

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

<b>Application No:</b>	P/2017/0259	<b>Grid Ref:</b>	293222.95 246980.22
<b>Community Council:</b>	Llangamarch Wells	<b>Valid Date:</b>	<b>Officer:</b> 09/03/2017 Thomas Goodman
<b>Applicant:</b>	Mr John Carroll, Riverside Caravan Park, Llangammarch Wells, Powys, LD4 4BY		
<b>Location:</b>	Riverside Caravan Park, Llangammarch Wells, Powys, LD4 4EP		
<b>Proposal:</b>	Siting of 40 touring caravans and 13 static caravans for holiday use between 1st March through to 3rd January of the following year and the winter storage of 42 caravans		
<b>Application Type:</b>	Application for Full Planning Permission		

### Update Report:

The application was deferred to secure guidance from NRW in relation to flood risk caused by the increase time period of occupation. The following is an updated version of the original report that included the information requested by the Planning Committee.

### The reason for Committee determination

The application is a departure from Unitary Development Plan (within flood zone) and is recommended for approval.

### Site Location and Description

The proposed development is not located within a settlement development boundary and therefore for the purposes of this application is considered as development within the open countryside as defined by the Powys Unitary Development Plan (2010).

To the north of the application site runs the Heart of Wales Railway line. Access to the site is along a private track from the east off the C0024. To the south runs the River Irfon and to the west is agricultural land.

Consent is sought for the siting of 40 touring caravans and 13 static caravans for holiday use between 1st March through to 3rd January of the following year and the winter storage of 42 caravans.

### Consultee Response

Llangammarch Community Council

No response received at the time of writing this report.

#### PCC - Highways

Does not wish to comment on the application.

#### Welsh Water

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

#### Sewerage

As the applicant intends utilising a septic tank facility we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

#### Water Supply

Dwr Cymru Welsh Water has no objection to the proposed development.

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

If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrwymru.com](mailto:developer.services@dwrwymru.com)

#### NRW

*Consultation response received 04/04/17:*

Thank you for your consultation received on 14th March 2017 we provided pre-app advice in relation to this application and we note that no new information has been presented.

Based on the information submitted we have no objection to the proposal.

#### River Wye SAC/Upper River Wye SSSI

The proposal site is already in use for static and touring caravans and it is immediately adjacent to the River Wye SAC/Upper River Wye SSSI.

Provided that there is sufficient capacity on site for handling waste from mobile units with chemical toilet waste and this is managed to prevent runoff or overflow into the river there is not likely to be an impact on the protected sites. We consider that subject to foul drainage and chemical toilet waste being appropriately managed, there would be no likely significant effects on the River Wye SAC/Upper River Wye SSSI. Further information is provided under the relevant section below.

## Foul Drainage and Permit Requirements

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

The site currently has an EPR permit, ref: AN046001 and schedule 3 of the permit has set a limit of 9m<sup>3</sup> per day to ground. We understand that the current application is to extend the season only and does not affect the number of caravans on site.

If the owners should in the future seek to increase the number of caravans on the site they will need to demonstrate that the existing sewage treatment is able to deal with the additional loading and that the existing soak away is large enough. The operator will need to comply with British Standard 6297:2007+A1:2008 Code of Practice for the design and installation of drainage fields for use in water treatment. If the existing system is not able to cope with the increased loading the operator will need to apply to vary their permit and carry out the appropriate works to upgrade their sewage treatment system.

Chemical toilet waste must be contained within a sealed and watertight cesspool, fitted with a level warning device to indicate when the tank needs emptying. The contents of the cesspool shall be taken to an identified sewage treatment works for full biological treatment.

The cesspool must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non-mains sewerage. The applicant must obtain any necessary permit prior to any works starting on site.

We note that the site is near the Dwr Cymru / Welsh Water main sewer catchment for Llangamarch Wells. Government policy states that, where practicable, foul drainage should be discharged to the mains sewer.

## Flood Risk

The application site lies entirely within zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15). Our flood map information, which is updated on a quarterly basis, confirms the site is within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Wye, designated as an ordinary watercourse along this reach.

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).

This application to extend the opening season does not increase the number of units and therefore the vulnerability/risk will not change and in this instance we do not require a Flood Consequence Assessment (FCA).

In accordance with the guidance in Appendix 6 of TAN15, the applicant should be aware of the risk to the site and (if not already in place) agree an emergency plan with the local

authority to ensure that site users are aware of the risk and action to be taken in the event of a flood.

We would recommend you consult other professional advisors on the acceptability of proposals and on matters we cannot advise on, such as, emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users. In this area the Lead Local Flood Authority are Powys County Council.

#### European Protected Species – Otter and Bats

Bats and Otters and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Otters are a feature of the River Wye SAC as well as being a European protected species. There is a record of an otter spraint within the site.

No ecological information has been provided. As the site is already in use as a caravan park and this application is only to extend the length of season and allow winter storage we consider that this would not have an adverse impact on otters as they would be accustomed to the current levels of light and disturbance along this stretch of the river.

If the lighting plan should change any possible effects on otters and bats could be mitigated by directing site lighting away from the river banks to limit the impact of light pollution on species using the river corridor.

#### 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.

To conclude, we trust that the pre-application advice provided above is of assistance to you and provides details of the information and surveys that NRW would expect any application to be supported by. This information will allow NRW to fully assess the possible impact of the proposal on natural heritage interests.

#### *Consultation response received 29/06/2017:*

I passed on your query to the development flood risk team. The original internal consulate was not available but their colleague replied -

"Whether the site is open for 9 months or 12 months doesn't remove the flood risk as a flood can happen any time of year as we've seen historically. In terms of the probability of occurrence, this may be the only factor that changes as a result of the continuous use of the site (if its 12 months for the extension). "

*Consultation response received 10/07/17:*

Thank you for your correspondence in relation to the above planning application. We previously gave pre-app advice on this case and responded to a planning consultation on 4th April 2017 CAS-30720-W6P5.

We received further communication from yourself on 23rd June 2017 requesting further clarification in relation to the flood risk and vulnerability. We replied on 29th June 2017 and we were asked to provide further clarification as to whether the site would be likely to have an increased flood risk/vulnerability.

Following re-consultation with our development flood risk specialists we have reconsidered our response and have the following recommendations and advice:

We accept that the site is an existing caravan park and that the numbers of the caravans/pitches will not be increased. However, the extension to the opening season means that people residing in the static caravans could be spending more days at the site, thus increasing the chances of being at flood risk.

We consider that provision of a Flood Consequence Assessment (FCA) to appreciate a better understanding of the actual flood risk to the site would provide an opportunity to provide mitigation, flood protection measures and flood warning procedures to protect the residents at the site during the existing opening season and the extension to the season should the application be approved.

Our comments 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/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). 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. Any site owner/developer 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.

*Consultation response received 12/07/2017:*

Thank you for your correspondence in relation to the above planning application. We previously gave pre-app advice on this case and responded to a planning consultation on 4th April 2017 CAS-30720-W6P5.

We received further communication from yourself on 23rd June 2017 requesting further clarification in relation to the flood risk and vulnerability. We replied on 29th June 2017 and we were asked to provide further clarification as to whether the site would be likely to have an increased flood risk/vulnerability.

With respect to our response dated 10 July 2017, you will note that we reconsidered our original response and provided recommendations and advice, rather than an objection.

Our comments explained that we accept the site is an existing caravan park, with no increase in caravans/pitches. Any increase in risk as a result of the proposals would be to people who may spend more days at the site as a result of the extension to the season. In view of the above our response to your local authority recommended that provision of a Flood Consequence Assessment (FCA) would be appropriate.

Within TAN15 Development and Flood Risk, A6.1 of Appendix 6 states that it is the responsibility of all landowners to protect their property against flooding and A6.2-A6.5 relates specifically to caravan and camping sites and how site owners should protect their property and occupants. Within Appendix 6, specifically A6.5, “where planning permission is granted or a licence to operate is issued ...a condition should be attached requiring the provision of flood risk information to all persons occupying pitches on the site and the erection of suitable permanent warning notices. In the case of sites that are already permitted or licensed, or those for which no licence or planning permission is required, owners are strongly advised to follow the principles described above in respect of their consideration of flood risk issues”.

Should the existing site not benefit from previous consideration of flood risk, your authority may consider that production of a FCA is required to protect existing occupants within the current season.

Our comments 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/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). 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. Any site owner/developer 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.

*Consultation response received 22/09/2017:*

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 04/09/2017. We note that an FCA was submitted with the application, prepared by SLR, ref: 407.107481.00001 and we have the following comments to make.

Flood Risk

The application site lies entirely within Zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15).

As demonstrated in the FCA, the current campsite is shown to be at risk of flooding during a Q20 magnitude flood event and more severe events. Likewise, access to the site is only available via the track adjacent to the River Cammarch and is shown to flood to significant depths >1m in the Q20. The site is therefore not compliant with the criteria in Sections A1.14

or A1.15 of TAN15. Flood depths and velocities on the site access significantly exceed the guideline values in Section A1.15 of TAN15.

It should be noted that the hydraulic model has not been run for more frequent events and given the level of the track compared to the adjacent watercourse, flooding of the access is likely in more frequent events (i.e. Q5/Q10). (2005 photo of the access road beneath the railway, shown below) cs2 03-c.

The FCA notes that access would be impassable during a flood event, given the flow constriction through the railway bridge, significant flood depths and velocities are anticipated. A Hazard rating of 'Danger for all – includes the emergency services' is likely during most events affecting the access given the predicted flood depths of over 1m in a Q20 event or above.

We note the recommendations in the FCA to restrict caravans during the open season (and store caravans during winter) in elevated areas located outside the Q100 flood event, which appears to correspond broadly with the existing site layout (shown in FCA Figure 007). It is assumed that storage of caravans refers to the existing units on site during the closed season. We also agree with the recommendation in the FCA that the caravans should be tethered to the ground to reduce the chances of them becoming buoyant in the event in the event of a flood (Section 8.9).

The feasibility of any proposed emergency/evacuation plan for the site should be agreed with the local authority in line with the advice in Appendix 6 of TAN15 regarding Camping and Caravan Sites.

As noted in the FCA the site is only within the Flood Alert area for the River Wye in Powys and is not within a targeted Flood Warning area. The Cammarch is also an ungauged catchment, NRW would be unable to provide any information on river levels on this watercourse. Any evacuation of the site would be dependant on local monitoring of the River Cammarch on the access route, as noted in Section 8.7 of the FCA this 'may quickly become impassable'.

With regards to the impact of increasing the opening season as discussed in Section 9.0, Figure 9-1 indicates the likelihood of a flood reaches a peak in November or December with a slight increase from the likelihood in October, as would typically be expected into the winter months. The severity of events shown in Figure 9-2 indicates numbers of events above the QMED or a 1 in 2 year flood (56.542m<sup>3</sup>/s on the National River Flow Archive <http://nrfa.ceh.ac.uk/data/station/peakflow/55004>) are broadly similar throughout September to December, indicating site occupants may face a similar likelihood of a flood event during the current opening season (through October) or the extended season (through December).

Please note that the updated model/hydrology has not been checked by NRW, it is assumed that these results are correct and any changes are unlikely to significantly alter the predicted flood scenarios on the site or access route. In addition, although Section 6 of the FCA notes the current Welsh Government requirement to add 25% flows to the 1 in 100 year fluvial flood event to account for climate change over the lifetime of the development, the remainder of the FCA refers to +20% flows and this value has been used in the model. Given the site is flooding in more frequent events, the change from 20% to 25% would not alter the findings of the FCA.

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

### Scope of NRW Comments

Our comments 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/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). 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. Any site owner/developer 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.

### Emergency Planning

Thank you for the opportunity to comment on the above application. As discussed I looked in the planning portal and there is no mention of any flood related issues. Even if fluvial flooding is not an issue at this site, as persons will be camping there overnight, I strongly recommend that there should be an Emergency Site Evacuation Plan to explain how persons would safely evacuate the site (as the result of flash flooding, fire etc.)

The NRW website has a very good template for caravan site owners (see hyperlink below, and attached for ease of reference). Although focused on the risk from fluvial flooding this can be used as a good template to produce an Emergency Evacuation Plan.

<https://naturalresources.wales/flooding/guidance-for-caravan-and-campsites-owners-and-operators/?lang=en>

Can I please ask that any further correspondence on this or any other planning matter is sent to this generic email address where it will be picked up by one of my EPO colleagues in my absence.

As always please ring me should you have any further queries about the above.

### **Public Response**

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

### **Planning History**

P/2014/0799 - Certificate of lawful use for the siting of 40 touring caravans and 13 static caravans between Maundy Thursday and 31st October each year and the winter storage of 42 caravans. Certificate of Lawfulness Split Decision – 30/10/14.

B/93/6957 – Conversion of attached garage to additional living accommodation and erection of a garage – Conditional Consent – 14/02/1994



B/03/0394 – Reserved matters application for construction of detached bungalow – Conditional Consent – 23/02/2004

B/03/0195 – Increase number of pitches from 29 to 50 (tourers). To open from Mid March to Mid November. To open 1 week over Christmas. Withdrawn

B/02/0187 – Temporary use of one caravan pitch for residential use by a warden/owner – Conditional Consent – 14/08/2002

B/01/0187 – Application for Certificate of Lawfulness for use of land for caravans sited permanently and touring caravans for holiday use. Lawful development – 09/08/2001

## **Principal Planning Constraints**

C2 Flood Zone

SSSI

Special Area of Conservation

## **Principal Planning Policies**

### National Policies

Planning Policy Wales (Edition 9, November 2016)

Technical Advice Note (TAN) 4 – Retail and Commercial Development (2016)

TAN 6 – Planning for Sustainable Rural Communities (2010)

TAN 12 – Design (2016)

TAN 13 – Tourism (1997)

TAN 15 - Development and Flood Risk (2004)

TAN 18 – Transport (2007)

TAN 23 – Economic Development (2014)

### Local Policies

Powys Unitary Development Plan (2010)

SP1 – Social, Community and Cultural Sustainability

SP3 - Natural, Historic and Built Heritage

SP4 – Economic and Employment Developments

SP8 – Tourism Developments

SP14 - Development In Flood Risk Areas

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV2 – Safeguarding the Landscape

ENV3 - Safeguarding Biodiversity & Natural Habitats

ENV7 – Protected Species

TR1 – New Tourism Developments

TR6 – Holiday Static Caravan Sites

TR7 – Touring Caravan and Camping Sites

## **Officer Appraisal**

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

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

### Principle of Development

Policy TR6 of the Powys Unitary Development Plan makes reference to proposals for the development of new holiday static caravan sites. Given that this development is an existing holiday static caravan site it is considered that the development complies with policy TR6 of the Powys UDP (2010).

The proposal seeks consent to allow for the siting of 40 touring caravans and 13 static caravans for holiday use between 1st March through to 3rd January of the following year and the winter storage of 42 caravans. Given that there is no policy restricting the operating period for static holiday homes it is considered that the increase in the operating period would be acceptable in this instance. However, in order to ensure that the holiday units are not used for permanent residential accommodation, appropriately worded conditions will be attached to any granting of consent ensuring this restriction.

Policy TR7 of the Powys Unitary Development Plan makes reference to proposals for the development of new touring caravan and camping sites. A Certificate of Lawfulness was granted under the planning application P/2014/0799. This consent granted permission for the siting of 40 touring caravans and 13 static caravans between Maundy Thursday and 31<sup>st</sup> October each year and the winter storage of 42 caravans. Touring caravan sites have environmental advantages over static caravan sites in that they are normally only occupied for part of the year and their impact on the landscape is therefore less permanent. Consequently, in order to maintain these advantages, Policy TR7 seeks to restrict the permanent siting of touring caravans. However, given that this site already benefits from consent for the winter storage of 42 caravans, in this instance it is therefore considered that a condition restricting the permanent siting of touring caravans could not be enforced. However, in order to ensure that the holiday units are not used for permanent residential accommodation, appropriately worded conditions will be attached to any granting of consent ensuring this restriction.

### Highway Safety

Policy GP4 of the Powys Unitary Development Plan requires a safe access, parking and visibility splays which are a fundamental requirement of any development.

Powys County Council's Highway Authority has been consulted on the proposed development and has not wished to make any additional comments. The proposal will see an increase in activity through the months of November, December and March, however, it is considered that the existing means of access and visibility splays are acceptable. The site itself has not increased numbers of static/touring caravan units and therefore there will not be an overall increase in numbers apart from the periods not previously permitted. Therefore it is considered that in this instance the increased use of the site in the months of November, December and March would not lead to a detrimental impact upon highway safety. The proposed development therefore complies with policy GP4 of the Powys UDP.

### Flooding

Policy SP14 of the Powys UDP refers to development in flood risk areas. The development is within the C2 flood zone and is considered as highly vulnerable development. Policy SP14 states that highly vulnerable development and emergency services will not be permitted in C2 flood zones. Natural Resources Wales (NRW) been consulted on the proposed extension of operating period. NRW have stated that this application to extend the opening season does not increase the number of units and therefore the vulnerability/risk will not change and in this instance we do not require a Flood Consequence Assessment (FCA). However, following clarification from NRW a FCA was advised to be submitted in order to appropriately assess the site. Following the submission of the FCA, NRW stated that with regards to the impact of increasing the opening season, there would be a slight increase in likelihood through the winter months. However, broadly the severity of events indicate a similarity throughout September and December, indicating site occupants would face a similar likelihood of a flood event during the current opening season (through October) and the extended season (through December).

In light of the increase risk specified by NRW it is considered that the proposed development is contract to policy aimed at managing flood risk to an acceptable level.

### 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**

It is considered that the proposed development would result in an increased period of occupation of a caravan site located within a flood zone. The flood risk is considered to be unacceptable. The recommendation is therefore one of refusal. The reason for refusal will be reported within the update report,