will not be required.</p>
	<p>National Sites (within 500m)⁶</p>	<p>☒ Three SSSIs are located within 2km of the proposed works but due to the scale and nature of the works and the features of the sites, it is unlikely that there would be any significant impacts.</p>

⁵ Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

⁶ Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

	Local Sites (within 500m) <input type="checkbox"/>	None present that could be affected by the proposed works.
Invasive Non-Native Species	Yes	Himalayan Balsam is present along the Mochdre Brook (Turnstone Ecology, October 2016). A recommendation within the ecology report to include its removal as part of the proposed habitat enhancement along the Mochdre Brook is welcomed.
Cumulative Effect	No	The agreed route of the Newtown Bypass is adjacent to the development site location. The PEA report (Turnstone Ecology, October 2016) references the findings of the ES for that project for various protected species. Significant cumulative impacts are not considered likely since the habitats along the Mochdre Brook will not be affected, and there are potential opportunities for improved movement of mammals across the adjacent A489 if it carries less traffic in future.
Summary of recommendations / further assessment or work		<p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>In addition, it is considered that a precautionary approach should be taken in relation to potential impacts on dormice and any hedgerow removal should be undertaken under an ecological watching brief by an ecologist licensed to handle dormice. This should include a hand search for dormouse summer nests / hibernating dormice immediately prior to the hedgerow removal, according to guidance provided in the Dormouse Conservation Handbook (Natural England, 2006). It is recommended that wych elm or English elm is included in the species mix for the proposed planting at the site, as the foodplant of the white-letter hairstreak, recorded nearby.</p>
Recommended Conditions		<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p>1) The recommendations identified in Sections 4.3 and 4.4 of the Ecological Assessment Report by Turnstone Ecology dated 6th October 2016, including measures for minimising impacts on species and habitats, as well as habitat creation, shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.</p> <p><u>Reason:</u> To comply with Powys County Council's UDP</p>

Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

2) Any hedgerow removal shall be undertaken under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for summer dormouse nests or hibernating dormice depending on the season.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

3) Prior to commencement of development, a detailed Biodiversity Enhancement Plan (including consideration of Section 7 species and the proposals for tree and hedgerow planting and lowland meadow creation and management), shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

4) Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of Mochdre Brook, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

5) A lighting design scheme to take any impacts on

nocturnal wildlife into consideration shall be submitted for written LPA approval.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

7) Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

Informatives

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

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

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

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

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

It is an offence for any person to:

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

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

	<p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p>
<p>Relevant UDP Policies</p>	<p>SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 4: Internationally Important Sites ENV 7: Protected Species</p>
<p>Comments on Additional Information</p>	<p>Additional information has been submitted with this application in the form of an updated Preliminary Ecological Appraisal (Turnstone Ecology, October 2016). The additional information provided is summarised as follows:</p> <ul style="list-style-type: none"> • The results of bat activity surveys completed in July, August and September 2016 have been considered with regard to the potential impact of the development on bats that may currently be using the site. As a result of confirmed bat activity a lighting plan is proposed, which will reflect the Bat Conservation Trust bats and Lighting in the UK guidance (2009). • Species-specific historic records are referred to in the species accounts where relevant. • Section 7 species (such as Brown Hare, European Hedgehog and Polecat) have been considered as UKBAP species and habitat enhancements are expected to benefit these too. • Significant cumulative effects with the Newtown bypass are not considered likely.

Powys Land Drainage

No comment received by Development Management at the time of writing this report

Newtown TC

Council supports the application but considers the development likely to have a substantial impact on Newtown so would like to see plans to improve access to facilities, services and infrastructure in Newtown and Llanllwchaiarn. In addition the town council requests that play and recreation facilities are provided on the development itself.

NRW

1st Response

Thank you for referring the above consultation received by us on 31st July 2016. We understand that the proposal falls outside of the current development boundary of Newtown.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. Otherwise, we would object to this planning application.

Summary of Requirement & Conditions

Requirement 1 – Submission of an adequate site specific flood consequence Assessment in support of this application utilizing the best available information available and with level of flood risk posed to the site quantified in terms of flood depths and associated hazards.

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse 4.4.5 Otter of Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited - should be implemented and included in the detailed design

Condition 2 - A condition requiring submission and implementation of a Pollution Prevention Plan

Flood Risk

The planning application proposes highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outline of the Mochdre Brook.

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

Notwithstanding this policy advice, the decision as to whether a development is justified is entirely a matter for your authority. For this reason, we have reviewed the flood consequences assessment (FCA) (Compiled by Hafren Water, dated July 2016, Ref 2158/FCA) submitted in support of the application, to enable us to provide you with technical advice on the acceptability of flooding consequences in terms of risks to people and property. Our advice to you is that the FCA is inadequate relative to the scale and nature of the proposed and does not allow us to make an informed response to you in relation to TAN15 criteria. The deficiencies in the FCA are;

The Stage 2 Strategic Flood Consequences Assessment considered a nearby site in detail. Halcrow produced detailed hazard and flood extent maps for this reach of the Mochdre Brook.

The site specific FCA has made reference to the SFCA Stage 2 work but has not interrogated the model data, or followed pre-application advice given by NRW. Halcrow were specifically commissioned to consider promoted sites and perceived risks. Any site specific FCA should consider the findings of any SFCA work and take advantage of the detailed modelling that Halcrow carried out. Whilst the hydrology and survey data may require updating, it is still considered best information available and should form the basis of any FCA in terms of assessment of level of risk, hazard and possible mitigation.

We would also expect anecdotal flooding information to have been sourced from all available records, landowner, nearby residents, Powys County Council and online records.

All surface water drainage proposals will need consideration by the Lead Local Flood Authority.

In summary, the site specific FCA submitted in support of this application is inadequate as it has not used best information available nor has it quantified the level of flood risk posed to the site in terms of flood depths and associated hazards.

We advise that the FCA sources the SFCA information from Powys CC and interrogates that data in relation to TAN15 requirements.

Dave Tarrant in our Flood Mapping & Data Management team is willing to advise the consultants, Hafren Water on interrogation of data. However, it would be the consultant's responsibility to source the model information, assess its suitability and propose any amendments it considers appropriate relative to the scale and nature of the proposed.

European Protected Species

The application is supported by an ecological survey. (Reference Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited. Unpublished.

We consider the ecological submission to be appropriate and proportionate for the purposes of informing the planning decision making process and we concur with the submitted conclusions and mitigation in section 4.3.2.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species. The proposal is not likely to affect any fully protected British protected species. Therefore we have no objection regarding species to the submitted proposals. We advise that the following conditions are attached to any planning consent:

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse 4.4.5 Otter of Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited - should be implemented and included in the detailed design

Reason: To mitigate adverse effects on protected species and enhance natural habitats.

Pollution Prevention

The Mochdre brook flows along the stern boundary of the proposal site. The pollution prevention guidelines have been withdrawn from the English Environment Agency website although they are still applicable in Wales and can be found on the netregs website at the following link

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

Condition 2 - A condition requiring submission and implementation of a Pollution Prevention Plan

Reason: To protect the water environment from potential pollution during the construction phase.

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

All surface water must be discharged via an interceptor. If any dewatering is to occur NRW must be notified first as a permit may be required. Any excavation water must be free of contaminants (e.g., fuels/oils etc). If concrete wash water is to be discharged this may require treatment before discharge and may require a permit.

Any waste material stored, used or disposed of must be done so in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit for any material imported to and exported from site.

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 bunded 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.

Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on 0800 80 70 60.

Foul Drainage

The means of foul drainage is not stated in the information submitted with the planning application. For a housing development of this size we strongly recommend that it is connected to the main sewer network of Newtown. Any private waste water treatment plant would require a permit from NRW and elsewhere we have refused such permits in areas served by mains sewer networks.

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.

2nd Response

Thank you for referring the above consultation received by us on 1st of November 2016. We understand that the proposal falls outside of the current development boundary of Newtown.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. Otherwise, we would object to this planning application.

Summary of Requirement & Conditions

Requirement 1 – Submission of an adequate site specific flood consequence Assessment in support of this application utilizing the best available information available and with level of flood risk posed to the site quantified in terms of flood depths and associated hazards.

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse 4.4.5 Otter of Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited - should be implemented and included in the detailed design

Condition 2 - A condition requiring submission and implementation of a Pollution Prevention Plan

Flood Risk

The planning application proposes highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outline of the Mochdre Brook.

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

Notwithstanding this policy advice, the decision as to whether a development is justified is entirely a matter for your authority. For this reason, we have reviewed the flood consequences assessment (FCA) (Compiled by Hafren Water, dated July 2016, Ref 2158/FCA) submitted in support of the application, to enable us to provide you with technical advice on the acceptability of flooding consequences in terms of risks to people and property. Our advice to you is that the FCA is inadequate relative to the scale and nature of the proposed and does not allow us to make an informed response to you in relation to TAN15 criteria. The deficiencies in the FCA are;

The Stage 2 Strategic Flood Consequences Assessment considered a nearby site in detail. Halcrow produced detailed hazard and flood extent maps for this reach of the Mochdre Brook.

The site specific FCA has made reference to the SFCA Stage 2 work but has not interrogated the model data, or followed pre-application advice given by NRW. Halcrow were specifically commissioned to consider promoted sites and perceived risks. Any site specific FCA should consider the findings of any SFCA work and take advantage of the detailed modelling that Halcrow carried out. Whilst the hydrology and survey data may require updating, it is still considered best information available and should form the basis of any FCA in terms of assessment of level of risk, hazard and possible mitigation.

We would also expect anecdotal flooding information to have been sourced from all available records, landowner, nearby residents, Powys County Council and online records.

All surface water drainage proposals will need consideration by the Lead Local Flood Authority.

In summary, the site specific FCA submitted in support of this application is inadequate as it has not used best information available nor has it quantified the level of flood risk posed to the site in terms of flood depths and associated hazards.

We advise that the FCA sources the SFCA information from Powys CC and interrogates that data in relation to TAN15 requirements.

Dave Tarrant in our Flood Mapping & Data Management team is willing to advise the consultants, Hafren Water on interrogation of data. However, it would be the consultant's responsibility to source the model information, assess its suitability and propose any amendments it considers appropriate relative to the scale and nature of the proposed.

European Protected Species

The application is supported by an ecological survey. (Reference Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited. Unpublished.

We consider the ecological submission to be appropriate and proportionate for the purposes of informing the planning decision making process and we concur with the submitted conclusions and mitigation in section 4.3.2.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species. The proposal is not likely to affect any fully protected British protected species. Therefore we have no objection regarding species to the submitted proposals. We advise that the following conditions are attached to any planning consent:

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse 4.4.5 Otter of Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited - should be implemented and included in the detailed design

Reason: To mitigate adverse effects on protected species and enhance natural habitats.

Pollution Prevention

The Mochdre brook flows along the stern boundary of the proposal site. The pollution prevention guidelines have been withdrawn from the English Environment Agency website although they are still applicable in Wales and can be found on the netregs website at the following link

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

Condition 2 - A condition requiring submission and implementation of a Pollution Prevention Plan

Reason: To protect the water environment from potential pollution during the construction phase.

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

All surface water must be discharged via an interceptor. If any dewatering is to occur NRW must be notified first as a permit may be required. Any excavation water must be free of contaminants (e.g., fuels/oils etc). If concrete wash water is to be discharged this may require treatment before discharge and may require a permit.

Any waste material stored, used or disposed of must be done so in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit for any material imported to and exported from site.

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 bunded 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.

Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on 0800 80 70 60.

Foul Drainage

The means of foul drainage is not stated in the information submitted with the planning application. For a housing development of this size we strongly recommend that it is connected to the main sewer network of Newtown. Any private waste water treatment plant would require a permit from NRW and elsewhere we have refused such permits in areas served by mains sewer networks.

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.

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.

3rd Response

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 06/12/2016.

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

Summary of Requirements:

Requirement 1 – Updated and resubmitted FCA which sources SFCA information from Powys CC and interrogates that data in relation to TAN15 requirements

Flood Risk

The planning application proposes a highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outline of the Mochdre Brook.

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

Notwithstanding this policy advice, the decision as to whether a development is justified is a matter for your authority. For this reason, we have reviewed the flood consequences assessment (FCA) (Compiled by Hafren Water, dated July 2016, Ref 2158/FCA) submitted in support of the application, to enable us to provide you with technical advice on the acceptability of flooding consequences in terms of risks to people and property. Our advice to you is that the FCA is inadequate relative to the scale and nature of the proposed and does not allow us to make an informed response to you in relation to TAN15 criteria. The deficiencies in the FCA are;

The Stage 2 Strategic Flood Consequences Assessment considered a nearby site in detail. Halcrow produced detailed hazard and flood extent maps for this reach of the Mochdre Brook.

The site specific FCA has made reference to the SFCA Stage 2 work but has not interrogated the model data, in spite of NRW giving pre-application advice. Halcrow were specifically commissioned to consider promoted sites and perceived risks. It is a fundamental requirement that any site specific FCA should consider the findings of any SFCA work and take advantage of the detailed modelling that Halcrow carried out. Whilst the hydrology and survey data may require updating, it is still considered best information available and should form the basis of any FCA in terms of assessment of level of risk, hazard and possible mitigation.

We would also expect anecdotal flooding information to have been sourced from all available records, landowner, nearby residents, Powys CC and online records. All surface water drainage proposals will need consideration by the Lead Local Flood Authority.

In summary, the site specific FCA submitted in support of this application is inadequate as it has not used best information available nor has it quantified the level of flood risk posed to the site in terms of flood depths and associated hazards.

Requirement 1 – Updated and resubmitted FCA which sources SFCA information from Powys CC and interrogates that data in relation to TAN15 requirements

Should you require further assistance Dave Tarrant in our Flood Mapping & Data Management team (03000 65 3137) can explain the means of interrogation to Hafren Water. It is, however, Hafren Water's responsibility to source the model information, assess its suitability and propose any amendments it considers appropriate relative to the scale and nature of the proposed.'

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

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

our website: <https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

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

4th Response

Thank you for referring the additional information submitted in support of these proposals, which we received from the developer on 13/06/2017. Further to our previous letters submitted in response these proposals (referenced CAS-21928-T1J0 and CAS-21931-V6H6 dated 26/08/2016), we have the following comments to provide.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permissions if you attach the conditions listed below. We would object if the consent does not include these conditions.

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse and 4.4.5 Otter of Wilson, S (2016) – Land off A489, Newtown, Turnstone Ecology Limited – should be implemented and included in the detailed design.

Condition 2 – The submission and implementation of a Pollution Prevention Plan

European Protected Species

The applications are supported by an ecological survey (Wilson, S 2016) 'Land off A489, Newtown – Turnstone Ecology Limited.

We consider the ecological submission to be appropriate and proportionate for the purposes of informing the planning decision making process and we concur with the submitted conclusions and mitigation in section 4.3.2.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species. The proposals are not likely to affect any fully protected British protected species.

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse and 4.4.5 Otter of Wilson, S (2016) – Land off A489, Newtown, Turnstone Ecology Limited – should be implemented and included in the detailed design.

We have no objection to the proposals on the grounds of protected species, provided a condition is imposed on the planning consents requiring the implementation of the mitigation measures as detailed in the ecological report.

Reason: To mitigate adverse effects on protected species and enhance natural habitats.

Pollution Prevention

The Mochdre brook flows along the eastern boundary of the proposal site. Care must be taken to ensure the environment is not polluted during the course of the works. The following

pollution prevention measures should be adhered to, and set out in a method statement to the satisfaction of the Local Planning Authority.

Condition 2 – The submission and implementation of a Pollution Prevention Plan

Reason: To protect the water environment from potential pollution during the construction phase.

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the Gov.uk website:
<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>.

Although this document is withdrawn, the advice it provides is still relevant.

The Preliminary Ecological Assessment submitted in support of the proposal suggests some pollution prevention measures under section 5.3.2 'Mitigation', which should be included in the Pollution Prevention Plan.

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

All surface water must be discharged via an interceptor. If any dewatering is to occur NRW must be notified first as a permit may be required. Any excavation water must be free of contaminants (e.g. fuels/oils etc). If concrete wash water is to be discharged this may require treatment before discharge and may require a permit.

Any waste material stored, used or disposed of must be done in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity of an exemption permit for any material imported to and exported from site.

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. Should any pollution occur, Natural Resources Wales must be notified immediately on our incident hotline which is 03000 65 3000.

External Lighting

Care should be taken in the type and location of any external lighting within the new development, to ensure that the river, hedgerows and trees identified on site are not illuminated. We advise that a light spillage scheme from the development should be agreed to the satisfaction of the local authority.

Flood Risk

The planning application for the northern site proposes a highly vulnerable development in the vicinity of zone C2 of the Development Advice Map (DAM) referred to by TAN15 Development and Flood Risk (July 2004).

The proposal was initially submitted with a site plan which indicated that the red line boundary of the proposal was in the C2 flood zone.

Additional flood modelling work has now been undertaken by the applicant's consultants, in support of the proposal for the northern site. The modelling work has been reviewed by NRW and a summary of our conclusions is listed below:

1. The Powys SFCA model for the Mochdre brook was supplied to the consultant as a starting point for the modelling works. Additional blockage scenarios for the Railway bridge and Dulais bridge were successfully applied to the model and re-run. The model was run for the 1 in 100+25 and 1 in 1000 year events.

2. The model was reviewed and no issues were found with the model construction.

3. The model is considered fit for purpose to support the development and has been incorporated into the SE Wales model manager.

4. The 1 in 1000 year event with 80% blockage on the Railway Bridge provides the worst case scenario for the inundation extent adjacent to the northern site. The red line boundary should be redrawn to reflect this. The red line boundary for the southern site is not affected by any modelled event or scenario.

5. Following the improved modelling works, there is no need on this occasion to challenge the flood map, as there is little/no change in inundation extent from the updated outputs.

For information, this site is affected by the updated DAM in March 2017 and is now partially located in Zone B.

The developer has re-submitted a site plan (Proposed Block Plan showing Position of Access and Indicative Layout, Berrys, Drawing number SA22302/01/07, July 2016) which was received by NRW on 13/06/2017. This plan has been resubmitted to us by your Local Authority on 11/07/2017.

Provided that this updated plan is formally submitted as part of the planning application, we can confirm that the plan now indicates that the proposed dwellings will be built outside of the predicted flood zone. This is confirmed by the modelling work.

With respect to the southern site, the plan indicates that built development will be outside of the flood plain area, therefore we would have no objection on flood risk grounds.

At detailed design stage, we would wish to be re-consulted to ensure that the watercourse corridor is maintained.

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

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Welsh Government Transport

1st Response

I refer to your consultation of 1 August 2016 regarding the above application and advise that the Welsh Government as highway authority for the A489 trunk road directs that permission be withheld until further notice due to;

1. Welsh Government Transport Division are in discussions to establish the timescale for de-trunking this section of the trunk road, which will determine the standards to be applied.

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

2nd Response

I refer to your consultation of 23 November 2016 regarding the above application and advise that the Welsh Government as highway authority for the A489 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 A489 trunk road, so that compliance to the Design Manual for Roads and Bridges (DMRB) can be assessed. The drawing must contain details of the following:-

- a) Visibility Splays in either direction, both horizontally and vertically, along the A489 from a suitable set-back on the access road to the proposed development.
- b) Gradient of the access road to the proposed development and the A489 trunk road carriageway in both directions
- c) Access road width and radii dimensions
- d) Access surfacing type along with depth and width dimensions.

2. The applicant must provide detail of proposed Active Travel compliant infrastructure along the existing Trunk Road to join the existing and soon to be enhanced infrastructure.

3. The applicant must provide details of public transport provisions on both sides of the road to include bus stops and shelters to comply with the requirements of the Local Highway Authority

3rd Response

I refer to your consultation of 6 June 2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A489 trunk road directs that any permission granted by your authority shall include the following conditions:

1. The proposed access shall meet the standards required by the Design Manual for Roads and Bridges (DMRB) with the exception of any agreed Departures from Standard.

2. The junction and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (Drawing Number – SA22302/01/09 and SA22302/01/12).

3. The junction and visibility requirements shall be substantially complete and available for use prior to the occupation of any dwellings associated with the above development..

4. 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.

5. The applicant shall provide wheel-washing facilities at the construction site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site during the construction stage.

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 may 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 be advised that all temporary or permanent signage, road markings or traffic orders shall be at the expense of the developer and agreed with the Highway Authority before works commence.

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

d) 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.

e) The Applicant shall commission and pay for a Safety Audit of the scheme, (Stages 1 – 4) in accordance with the Design Manual for Roads and Bridges HD 19/15. The Applicant shall agree the required measures with the Welsh Government before works commence on site and will be responsible for meeting all costs associated with these works.

f) 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.

1. 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.

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

Powys Ramblers

Thank you for the opportunity to comment on this application.

We could not spot any reference in the documents on the website to the 2 rights of way that are shown on the Explorer OS map on the development site both of which adjoin the A489. Clearly the development will have a major impact on users of these rights of way and we would expect to see some information about the applicants plans for either preserving them, diverting or extinguishing them. When we have received information about this will be able to comment but, in the meantime, we cannot support this application without further information.

Powys Outdoor 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 Town Council to upgrade an existing playground.

As part of the 106 planning gain, Outdoor Recreation Service's 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.

If you have any further questions please do not hesitate to contact me.

Cadw

Thank you for your e-mail of 1 August 2016 inviting our comments on the planning application for the proposed development as described above.

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

Having carefully considered the information provided with the planning application, we consider that the proposed development will have no impact on any designated historic assets. We therefore have no comments to make on the proposed development.

Powys Environmental Protection

In relation to Planning Application P/2016/0796 the following advice is provided for the consideration of Development Control.

Advice

Historic Ordnance Survey (OS) maps identify that the Eastern area of the application site was occupied by a Sewage Works. The Department of the Environment 'Industry Profile: Sewage Works and Sewage Farms' (1995) provides guidance concerning the potential contaminant sources and contaminants of concern.

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

Based on the land use history of the application site and the sensitivity of the proposed development (residential) it is recommended that the following Condition and Note to the applicant are attached to any permission granted for Planning Application P/2016/0796:

Condition A

Condition 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons (*a contaminated land specialist with proven experience within the contaminated land industry*) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and the WLGA document '*Development of land affected by contamination: a guide for developers*' 2012 .

Item (iii) above should not be submitted until written approval has been obtained from the Local Planning Authority for items (i) & (ii).

Condition 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990, The Contaminated Land (Wales) Regulations 2001 in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the Local Planning Authority.

Condition 3. Implementation of Approved Remediation Scheme

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

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. *The verification report contents must be agreed with the Local Planning Authority before commencement of the remediation scheme.*

Condition 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Condition 5. Long Term Monitoring and Maintenance

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

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

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

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy DC15 of the adopted Local Plan (date)].

Representations

The application has been advertised through the erection of a site notice and press advertisement. One objection has been received and is summarised below;

- The site lies outside the settlement boundary and would constitute development in the open countryside.
- The site has not been allocated in the current UDP or promoted as a candidate site in the emerging LDP.
- The site is remote from facilities and would promote additional vehicular movements and would be contrary to sustainable development principles.

Planning History

P/2016/0797: Outline application for the erection of up to 30 dwellings and construction of vehicular access.

Principal Planning Constraints

Flood Zone
Public Right of Way
Trunk Road
NewtownBypass Buffer

Principal Planning Policies

National Planning Policy

Planning Policy Wales (Edition 9, 2016)
TAN 1 - Joint Housing Land Availability Studies (2015)
TAN 2 - Planning and Affordable Housing (2006)
TAN 5 - Nature Conservation and Planning (2009)
TAN 6 - Planning for Sustainable Rural Communities (2010)
TAN 12 - Design (2016)
TAN 18 - Transport (2007)
TAN 20 – Planning and the Welsh Language (2013)
TAN 23 – Economic Development (2014)
TAN 24 – The Historic Environment (2017)

Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy
UDP SP5 - Housing Developments
UDP GP1 - Development Control
UDP GP3 - Design and Energy Conservation

UDP GP4 - Highway and Parking Requirements
UDP HP3 - Housing Land Availability
UDP HP4 - Settlement Development Boundaries and Capacities
UDP HP6 - Dwellings in the Open Countryside
UDP DC10 - Mains Sewage Treatment
UDP DC11 - Non-mains Sewage Treatment
UDP DC13 - Surface Water Drainage
UDP DC15 – Development on Unstable or Contaminated Land
UDP DC8 - Public Water Supply
UDP DC9 - Protection of Water Resources
UDP ENV 1 - Agricultural Land
UDP ENV 2 - Safeguarding the Landscape
UDP ENV 3 - Safeguarding Biodiversity & Natural Habitats
UDP ENV 7 - Protected Species
UDP ENV14 – Listed Buildings
UDP ENV16 – Landscapes, Parks and Gardens of Special Historic Interest
UDP ENV17 – Ancient Monuments and Archaeological Sites
UDP RL6 – Rights of Way and Access to the Countryside
UDP TR2 – Tourist Attractions and Development Areas

Powys Residential Design Guide

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

Officer Appraisal

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

Principle of Development

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

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

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been

justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site lies adjacent to the settlement development boundary of Newtown (defined as an Area Centre within the UDP). Newtown benefits from a number of services such as supermarkets, banks, public houses, primary and secondary schools and a number of Industrial Estates. Newtown also benefits from good public transport networks which provides access to other areas within and adjoining Powys. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

Appearance, Layout and Style

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

The indicative site layout details a main access with cul-de-sacs, consistent with other residential developments in the surrounding area. To the rear of the site lies the Glandulas Drive Estate which benefits from a cul-de-sac arrangement. The scales of the proposed dwellings are considered to be in keeping with those in the surrounding area.

Consideration would also need to be given to the impact of the proposed development on the visual amenity of the area. The site, whilst lying in close proximity to the development boundary would have approximately a 60 metres gap along the frontage of the site from the closest development to the east of the site. To the west of the site lay agricultural land and the Glandulas static caravan park, however the Newtown Bypass construction works have commenced on the agricultural land and to the west of the site will be a roundabout, the new trunk road and a bridge. Officers consider that the site will be seen in the context of the wider Newtown area and will not be seen as sporadic development in the open countryside due to its proximity to the caravan site, bypass and industrial estate.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating thirty dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

Highway Safety and Movement

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

As the application is accessed from the A489 Trunk Road the Welsh Government Highways Department were consulted on the application. Initial concerns were raised regarding the detail of the proposed access. Following the submission of amended plans and details Welsh Government Highways removed their holding objection subject to conditions securing the access and visibility being attached to any consent.

Consultation was also undertaken with the Powys County Council Highways department as once the bypass is complete this area of road will be de-trunked. Highways offered no objection to the proposed development subject to the securing of the footpath link along the front of the site which is proposed as part of the application. A condition will therefore be attached to any consent requiring the submission of details of this footpath prior to commencement of works on site.

In light of the comments received and given the scale of the proposed development, Officers are satisfied that the proposed development will not have an unacceptable adverse impact on highway safety and movement. The proposed development is therefore considered to be in accordance with planning policy, particularly UDP policy GP4 and Technical Advice Note 18: Transport.

Residential Amenity

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

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

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

Heritage

Policy ENV14 of the Powys Unitary Development Plan (2010) states that proposals for development which unacceptably adversely affect a listed building or its setting will be refused. In considering proposals for development affecting a listed building and its setting, account will be taken of the following: The desirability of preserving the listed building and its setting; the importance of the building, its intrinsic architectural and historic interest and rarity; the effect of the proposals on any particular features of the building; the buildings contribution to the local scene; the condition of the building and the need for the proposals to be compatible with the character of the building and its surroundings and to be of high quality design.

The proposed development is located approximately 20 metres to the north of the Grade II Listed Glandulais Farmhouse.

Following consultation with the Built Heritage Officer an objection was raised in relation to the impact the proposed development would have on the setting of the listed building. The objection states that the proposal by virtue of its size would effectively remove the farmland character from the setting of this large Regency Farmhouse. As a result of the significant and demonstrable adverse impacts outlined above, it is considered that the proposal is contrary to national legislation and policy.

A Heritage Impact Assessment was submitted with the application and states that whilst the development would be located on the remaining field in front of the listed building this is part of an accumulation of change that has already been underway for some time. The Assessment concludes that the internal road system will be in sympathy with the status of the house and the design of its front entrance and this will help to alleviate any adverse impact.

Whilst the comments from the Built Heritage Officer are acknowledged and Officers consider that the proposed development will have some impact on the listed building, it is considered that this can be mitigated through the sensitive layout of the development, design and materials used in the dwellings and hard and soft landscaping. In order to ensure that the proposed development does not detract from the setting of the listed building conditions will be attached to any consent requiring the submission of landscaping details and materials.

It is also noted that the eastern field will not be developed and will be retained as open space. The listed building will still be viewed through this area and it will retain a separation in some views from the house between the existing and proposed developments on either side of the field as well as an uninterrupted vista between the listed building and the main road.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy ENV16 and ENV17 of the Powys UDP in respect of residential amenity.

Biodiversity

The application was accompanied by a Preliminary Ecological Assessment which involved a Phase 1 habitat survey of the site. Following consultation with both Natural Resources Wales (NRW) and Powys Ecology concerns were initially raised over the information provided with the application. Following the submission of additional information no objection was received in relation to biodiversity provided conditions were attached to any consent requiring the mitigation outlined within the report being secured, the submission of landscaping scheme, pollution prevention plan and lighting scheme.

Following consultation with the Powys Ecologist regarding any nearby Special Areas of Conservation, it was confirmed that the River Wye SAC was located over 7km away and it is unlikely that the proposed development would have a significant impact on the SAC due to the different river catchment involved and the distance and nature of the proposed works. It was also confirmed that a HRA would not be required.

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

Sewerage

Policy DC10 (Mains Sewerage Treatment) requires that development are adequately served by the public foul sewerage system. Following consultation with Severn Trent Water no objection has been received.

The application is therefore considered to be in accordance with policy DC10 of the Powys UDP.

Flood Risk

The red outline of the proposed development abuts the C2 flood zone as defined by the Development Advice Maps (DAM). TAN 15 states that highly vulnerable development should not be permitted within a C2 flood zone.

The development site will be located wholly outside the C2 flood zone with the area in the flood zone identified within the same ownership as the development site.

Following comments from NRW raising concerns about the proximity of the development in relation to the C2 Flood Zone and Flood Consequences Assessment (FCA) was submitted for consideration. Further flood modelling was also undertaken and NRW considered the flood modelling to be sound and demonstrated a worst case scenario of a 1 in 1000 year event with an 80% blockage of the Railway Bridge. This demonstrated that the site continued to remain wholly outside the C2 flood zone and NRW confirmed that they had no objection to the proposed development on flood risk grounds.

In light of the above observations, Development Management considers the proposed development to be in accordance with the relevant policies of the Powys UDP and TAN15 in respect to flood risk.

Rights of Way

The application site is crossed by one public rights of way which leads through the eastern side of the site. Following consultation with the Powys Public Rights of Way department an objection was received on the basis that the proposal indicates no plan for the incorporation or legal diversion of these routes.

Whilst the concerns raised by Rights of Way are appreciated the current application is in outline with all matters reserved. The layout provided as part of the application is indicative and at Reserved Matters stage the applicant will need to produce a layout that incorporates that right of way.

Affordable Housing

Whilst UDP policy states that affordable housing provision should be 30-35%, latest evidence produced to support the Local Development Plan indicated that a 20% affordable housing provision in this area would be viable. In support of the application the developer has proposed 20% affordable housing which would be conditioned as part of any consent.

Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Government's commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

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

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

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

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

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

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Newtown has not been identified as one of the settlements under policy GP5.

The site lies adjacent to the Newtown and Llanllwchaiarn Community but within the Mochdre Community as such an assessment of both areas will be undertaken. Census data demonstrated the following;

- Census data from 2011 demonstrated an increase in Welsh speakers in the Mochdre community from 11.8% in 2001 to 13.3%.
- Census data from 2011 demonstrated an increase in Welsh speakers in the Newtown and Llanllwchaiarn community from 14.7% in 2001 to 14.9%.
- Both areas saw an increase in Welsh speakers in the 3-15 age group with Mochdre seeing a 10% increase and Newtown a 3.3% increase.

It is considered that the introduction of sixty dwellings will help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten local facilities or force sections of the population away from these facilities.

It is also considered that there is an intrinsic link between the provision of affordable housing and the cultural and linguistic vitality of an area. Affordable dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence this aids in retaining those residents and helps mitigate against the impact of a development on the Welsh language, the applicant has highlighted that the provision of affordable housing will be approximately 20% with a number of other houses of a modest scale.

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

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

Other Legislative Considerations

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.

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. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act 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). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

Recommendation

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

Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx (drawing no: SA22302/01/08, SA22302/01/09, SA22302/01/12, Flood Consequences Assessment, Planning Application Supporting Statement (including Design and Access Statement), Transport Statement, Heritage Impact Assessment and Ecological Assessment Report).

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

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:

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

7. Prior to the commencement of development a phasing scheme for the provision of housing, affordable housing and the employment land shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved scheme.

8. 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

9. Upon the submission of the reserved matters referred to in conditions 1 and 2, a scheme for the provision of on-site recreational facilities shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall accord with the Fields in Trust Standards and shall also involve arrangements for the long term management of the area together with the timing of construction and completion in relation to the housing units hereby permitted. The scheme shall be implemented in accordance with the agreed details.

10. The proposed access shall meet the standards required by the Design Manual for Roads and Bridges (DMRB) with the exception of any agreed Departures from Standard.

11. The junction and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plans (Drawing Number – SA22302/01/09 and SA22302/01/12).
12. The junction and visibility requirements shall be substantially complete and available for use prior to the occupation of any dwellings associated with the above development.
13. 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.
14. The applicant shall provide wheel-washing facilities at the construction site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site during the construction stage.
15. Prior to the commencement of development detailed engineering drawings of the proposed pedestrian footpath linking the development with the existing footway shall be submitted to and approved in writing. The footpath shall be complete prior to the occupation of any dwellings on site.
16. The recommendations identified in Sections 4.3 and 4.4 of the Ecological Assessment Report by Turnstone Ecology dated 6th October 2016, including measures for minimising impacts on species and habitats, as well as habitat creation, shall be adhered to and implemented in full.
17. Any hedgerow removal shall be undertaken under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for summer dormouse nests or hibernating dormice depending on the season.
18. Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of Mochdre Brook, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
19. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
20. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
21. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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 the risk of creating or exacerbating 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).
6. In order to secure affordable housing in accordance with policy HP7 of the Powys Unitary Development Plan (2010) and TAN2: Planning and Affordable Housing (2006).
7. In order to ensure that the affordable housing and employment elements of the development are delivered in accordance with Planning Policy Wales (9th Edition, 2016).
8. 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).
9. In order to secure adequate amenity space in accordance with policy GP1 of the Powys Unitary Development Plan (2010).
10. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18: Transport.
11. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18: Transport.
12. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18: Transport.
13. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18: Transport.
14. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18: Transport.
15. In order to maintain the safety and free flow of trunk road traffic in accordance with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18: Transport.
16. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
17. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
18. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy

Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

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

Informative Notes

Trunk Road

The applicant should be advised that they may 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 be advised that all temporary or permanent signage, road markings or traffic orders shall be at the expense of the developer and agreed with the Highway Authority before works commence.

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

d) 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.

e) The Applicant shall commission and pay for a Safety Audit of the scheme, (Stages 1 – 4) in accordance with the Design Manual for Roads and Bridges HD 19/15. The Applicant shall agree the required measures with the Welsh Government before works commence on site and will be responsible for meeting all costs associated with these works.

f) 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.

1. 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.

Biodiversity

Birds - Wildlife and Countryside Act 1981 (as amended)

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

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

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

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

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;
- Deliberately disturb an otter in such a way as to be likely to significantly affect the local distribution or abundance of otters or the ability of any significant group of otters to survive, breed, rear or nurture their young;
- Damage or destroy an otter holt;
- Intentionally or recklessly disturb any otter whilst it is occupying a holt; or
- Intentionally or recklessly obstruct access to a holt.

Reasonable avoidance measures need to be implemented to ensure minimal impact to otter activity in the local area. These will include:

- No night working or lighting of the works area;
- Ensuring that no barriers to movement of otters along the river are created;
- Keep unnecessary noise to a minimum during the works; and
- Do not light any fires close to areas of vegetation.

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

It is an offence for any person to:

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

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.