

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0667	Grid Ref:	304017.92 256724.39
Community Council:	Disserth and Trecoed	Valid Date:	Officer: 20/06/2017 Thomas Goodman
Applicant:	Mr J Nicholls, Cargill Meats Europe, Feed Mill Allensmore, Hereford, HR2 9AW		
Location:	Gaufron Farm, Howey, Llandrindod Wells, Powys, LD1 5RG		
Proposal:	Full: Redevelopment of site, including the demolition of 5 poultry units, and the erection of 2 replacement poultry units and all associated works		
Application Type:	Application for Full Planning Permission		

The reason for Committee determination

The application is accompanied by an environmental statement.

Site Location and Description

The proposed development site 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).

The application site is located to the north of the U1316 unclassified road and to the west of the Heart of Wales Railway Line. To the north of the application site is agricultural land and to the west are residential properties serving the units.

The proposed development seeks to re-develop the site, which includes the demolition of the existing 5 poultry units with the replacement of 2 larger poultry units. The unit will house approximately 56,000 birds per cycle for the rearing of broiler breeder birds.

The poultry buildings will each measure approximately 97.5 metres in length by 32 metres in width and 7.7 metres to the ridge. A control/service room will be located at the southern end of the units and will measure approximately 15 metres in length and width. The combined floor space will be 6,750 square metres. Six feed bins are also proposed which are located in pairs at the southern end of each building and a pair between the two buildings. The poultry units will be portal framed construction with insulated box profile metal sheeting to the walls and box metal profile sheeting roofs.

Consultee Response

Disserth and Trecoed CC

No response received at the time of writing this report.

Powys Highways

Consultation response received 07/07/17:

It is clear from the information supplied within Section 11 of the Environmental Statement that the traffic movements associated with the redevelopment of the existing poultry facility effectively mirror the levels currently experienced.

In light of the above and given that the existing access arrangements remain unaltered, the Highway Authority have no grounds to offer any objection to the proposal.

Welsh Water

Consultation response received 30/06/2017:

I am currently processing our response for the above planning consultation.

Please can you confirm if the developer requires a water supply? Or, if they do have an existing water supply, would there be any change in water usage?

Consultation response received 13/07/17:

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

There is no public sewerage system in this area. Any new development will require the provision of satisfactory alternative facilities for sewage disposal.

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

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

Please quote our reference number in all communications and correspondence.

Powys Environmental Health

I write with reference to the above.

The proposed development will be housing 56,000 broilers which is above the threshold of 44,000 for regulation of poultry farming under the Environmental Permitting (England and Wales) (Amendment) Regulations (EPR) 2016 and as such will require a permit issued by Natural Resources Wales.

The permit will address relevant issues relating to air, water and land and including management and operations Inc. Noise and Odour.

Emissions of noise that are generated outside of the environmental permit such as construction noise does fall within the remit of Environmental Protection and therefore should permission be granted I would suggest the following condition is attached.

Demolition & Construction

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

0800 - 1800 hrs Monday to Friday

0800 – 1300 hrs Saturday

At no time on Sunday and Bank Holidays

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

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

Reason: To ensure that the amenities of neighbouring properties are not detrimentally impacted upon in terms of noise.

(a1) Transport Noise

All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.

Reason: To protect the local amenities of the local residents from noise.

Powys Rights of Way

Thank you for the opportunity to comment on this planning application.

The access to the site is dual recorded as both a road (U1316) and as a bridleway (DT1690). As such, consideration should be given to users of the public right of way (walkers, cyclist and equestrians) accessing the network beyond the development, both during the proposed re-development and once the proposed unit becomes operational if approved.

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public path be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the path can be legally stopped-up for a defined period.

Countryside Services therefore has no objections to the proposed application at this time, subject to the guidance information detailed above.

Powys Ecologist

Consultation response received 03/07/17:

The proposed scheme is an intensive livestock installation which falls below the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, Schedule 1 (17a) threshold for this type of development of 60,000 places for hens, but exceeds the Schedule 2 threshold of having a floor space area higher than 500m² (6750m²). Following a screening opinion provided by PCC on 14/12/16 an Environmental Statement has been submitted with the planning application.

A phase 1 habitat survey, protected fauna survey and habitat suitability assessment of the site have been completed and the accompanying report submitted with the application (Turnstone Ecology, May 2017). The Turnstone Ecology report is also summarised in the Environmental Statement submitted with the planning application (Berrys, no date given).

The report generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009) but refers to the NERC Act 2006. However, the Environment (Wales) Act 2016 has now replaced the duty in section 40 of the NERC Act in relation to Wales, with a duty on public authorities to seek to maintain and enhance biodiversity. The Environment (Wales) Act has therefore been referred to when making these observations.

Historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service have also been reviewed to inform these observations.

The ecology report confirms that habitats at the site comprise improved grassland in the northwest and south, trees along the eastern boundary and within gardens to the west, disturbed ground and ruderal vegetation to the north, east and in between the existing buildings and hedgerows to the north, south and west of the existing buildings. The report states that buildings, hardstanding, disturbed ground and areas of improved grassland would be directly affected by the proposals.

The ecology report identifies that the site and adjacent area provides suitable habitat for bats, badger, dormouse, nesting birds, Great Crested Newt and reptiles.

Within 2km of the site there are historical records of otter (within 931m) and various bat species including myotis species, Whiskered, Noctule, Common and Soprano Pipistrelle and Brown Longeared (nearest within 890m), although none from the site itself.

The ecology report confirms that no evidence of bats using the poultry units was observed during the site survey and the buildings do not appear to be suitable for use by roosting bats, being well sealed and lit for long periods. No roosting features were noted in the trees adjacent to the eastern boundary of the site. However, the report concludes that the surrounding trees and hedgerows provide good foraging and commuting opportunities for bats.

The ecology report recommends that, if any bats are observed during the works, works must cease and advice sought before proceeding. Considering the unlikely chance of bats roosting in the buildings this advice is considered appropriate in this case.

Enhancement measures for bats are proposed in Section 4.3.3 of the ecology report in the form of long term roosting provisions on/within the new buildings and/or trees within the site boundary. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The ecology report concludes that most of the site is unsuitable for Dormouse and the boundary hedgerows have very limited suitability due to the lack of food plants and connectivity to surrounding habitat. However, the tree-lined railway corridor to the east of the site is concluded as being suitable for Dormouse. Measures for the protection of hedgerows and trees in accordance with BS5837:2012 are proposed in the ecology report and would ensure no negative impact to Dormice and their habitat. A tree and hedgerow protection plan should therefore be provided for LPA approval prior to commencement of development.

There are no historical records of Great Crested Newt within 2km. The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor outside the site to the east provide suitable habitat for Great Crested Newt. However, the habitat directly affected offers only limited foraging/dispersal opportunity and there are no waterbodies identified within 500m of the site. No negative impacts on Great Crested Newt are therefore predicted.

Within 2km of the site there are historical records of amphibians including Palmate and Smooth Newt (within 579m) and Common Frog (within 927m) and Red Kite (within 673m), although none from the site itself.

The ecology report confirms that two active badger setts are present within the site along with evidence of badger activity and the presence of good foraging habitat.

Since one of the Badger setts is likely to be damaged and disturbed during the groundworks the ecology report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the ecology report (Turnstone Ecology, May 2017) proposes measures to be taken to exclude Badgers from the sett. The other, larger sett would be unaffected by the proposals and there is suitable habitat for a new sett immediately adjacent to the site so a replacement sett is not proposed. These measures are considered acceptable and should be included as part of the licence application. Measures to ensure foraging Badgers do not become trapped during the works are also proposed.

The buildings are considered suitable to support nesting birds, such as House Sparrow and Swallow, while the surrounding hedgerows and trees could support a range of nesting bird species.

The ecology report recommends that site clearance works occur outside of the bird nesting season (March – August inclusive). If this is not possible a pre-construction nesting bird check should be made immediately in advance of the clearance works and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished. The surrounding hedgerows and trees that are to be retained provide suitable bird nesting habitat and recommendations are made to protect these during the works in accordance with BS5837:2012.

As an enhancement measure, the provision of open and hole-fronted bird boxes on buildings and trees within the site is proposed within the ecology report and should include terrace boxes for House Sparrow and access to internal ledges/roof frames for Swallows. I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to development commencing.

The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor to the east are considered suitable to support reptiles. Habitat modification measures to deter reptiles in advance of site clearance are therefore recommended and site clearance of these areas timed for March – October inclusive, when reptiles are likely to be active. Recommendations are also made to avoid storage of site materials from site boundaries to deter reptiles from using them as cover.

In addition to the species already discussed above, within 2km of the site there are historical records of hedgehog (within 530m) and Polecat (within 534m), although none from the site itself.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

The Environmental Statement (Berrys, no date given) identifies that water pollution from the site could enter a local watercourse, but no further details, such as a Site Drainage Plan or Manure Management Plan, appear to be available to enable the potential impacts on this feature to be assessed. Rivers are a Section 7 Priority Habitat and measures must therefore be taken to ensure that this watercourse is not negatively affected by pollution from the proposal (please refer to the observations on Protected Sites below).

The ecology report (Turnstone Ecology, May 2017) states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The ecology report also proposes that the botanically poor areas of grassland and ruderal vegetation are enhanced with a mix of native field margin species and grass species, and appropriate management. This would be welcomed as a biodiversity enhancement to the site and a species list should be provided as part of a site biodiversity enhancement plan for LPA approval prior to development commencing.

As another enhancement measure the ecology report proposes planting of trees in the northern and western boundaries of the site to fill in gaps and improve connectivity, and suggests suitable native, broadleaved species for this. This would also enhance the habitat at the site and its connectivity with surrounding habitats for Dormice, commuting/foraging bats, nesting birds and a range of other wildlife. I therefore recommend that the species and planting design are included as part of a biodiversity enhancement plan to be provided for LPA approval prior to development commencing.

The ecology report (Turnstone Ecology, May 2017) confirms that the Afon Gwy SAC is located approximately 0.9km north-west of the proposals. A Report on the Modelling of the Dispersion and Distribution of Ammonia has been completed by AS Modelling (February 2017) using the Environment Agency's standard ammonia emission factors (H1 Annex B – Intensive Farming), which identifies other components of the Afon Gwy SAC within 10km of the farm as well as the Ellenydd Mallaen SAC and SPA.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance. For SACs, SPAs, Ramsars and SSSI's the screening distance from source is now 5km, the threshold of insignificance % of critical level/load is 1%, while the upper threshold % of critical level/load is 8%. Therefore, the Ammonia Modelling assessment will need to be revised and updated to meet the current NRW OGN 41 guidance requirements prior to determination of planning.

The Environmental Statement identifies that water pollution from the site could enter the local watercourse and reach the River Ithon SSSI and Afon Gwy SAC. Mitigation for the collection and treatment of dirty water is specified in the ES and involves spreading the dirty water collected from cleaning the buildings onto agricultural land. A manure management plan to show the locations for this, including suitable buffer distances from watercourses, should be provided for approval prior to determination of planning. Surface water would be dealt with separately before being discharged into a nearby land drain, which ultimately connects with local watercourses.

I recommend that a Site Drainage Plan is prepared for LPA approval prior to determination of planning; this should indicate the locations of the proposed site drainage and links with any surface watercourses that could be at risk of receiving pollution from the site. Such a plan would be required to inform a Habitats Regulations Test of Likely Significant Effects for the Afon Gwy SAC, which would need to be completed prior to determination of planning.

A Pollution Prevention Plan (Berrys, no date given) has also been submitted with the application. Section 8 of this document states that standard pollution prevention measures will be implemented during the site construction phase. Section 9 of the report details operational pollution risks and controls that would be implemented, which would also include the construction phase. A risk assessment and emergency procedure is also outlined. The PPP appears to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are also consulted for their views on this as part of the site permitting requirements.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

The ecology report confirms that thirteen SSSI are located within 5km of the proposals with the Ammonia Modelling report identifying seven within 2km; the closest being the Neuadd and Tylelo Mires SSSI approximately 900m to the SSW. Please see the comments above regarding the Ammonia Modelling assessment report and new NRW guidance.

See the observations above regarding the Pollution Prevention Plan and requirement for a Manure Management Plan and Site Drainage Plan prior to determination of planning.

The Ammonia Modelling report identifies several Ancient Woodlands within 2km of the site, the closest being 210m to the north-west. The Ammonia Modelling report predicts that the site's process contribution to the maximum annual ammonia concentrations and nitrogen and acid deposition rates would be below the EA's lower threshold percentage of Critical Level or Load for these sites, and are therefore deemed insignificant. NRW's new guidance note on ammonia and nitrogen modelling (OGN41) does not include Ancient Woodlands in its scope and the method of assessment of this feature for the Ammonia Modelling report is therefore deemed acceptable.

Recommendations and mitigation measures for bats, nesting birds, badgers and reptiles are provided in the Ecology Report (Turnstone Ecology, May 2017) and Environmental Statement (Berrys, no date given). Relevant conditions relating to these are therefore suggested below.

Since a Badger sett is likely to be damaged and disturbed during the groundworks the Ecology Report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the report proposes measures to be taken to exclude Badgers from the sett. These measures are considered acceptable and should be included as part of the licence application.

Enhancement measures for bats, nesting birds, species-rich grassland and tree planting are proposed in the Ecology Report (Turnstone Ecology, May 2017). I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the Ecology Report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The Ecology Report states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate

buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The submitted Pollution Prevention Plan (Berrys, no date given) appears to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are consulted for their views on the PPP.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

The following information is required to inform a Habitats Regulations Test of Likely Significant Effects and also to determine the potential impacts on local watercourses, a Section 7 Priority Habitat.

NRW have issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report submitted with this application therefore predates this guidance. For SACs, SPAs, Ramsars and SSSI's the screening distance from source is now 5km, the threshold of insignificance % of critical level/load is 1%, while the upper threshold % of critical level/load is 8%. Therefore, the Ammonia Modelling assessment will need to be revised and updated to meet the current NRW OGN 41 guidance requirements prior to determination of planning.

A manure management plan to show the locations for disposal of dirty water collected during the building cleaning process, including suitable buffer distances from watercourses, should be provided for approval prior to determination of planning.

A Site Drainage Plan should be submitted for approval prior to determination of planning; this should indicate the locations of the proposed site drainage and links with any surface watercourses that could be at risk of receiving pollution from the site.

Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:

The recommendations regarding bats, nesting birds and reptiles identified in Section 4.3 of the Ecological Report by Turnstone Ecology dated May 2017 shall 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 and ENV7 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.

The mitigation regarding bats, badgers and reptiles in Section 4.3 of the ecological report by Turnstone Ecology dated May 2017 and water pollution identified in Section 9.6 of the

Environmental Statement by Berrys shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 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.

Prior to commencement of development, a Biodiversity Enhancement Plan including details of the proposals for bat and bird boxes, grassland seeding and tree 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, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

The Pollution Prevention Plan submitted to the Local Planning Authority shall be 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

Reason: To comply with Powys County Council's 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.

No manure from the egg laying unit shall be spread on the holding without the prior written approval of the LPA. In no circumstances shall such manure be spread within 200m of any watercourse, protected dwelling or SSSI.

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

The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.

Reason: To comply with Powys County Council's UDP Policy 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.

Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.

Reason: To comply with Powys County Council's UDP Policy 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.

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Consultation response received 12/07/17:

The proposed scheme is an intensive livestock installation which falls below the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, Schedule 1 (17a) threshold for this type of development of 60,000 places for hens, but exceeds the Schedule 2 threshold of having a floor space area higher than 500m² (6750m²). Following a screening opinion provided by PCC on 14/12/16 an Environmental Statement has been submitted with the planning application.

A phase 1 habitat survey, protected fauna survey and habitat suitability assessment of the site have been completed and the accompanying report submitted with the application (Turnstone Ecology, May 2017). The Turnstone Ecology report is also summarised in the Environmental Statement submitted with the planning application (Berrys, no date given).

The report generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009) but refers to the NERC Act 2006. However, the Environment (Wales) Act 2016 has now replaced the duty in section 40 of the NERC Act in relation to Wales, with a duty on public authorities to seek to maintain and enhance biodiversity. The Environment (Wales) Act has therefore been referred to when making these observations.

Historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service have also been reviewed to inform these observations.

The ecology report confirms that habitats at the site comprise improved grassland in the northwest and south, trees along the eastern boundary and within gardens to the west, disturbed ground and ruderal vegetation to the north, east and in between the existing buildings and hedgerows to the north, south and west of the existing buildings. The report states that buildings, hardstanding, disturbed ground and areas of improved grassland would be directly affected by the proposals.

The ecology report identifies that the site and adjacent area provides suitable habitat for bats, badger, dormouse, nesting birds, Great Crested Newt and reptiles.

Within 2km of the site there are historical records of otter (within 931m) and various bat species including myotis species, Whiskered, Noctule, Common and Soprano Pipistrelle and Brown Longeared (nearest within 890m), although none from the site itself.

The ecology report confirms that no evidence of bats using the poultry units was observed during the site survey and the buildings do not appear to be suitable for use by roosting bats, being well sealed and lit for long periods. No roosting features were noted in the trees adjacent to the eastern boundary of the site. However, the report concludes that the surrounding trees and hedgerows provide good foraging and commuting opportunities for bats.

The ecology report recommends that, if any bats are observed during the works, works must cease and advice sought before proceeding. Considering the unlikely chance of bats roosting in the buildings this advice is considered appropriate in this case.

Enhancement measures for bats are proposed in Section 4.3.3 of the ecology report in the form of long term roosting provisions on/within the new buildings and/or trees within the site boundary. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The ecology report concludes that most of the site is unsuitable for Dormouse and the boundary hedgerows have very limited suitability due to the lack of food plants and connectivity to surrounding habitat. However, the tree-lined railway corridor to the east of the site is concluded as being suitable for Dormouse. Measures for the protection of hedgerows and trees in accordance with BS5837:2012 are proposed in the ecology report and would ensure no negative impact to Dormice and their habitat. A tree and hedgerow protection plan should therefore be provided for LPA approval prior to commencement of development.

There are no historical records of Great Crested Newt within 2km. The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor outside the site to the east provide suitable habitat for Great Crested Newt. However, the habitat directly affected offers only limited foraging/dispersal opportunity and there are no waterbodies identified within 500m of the site. No negative impacts on Great Crested Newt are therefore predicted.

Within 2km of the site there are historical records of amphibians including Palmate and Smooth Newt (within 579m) and Common Frog (within 927m) and Red Kite (within 673m), although none from the site itself.

The ecology report confirms that two active badger setts are present within the site along with evidence of badger activity and the presence of good foraging habitat.

Since one of the Badger setts is likely to be damaged and disturbed during the groundworks the ecology report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the ecology report (Turnstone Ecology, May 2017) proposes measures to be taken to exclude Badgers from the sett. The other, larger sett would be unaffected by the proposals and there is suitable habitat for a new sett immediately adjacent to the site so a replacement sett is not proposed. These measures are considered acceptable and should be included as part of the licence application. Measures to ensure foraging Badgers do not become trapped during the works are also proposed.

The buildings are considered suitable to support nesting birds, such as House Sparrow and Swallow, while the surrounding hedgerows and trees could support a range of nesting bird species.

The ecology report recommends that site clearance works occur outside of the bird nesting season (March – August inclusive). If this is not possible a pre-construction nesting bird check should be made immediately in advance of the clearance works and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished. The surrounding hedgerows and trees that are to be retained provide suitable bird nesting habitat and recommendations are made to protect these during the works in accordance with BS5837:2012.

As an enhancement measure, the provision of open and hole-fronted bird boxes on buildings and trees within the site is proposed within the ecology report and should include terrace boxes for House Sparrow and access to internal ledges/roof frames for Swallows. I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to development commencing.

The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor to the east are considered suitable to support reptiles. Habitat modification measures to deter reptiles in advance of site clearance are therefore recommended and site clearance of these areas timed for March – October inclusive, when reptiles are likely to be active. Recommendations are also made to avoid storage of site materials from site boundaries to deter reptiles from using them as cover.

In addition to the species already discussed above, within 2km of the site there are historical records of hedgehog (within 530m) and Polecat (within 534m), although none from the site itself.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

The Environmental Statement (Berrys, no date given) identifies that water pollution from the site could enter a local watercourse. Rivers are a Section 7 Priority Habitat and measures must therefore be taken to ensure that this watercourse is not negatively affected by pollution from the proposal (please refer to the observations on Protected Sites below). Appendix 5 of

the ES includes a Flood Consequence Assessment and Surface Water Management Plan (Hydro-Logic, April 2017), which states that the nearest watercourse to the site is located approximately 0.3 km north-west of the site, which flows into the River Ithon, approximately 1.2 km north-west of the site. Details are included of proposed surface water management via the installation of two attenuation tanks, which would require regular maintenance to remain effective. The document recommends that outflow should be directed into the existing drainage pit, located in the north-west corner of the site. Flows entering the pit would then be conveyed to the nearby watercourse, located west of the site, by an existing land drain. The conveyance channel would also provide the additional benefit of allowing any particulate matter in the attenuated water to settle out of solution, therefore preventing it reaching the nearby watercourse. The document also suggests that runoff from the proposed impermeable surfaces on site would be conveyed to the attenuation basin using suitable channels and that levels on the site should allow for flows to convey to the attenuation tanks under gravity.

From the planning submission it is not clear how manure from the site will be managed, particularly in the vicinity of watercourses. A Manure Management Plan, including suitable buffer distances from watercourses, should therefore be provided prior to determination of planning.

The ecology report (Turnstone Ecology, May 2017) states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The ecology report also proposes that the botanically poor areas of grassland and ruderal vegetation are enhanced with a mix of native field margin species and grass species, and appropriate management. This would be welcomed as a biodiversity enhancement to the site and a species list should be provided as part of a site biodiversity enhancement plan for LPA approval prior to development commencing.

As another enhancement measure the ecology report proposes planting of trees in the northern and western boundaries of the site to fill in gaps and improve connectivity, and suggests suitable native, broadleaved species for this. This would also enhance the habitat at the site and its connectivity with surrounding habitats for Dormice, commuting/foraging bats, nesting birds and a range of other wildlife. I therefore recommend that the species and planting design are included as part of a biodiversity enhancement plan to be provided for LPA approval prior to development commencing.

The ecology report (Turnstone Ecology, May 2017) confirms that the Afon Gwy SAC is located approximately 0.9km north-west of the proposals. A Report on the Modelling of the Dispersion and Distribution of Ammonia has been completed by AS Modelling (February 2017) using the Environment Agency's standard ammonia emission factors (H1 Annex B – Intensive Farming), which identifies other components of the Afon Gwy SAC within 10km of the farm as well as the Ellenydd Mallaen SAC and SPA.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning

Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance.

In their Pre-application Consultation response dated 13th April 2017 however, NRW have reviewed the findings of the Ammonia Report against the previous guidance and confirmed that with regard to the Afon Gwy SAC the process contributions of ammonia from the proposed unit are above 4% which is significant, but not adverse considering the thresholds that they apply in their assessment of potential impacts on SACs. For the Ellenydd Mallaen SAC/SPA NRW were also satisfied that the process contributions of ammonia from this proposed unit are below the thresholds that they apply in their assessment of potential impacts on SPA and SACs.

The Environmental Statement identifies that water pollution from the site could enter the local watercourse and reach the River Ithon SSSI and Afon Gwy SAC. Mitigation for the collection and treatment of dirty water is specified in the ES and involves spreading the dirty water collected from cleaning the buildings onto agricultural land. A manure management plan to show the locations for this, including suitable buffer distances from watercourses, should be provided for approval prior to determination of planning. Appendix 5 of the ES includes a Surface Water Management Plan explaining how surface water from the site would be collected and discharged.

Surface water would be dealt with separately in attenuation tanks before being discharged into a nearby land drain, which ultimately connects with local watercourses.

A Pollution Prevention Plan (Berrys, no date given) has also been submitted with the application. Section 8 of this document states that standard pollution prevention measures will be implemented during the site construction phase. Section 9 of the report details operational pollution risks and controls that would be implemented, which would also include the construction phase. A risk assessment and emergency procedure is also outlined. The PPP appears to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are also consulted for their views on this as part of the site permitting requirements.

From the planning submission it is not clear how manure from the site will be managed, particularly in the vicinity of watercourses, one of which flows into the Afon Gwy SAC. A Manure Management Plan, including suitable buffer distances from watercourses, should therefore be provided prior to determination of planning.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

The ecology report confirms that thirteen SSSI are located within 5km of the proposals with the Ammonia Modelling report including fifteen; the closest being the Neuadd and Tylelo Mires SSSI approximately 900m to the SSW.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen

impacts from livestock units when applying for an Environmental Permit or Planning Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance.

In their Pre-application Consultation response dated 13th April 2017 however, NRW have reviewed the findings of the Ammonia Report against the previous guidance and confirmed that they are satisfied that the process contributions of ammonia from the proposed unit are below the thresholds that they apply in their assessment of potential impacts on SSSIs.

See the observations above regarding the Pollution Prevention Plan and Site Drainage Plan and requirement for a Manure Management Plan.

The Ammonia Modelling report identifies several Ancient Woodlands within 2km of the site, the closest being 210m to the north-west. The Ammonia Modelling report predicts that the site's process contribution to the maximum annual ammonia concentrations and nitrogen and acid deposition rates would be below the EA's lower threshold percentage of Critical Level or Load for these sites, and are therefore deemed insignificant. NRW's new guidance note on ammonia and nitrogen modelling (OGN41) does not include Ancient Woodlands in its scope and the method of assessment of this feature for the Ammonia Modelling report is therefore deemed acceptable.

Recommendations and mitigation measures for bats, nesting birds, badgers and reptiles are provided in the Ecology Report (Turnstone Ecology, May 2017) and Environmental Statement (Berrys, no date given). Relevant conditions relating to these are therefore suggested below.

Since a Badger sett is likely to be damaged and disturbed during the groundworks the Ecology Report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the report proposes measures to be taken to exclude Badgers from the sett. These measures are considered acceptable and should be included as part of the licence application.

Enhancement measures for bats, nesting birds, species-rich grassland and tree planting are proposed in the Ecology Report (Turnstone Ecology, May 2017). I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the Ecology Report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The Ecology Report states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The submitted Pollution Prevention Plan (Berrys, no date given) and Surface Water Management Plan (Hydro-Logic, April 2017) appear to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are consulted for their views on these.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

A Manure Management Plan, including suitable buffer distances from watercourses, is required prior to determination of planning to inform a Habitats Regulations Test of Likely Significant Effects and also to determine the potential impacts on local watercourses, a Section 7 Priority Habitat.

Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:

The recommendations regarding bats, nesting birds and reptiles identified in Section 4.3 of the Ecological Report by Turnstone Ecology dated May 2017 shall 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 and ENV7 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.

The mitigation regarding bats, badgers and reptiles in Section 4.3 of the ecological report by Turnstone Ecology dated May 2017 and water pollution identified in Section 9.6 of the Environmental Statement by Berrys shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 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.

Prior to commencement of development, a Biodiversity Enhancement Plan including details of the proposals for bat and bird boxes, grassland seeding and tree 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, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

The Pollution Prevention Plan and Surface Water Management Plan submitted to the Local Planning Authority shall be 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

Reason: To comply with Powys County Council's 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.

No manure from the egg laying unit shall be spread on the holding without the prior written approval of the LPA. In no circumstances shall such manure be spread within 200m of any watercourse, protected dwelling or SSSI.

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

The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.

Reason: To comply with Powys County Council's UDP Policy 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.

Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.

Reason: To comply with Powys County Council's UDP Policy 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.

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Consultation response received 16/08/17:

The proposed scheme is an intensive livestock installation which falls below the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, Schedule

1 (17a) threshold for this type of development of 60,000 places for hens, but exceeds the Schedule 2 threshold of having a floor space area higher than 500m² (6750m²). Following a screening opinion provided by PCC on 14/12/16 an Environmental Statement has been submitted with the planning application.

A phase 1 habitat survey, protected fauna survey and habitat suitability assessment of the site have been completed and the accompanying report submitted with the application (Turnstone Ecology, May 2017). The Turnstone Ecology report is also summarised in the Environmental Statement submitted with the planning application (Berrys, no date given).

The report generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009) but refers to the NERC Act 2006. However, the Environment (Wales) Act 2016 has now replaced the duty in section 40 of the NERC Act in relation to Wales, with a duty on public authorities to seek to maintain and enhance biodiversity. The Environment (Wales) Act has therefore been referred to when making these observations.

Historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service have also been reviewed to inform these observations.

The ecology report confirms that habitats at the site comprise improved grassland in the northwest and south, trees along the eastern boundary and within gardens to the west, disturbed ground and ruderal vegetation to the north, east and in between the existing buildings and hedgerows to the north, south and west of the existing buildings. The report states that buildings, hardstanding, disturbed ground and areas of improved grassland would be directly affected by the proposals.

The ecology report identifies that the site and adjacent area provides suitable habitat for bats, badger, dormouse, nesting birds, Great Crested Newt and reptiles.

Within 2km of the site there are historical records of otter (within 931m) and various bat species including myotis species, Whiskered, Noctule, Common and Soprano Pipistrelle and Brown Longeared (nearest within 890m), although none from the site itself.

The ecology report confirms that no evidence of bats using the poultry units was observed during the site survey and the buildings do not appear to be suitable for use by roosting bats, being well sealed and lit for long periods. No roosting features were noted in the trees adjacent to the eastern boundary of the site. However, the report concludes that the surrounding trees and hedgerows provide good foraging and commuting opportunities for bats.

The ecology report recommends that, if any bats are observed during the works, works must cease and advice sought before proceeding. Considering the unlikely chance of bats roosting in the buildings this advice is considered appropriate in this case.

Enhancement measures for bats are proposed in Section 4.3.3 of the ecology report in the form of long term roosting provisions on/within the new buildings and/or trees within the site boundary. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The ecology report concludes that most of the site is unsuitable for Dormouse and the boundary hedgerows have very limited suitability due to the lack of food plants and connectivity to surrounding habitat. However, the tree-lined railway corridor to the east of the site is concluded as being suitable for Dormouse. Measures for the protection of hedgerows and trees in accordance with BS5837:2012 are proposed in the ecology report and would ensure no negative impact to Dormice and their habitat. A tree and hedgerow protection plan should therefore be provided for LPA approval prior to commencement of development.

There are no historical records of Great Crested Newt within 2km. The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor outside the site to the east provide suitable habitat for Great Crested Newt. However, the habitat directly affected offers only limited foraging/dispersal opportunity and there are no waterbodies identified within 500m of the site. No negative impacts on Great Crested Newt are therefore predicted.

Within 2km of the site there are historical records of amphibians including Palmate and Smooth Newt (within 579m) and Common Frog (within 927m) and Red Kite (within 673m), although none from the site itself.

The ecology report confirms that two active badger setts are present within the site along with evidence of badger activity and the presence of good foraging habitat.

Since one of the Badger setts is likely to be damaged and disturbed during the groundworks the ecology report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the ecology report (Turnstone Ecology, May 2017) proposes measures to be taken to exclude Badgers from the sett. The other, larger sett would be unaffected by the proposals and there is suitable habitat for a new sett immediately adjacent to the site so a replacement sett is not proposed. These measures are considered acceptable and should be included as part of the licence application. Measures to ensure foraging Badgers do not become trapped during the works are also proposed.

The buildings are considered suitable to support nesting birds, such as House Sparrow and Swallow, while the surrounding hedgerows and trees could support a range of nesting bird species.

The ecology report recommends that site clearance works occur outside of the bird nesting season (March – August inclusive). If this is not possible a pre-construction nesting bird check should be made immediately in advance of the clearance works and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished. The surrounding hedgerows and trees that are to be retained provide suitable bird nesting habitat and recommendations are made to protect these during the works in accordance with BS5837:2012.

As an enhancement measure, the provision of open and hole-fronted bird boxes on buildings and trees within the site is proposed within the ecology report and should include terrace boxes for House Sparrow and access to internal ledges/roof frames for Swallows. I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to development commencing.

The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor to the east are considered suitable to support reptiles. Habitat modification measures to deter reptiles in advance of site clearance are therefore recommended and site clearance of these areas timed for March – October inclusive, when reptiles are likely to be active. Recommendations are also made to avoid storage of site materials from site boundaries to deter reptiles from using them as cover.

In addition to the species already discussed above, within 2km of the site there are historical records of hedgehog (within 530m) and Polecat (within 534m), although none from the site itself.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

The Environmental Statement (Berrys, no date given) identifies that water pollution from the site could enter a local watercourse. Rivers are a Section 7 Priority Habitat and measures must therefore be taken to ensure that this watercourse is not negatively affected by pollution from the proposal (please refer to the observations on Protected Sites below). Appendix 5 of the ES includes a Flood Consequence Assessment and Surface Water Management Plan (Hydro-Logic, April 2017), which states that the nearest watercourse to the site is located approximately 0.3 km north-west of the site, which flows into the River Ithon, approximately 1.2 km north-west of the site. Details are included of proposed surface water management via the installation of two attenuation tanks, which would require regular maintenance to remain effective. The document recommends that outflow should be directed into the existing drainage pit, located in the north-west corner of the site. Flows entering the pit would then be conveyed to the nearby watercourse, located west of the site, by an existing land drain. The conveyance channel would also provide the additional benefit of allowing any particulate matter in the attenuated water to settle out of solution, therefore preventing it reaching the nearby watercourse. The document also suggests that runoff from the proposed impermeable surfaces on site would be conveyed to the attenuation basin using suitable channels and that levels on the site should allow for flows to convey to the attenuation tanks under gravity.

The applicant's agent has confirmed that all the manure will be taken off-site to 3rd party sites as follows: "As stated in the environmental statement it will be the responsibility of the receiving party to ensure that the manure is spread in the appropriate way. At the end of the flock cycle the buildings will be fully cleaned out by specialist contractors. Manure will be loaded into trailers directly inside the doors. The trailers will be sheeted and the litter taken straight off the site for spreading on third party land in appropriate conditions".

“Records will be kept of the names and addresses of receiving farms for the manure and any dirty water. Contingency arrangements will be put in place for emergency scenarios. The receiver of the manure will confirm, by signing a docket, that the litter will be spread on land in accordance with the Code of Good Agricultural Practice and regulations under Natural Resources Wales and the Environment Agency including in accordance with the receiver’s own manure management plan”.

Regardless of the manure being taken to third party sites the respective Manure Management Plans for each site, including suitable buffer distances from watercourses, should be provided prior to determination of planning. This will provide the reassurance required that the receiving sites are suitable for disposal of manure and that suitable buffer distances from nearby watercourses are identified.

The ecology report (Turnstone Ecology, May 2017) states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The ecology report also proposes that the botanically poor areas of grassland and ruderal vegetation are enhanced with a mix of native field margin species and grass species, and appropriate management. This would be welcomed as a biodiversity enhancement to the site and a species list should be provided as part of a site biodiversity enhancement plan for LPA approval prior to development commencing.

As another enhancement measure the ecology report proposes planting of trees in the northern and western boundaries of the site to fill in gaps and improve connectivity, and suggests suitable native, broadleaved species for this. This would also enhance the habitat at the site and its connectivity with surrounding habitats for Dormice, commuting/foraging bats, nesting birds and a range of other wildlife. I therefore recommend that the species and planting design are included as part of a biodiversity enhancement plan to be provided for LPA approval prior to development commencing.

The ecology report (Turnstone Ecology, May 2017) confirms that the Afon Gwy SAC is located approximately 0.9km north-west of the proposals. A Report on the Modelling of the Dispersion and Distribution of Ammonia has been completed by AS Modelling (February 2017) using the Environment Agency’s standard ammonia emission factors (H1 Annex B – Intensive Farming), which identifies other components of the Afon Gwy SAC within 10km of the farm as well as the Ellenydd Mallaen SAC and SPA.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance.

In their Pre-application Consultation response dated 13th April 2017 however, NRW have reviewed the findings of the Ammonia Report against the previous guidance and confirmed that with regard to the Afon Gwy SAC the process contributions of ammonia from the

proposed unit are above 4% which is significant, but not adverse considering the thresholds that they apply in their assessment of potential impacts on SACs. For the Ellenydd Mallaen SAC/SPA NRW were also satisfied that the process contributions of ammonia from this proposed unit are below the thresholds that they apply in their assessment of potential impacts on SPA and SACs.

The Environmental Statement identifies that water pollution from the site could enter the local watercourse and reach the River Ithon SSSI and Afon Gwy SAC. Mitigation for the collection and treatment of dirty water is specified in the ES and involves spreading the dirty water collected from cleaning the buildings onto agricultural land. A manure management plan to show the locations for this, including suitable buffer distances from watercourses, should be provided for approval prior to determination of planning. Appendix 5 of the ES includes a Surface Water Management Plan explaining how surface water from the site would be collected and discharged. Surface water would be dealt with separately in attenuation tanks before being discharged into a nearby land drain, which ultimately connects with local watercourses.

A Pollution Prevention Plan (Berrys, no date given) has also been submitted with the application. Section 8 of this document states that standard pollution prevention measures will be implemented during the site construction phase. Section 9 of the report details operational pollution risks and controls that would be implemented, which would also include the construction phase. A risk assessment and emergency procedure is also outlined. The PPP appears to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are also consulted for their views on this as part of the site permitting requirements.

The applicant's agent has confirmed that all the manure will be taken off-site to 3rd party sites, as discussed within the Section 7 Habitats and Species section. Regardless of the manure being taken to third party sites the respective Manure Management Plans for each site, including suitable buffer distances from watercourses, should be provided prior to determination of planning. This will provide the reassurance required that the receiving sites are suitable for disposal of manure and that suitable buffer distances from nearby watercourses are identified.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

The ecology report confirms that thirteen SSSI are located within 5km of the proposals with the Ammonia Modelling report including fifteen; the closest being the Neuadd and Tylelo Mires SSSI approximately 900m to the SSW.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance.

In their Pre-application Consultation response dated 13th April 2017 however, NRW have reviewed the findings of the Ammonia Report against the previous guidance and confirmed that they are satisfied that the process contributions of ammonia from the proposed unit are below the thresholds that they apply in their assessment of potential impacts on SSSIs.

See the observations above regarding the Pollution Prevention Plan and Site Drainage Plan and requirement for Manure Management Plans from the receiving sites.

The Ammonia Modelling report identifies several Ancient Woodlands within 2km of the site, the closest being 210m to the north-west. The Ammonia Modelling report predicts that the site's process contribution to the maximum annual ammonia concentrations and nitrogen and acid deposition rates would be below the EA's lower threshold percentage of Critical Level or Load for these sites, and are therefore deemed insignificant. NRW's new guidance note on ammonia and nitrogen modelling (OGN41) does not include Ancient Woodlands in its scope and the method of assessment of this feature for the Ammonia Modelling report is therefore deemed acceptable.

Recommendations and mitigation measures for bats, nesting birds, badgers and reptiles are provided in the Ecology Report (Turnstone Ecology, May 2017) and Environmental Statement (Berrys, no date given). Relevant conditions relating to these are therefore suggested below.

Since a Badger sett is likely to be damaged and disturbed during the groundworks the Ecology Report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the report proposes measures to be taken to exclude Badgers from the sett. These measures are considered acceptable and should be included as part of the licence application.

Enhancement measures for bats, nesting birds, species-rich grassland and tree planting are proposed in the Ecology Report (Turnstone Ecology, May 2017). I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the Ecology Report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The Ecology Report states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The submitted Pollution Prevention Plan (Berrys, no date given) and Surface Water Management Plan (Hydro-Logic, April 2017) appear to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are consulted for their views on these.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

Regardless of the manure being taken to third party sites the respective Manure Management Plans for each site, including suitable buffer distances from watercourses, should be provided prior to determination of planning. This will provide the reassurance required that the receiving sites are suitable for disposal of manure and that suitable buffer distances from nearby watercourses are identified. The information will also be required to inform a Habitats Regulations Test of Likely Significant Effects and to determine the potential impacts on local watercourses, a Section 7 Priority Habitat.

Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:

The recommendations regarding bats, nesting birds and reptiles identified in Section 4.3 of the Ecological Report by Turnstone Ecology dated May 2017 shall 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 and ENV7 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.

The mitigation regarding bats, badgers and reptiles in Section 4.3 of the ecological report by Turnstone Ecology dated May 2017 and water pollution identified in Section 9.6 of the Environmental Statement by Berrys shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 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.

Prior to commencement of development, a Biodiversity Enhancement Plan including details of the proposals for bat and bird boxes, grassland seeding and tree 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, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

The Pollution Prevention Plan and Surface Water Management Plan submitted to the Local Planning Authority shall be 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

Reason: To comply with Powys County Council's 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.

No manure from the egg laying unit shall be spread on the holding without the prior written approval of the LPA. In no circumstances shall such manure be spread within 200m of any watercourse, protected dwelling or SSSI.

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

The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.

Reason: To comply with Powys County Council's UDP Policy 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.

Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.

Reason: To comply with Powys County Council's UDP Policy 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.

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Consultation response received 30/08/2017:

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning. To inform such a test we would need to see a manure management plan regardless of whether the manure is being spread at the

application site or elsewhere. The respective Manure Management Plans for each site, including suitable buffer distances from watercourses, should therefore be provided prior to determination of planning.

Consultation response received 13/09/2017:

The proposed scheme is an intensive livestock installation which falls below the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, Schedule 1 (17a) threshold for this type of development of 60,000 places for hens, but exceeds the Schedule 2 threshold of having a floor space area higher than 500m² (6750m²). Following a screening opinion provided by PCC on 14/12/16 an Environmental Statement has been submitted with the planning application.

A phase 1 habitat survey, protected fauna survey and habitat suitability assessment of the site have been completed and the accompanying report submitted with the application (Turnstone Ecology, May 2017). The Turnstone Ecology report is also summarised in the Environmental Statement submitted with the planning application (Berrys, no date given).

The report generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009) but refers to the NERC Act 2006. However, the Environment (Wales) Act 2016 has now replaced the duty in section 40 of the NERC Act in relation to Wales, with a duty on public authorities to seek to maintain and enhance biodiversity. The Environment (Wales) Act has therefore been referred to when making these observations.

Historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service have also been reviewed to inform these observations.

The ecology report confirms that habitats at the site comprise improved grassland in the northwest and south, trees along the eastern boundary and within gardens to the west, disturbed ground and ruderal vegetation to the north, east and in between the existing buildings and hedgerows to the north, south and west of the existing buildings. The report states that buildings, hardstanding, disturbed ground and areas of improved grassland would be directly affected by the proposals.

The ecology report identifies that the site and adjacent area provides suitable habitat for bats, badger, dormouse, nesting birds, Great Crested Newt and reptiles.

Within 2km of the site there are historical records of otter (within 931m) and various bat species including myotis species, Whiskered, Noctule, Common and Soprano Pipistrelle and Brown Longeared (nearest within 890m), although none from the site itself.

The ecology report confirms that no evidence of bats using the poultry units was observed during the site survey and the buildings do not appear to be suitable for use by roosting bats, being well sealed and lit for long periods. No roosting features were noted in the trees adjacent to the eastern boundary of the site. However, the report concludes that the surrounding trees and hedgerows provide good foraging and commuting opportunities for bats.

The ecology report recommends that, if any bats are observed during the works, works must

cease and advice sought before proceeding. Considering the unlikely chance of bats roosting in the buildings this advice is considered appropriate in this case.

Enhancement measures for bats are proposed in Section 4.3.3 of the ecology report in the form of long term roosting provisions on/within the new buildings and/or trees within the site boundary. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The ecology report concludes that most of the site is unsuitable for Dormouse and the boundary hedgerows have very limited suitability due to the lack of food plants and connectivity to surrounding habitat. However, the tree-lined railway corridor to the east of the site is concluded as being suitable for Dormouse. Measures for the protection of hedgerows and trees in accordance with BS5837:2012 are proposed in the ecology report and would ensure no negative impact to Dormice and their habitat. A tree and hedgerow protection plan should therefore be provided for LPA approval prior to commencement of development.

There are no historical records of Great Crested Newt within 2km. The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor outside the site to the east provide suitable habitat for Great Crested Newt. However, the habitat directly affected offers only limited foraging/dispersal opportunity and there are no waterbodies identified within 500m of the site. No negative impacts on Great Crested Newt are therefore predicted.

Within 2km of the site there are historical records of amphibians including Palmate and Smooth Newt (within 579m) and Common Frog (within 927m) and Red Kite (within 673m), although none from the site itself.

The ecology report confirms that two active badger setts are present within the site along with evidence of badger activity and the presence of good foraging habitat.

Since one of the Badger setts is likely to be damaged and disturbed during the groundworks the ecology report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the ecology report (Turnstone Ecology, May 2017) proposes measures to be taken to exclude Badgers from the sett. The other, larger sett would be unaffected by the proposals and there is suitable habitat for a new sett immediately adjacent to the site so a replacement sett is not proposed. These measures are considered acceptable and should be included as part of the licence application. Measures to ensure foraging Badgers do not become trapped during the works are also proposed.

The buildings are considered suitable to support nesting birds, such as House Sparrow and Swallow, while the surrounding hedgerows and trees could support a range of nesting bird species.

The ecology report recommends that site clearance works occur outside of the bird nesting season (March – August inclusive). If this is not possible a pre-construction nesting bird check should be made immediately in advance of the clearance works and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished. The surrounding hedgerows and trees that are to be retained provide suitable bird nesting habitat and recommendations are made to protect these during the works in accordance with BS5837:2012.

As an enhancement measure, the provision of open and hole-fronted bird boxes on buildings and trees within the site is proposed within the ecology report and should include terrace boxes for House Sparrow and access to internal ledges/roof frames for Swallows. I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to development commencing.

The ecology report concludes that the dense ruderal vegetation and rubble piles in the north and east of the site and tree-lined railway corridor to the east are considered suitable to support reptiles. Habitat modification measures to deter reptiles in advance of site clearance are therefore recommended and site clearance of these areas timed for March – October inclusive, when reptiles are likely to be active. Recommendations are also made to avoid storage of site materials from site boundaries to deter reptiles from using them as cover.

In addition to the species already discussed above, within 2km of the site there are historical records of hedgehog (within 530m) and Polecat (within 534m), although none from the site itself.

The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

The Environmental Statement (Berrys, no date given) identifies that water pollution from the site could enter a local watercourse. Rivers are a Section 7 Priority Habitat and measures must therefore be taken to ensure that this watercourse is not negatively affected by pollution from the proposal (please refer to the observations on Protected Sites below). Appendix 5 of the ES includes a Flood Consequence Assessment and Surface Water Management Plan (Hydro-Logic, April 2017), which states that the nearest watercourse to the site is located approximately 0.3 km north-west of the site, which flows into the River Ithon, approximately 1.2 km north-west of the site. Details are included of proposed surface water management via the installation of two attenuation tanks, which would require regular maintenance to remain effective. The document recommends that outflow should be directed into the existing drainage pit, located in the north-west corner of the site. Flows entering the pit would then be conveyed to the nearby watercourse, located west of the site, by an existing land drain. The conveyance channel would also provide the additional benefit of allowing any particulate matter in the attenuated water to settle out of solution, therefore preventing it reaching the nearby watercourse. The document also suggests that runoff from the proposed impermeable surfaces on site would be conveyed to the attenuation basin using suitable channels and that levels on the site should allow for flows to convey to the attenuation tanks under gravity.

The applicant's agent has confirmed that all the manure will be taken off-site to 3rd party sites as follows: "As stated in the environmental statement it will be the responsibility of the receiving party to ensure that the manure is spread in the appropriate way. At the end of the flock cycle the buildings will be fully cleaned out by specialist contractors. Manure will be loaded into trailers directly inside the doors. The trailers will be sheeted and the litter taken straight off the site for spreading on third party land in appropriate conditions".

"Records will be kept of the names and addresses of receiving farms for the manure and any dirty water. Contingency arrangements will be put in place for emergency scenarios. The receiver of the manure will confirm, by signing a docket, that the litter will be spread on land in accordance with the Code of Good Agricultural Practice and regulations under Natural Resources Wales and the Environment Agency including in accordance with the receiver's own manure management plan".

On this basis it has to be reasonably assumed that the receiving sites would be suitable for disposal of manure, effective control measures would be applied and that suitable buffer distances from nearby watercourses would be identified.

The ecology report (Turnstone Ecology, May 2017) states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The ecology report also proposes that the botanically poor areas of grassland and ruderal vegetation are enhanced with a mix of native field margin species and grass species, and appropriate management. This would be welcomed as a biodiversity enhancement to the site and a species list should be provided as part of a site biodiversity enhancement plan for LPA approval prior to development commencing.

As another enhancement measure the ecology report proposes planting of trees in the northern and western boundaries of the site to fill in gaps and improve connectivity, and suggests suitable native, broadleaved species for this. This would also enhance the habitat at the site and its connectivity with surrounding habitats for Dormice, commuting/foraging bats, nesting birds and a range of other wildlife. I therefore recommend that the species and planting design are included as part of a biodiversity enhancement plan to be provided for LPA approval prior to development commencing.

The ecology report (Turnstone Ecology, May 2017) confirms that the Afon Gwy SAC is located approximately 0.9km north-west of the proposals. A Report on the Modelling of the Dispersion and Distribution of Ammonia has been completed by AS Modelling (February 2017) using the Environment Agency's standard ammonia emission factors (H1 Annex B – Intensive Farming), which identifies other components of the Afon Gwy SAC within 10km of the farm as well as the Ellenydd Mallaen SAC and SPA.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning Permission, March 2017), which includes changes to the air quality thresholds for

environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance.

In their Pre-application Consultation response dated 13th April 2017 however, NRW have reviewed the findings of the Ammonia Report against the previous guidance and confirmed that with regard to the Afon Gwy SAC the process contributions of ammonia from the proposed unit are above 4% which is significant, but not adverse considering the thresholds that they apply in their assessment of potential impacts on SACs. For the Ellenydd Mallaen SAC/SPA NRW were also satisfied that the process contributions of ammonia from this proposed unit are below the thresholds that they apply in their assessment of potential impacts on SPA and SACs.

The Environmental Statement identifies that water pollution from the site could enter the local watercourse and reach the River Ithon SSSI and Afon Gwy SAC. Mitigation for the collection and treatment of dirty water is specified in the ES and involves spreading the dirty water collected from cleaning the buildings onto agricultural land. A manure management plan to show the locations for this, including suitable buffer distances from watercourses, should be provided for approval prior to determination of planning. Appendix 5 of the ES includes a Surface Water Management Plan explaining how surface water from the site would be collected and discharged. Surface water would be dealt with separately in attenuation tanks before being discharged into a nearby land drain, which ultimately connects with local watercourses.

A Pollution Prevention Plan (Berrys, no date given) has also been submitted with the application. Section 8 of this document states that standard pollution prevention measures will be implemented during the site construction phase. Section 9 of the report details operational pollution risks and controls that would be implemented, which would also include the construction phase. A risk assessment and emergency procedure is also outlined. The PPP appears to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are also consulted for their views on this as part of the site permitting requirements.

The applicant's agent has confirmed that all the manure will be taken off-site to 3rd party sites, as discussed within the Section 7 Habitats and Species section. On this basis it has to be reasonably assumed that the receiving sites would be suitable for disposal of manure, effective control measures would be applied and that suitable buffer distances from nearby watercourses would be identified.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

The ecology report confirms that thirteen SSSI are located within 5km of the proposals with the Ammonia Modelling report including fifteen; the closest being the Neuadd and Tylelo Mires SSSI approximately 900m to the SSW.

Please note that NRW have since issued new guidance for assessing proposals for intensive livestock units (Operational Guidance Note 41: Assessment of ammonia and nitrogen impacts from livestock units when applying for an Environmental Permit or Planning

Permission, March 2017), which includes changes to the air quality thresholds for environmental permits for such installations. The Ammonia Modelling report therefore predates this guidance.

In their Pre-application Consultation response dated 13th April 2017 however, NRW have reviewed the findings of the Ammonia Report against the previous guidance and confirmed that they are satisfied that the process contributions of ammonia from the proposed unit are below the thresholds that they apply in their assessment of potential impacts on SSSIs.

See the observations above regarding the Pollution Prevention Plan and Site Drainage Plan and commitments for managing manure responsibly in accordance with current guidance and legislation.

The Ammonia Modelling report identifies several Ancient Woodlands within 2km of the site, the closest being 210m to the north-west. The Ammonia Modelling report predicts that the site's process contribution to the maximum annual ammonia concentrations and nitrogen and acid deposition rates would be below the EA's lower threshold percentage of Critical Level or Load for these sites, and are therefore deemed insignificant. NRW's new guidance note on ammonia and nitrogen modelling (OGN41) does not include Ancient Woodlands in its scope and the method of assessment of this feature for the Ammonia Modelling report is therefore deemed acceptable.

Recommendations and mitigation measures for bats, nesting birds, badgers and reptiles are provided in the Ecology Report (Turnstone Ecology, May 2017) and Environmental Statement (Berrys, no date given). Relevant conditions relating to these are therefore suggested below.

Since a Badger sett is likely to be damaged and disturbed during the groundworks the Ecology Report recommends that a development licence is obtained from NRW to exclude the sett prior to commencing with the works within 30m. Section 4.3.2 of the report proposes measures to be taken to exclude Badgers from the sett. These measures are considered acceptable and should be included as part of the licence application.

Enhancement measures for bats, nesting birds, species-rich grassland and tree planting are proposed in the Ecology Report (Turnstone Ecology, May 2017). I also recommend that nest cups for House Martins, a Powys LBAP Species of Conservation Concern, are incorporated onto the outside of the buildings. Such measures should be included within a site biodiversity enhancement plan to be submitted to the LPA for approval prior to commencement of development.

Section 4.3.3 of the Ecology Report also alludes to a sensitive lighting plan that will be produced in accordance with the Bat Conservation Trust's Bats and Lighting in the UK (2009) guidance to ensure that disturbance to commuting/foraging bats is avoided. The lighting plan will need to be submitted for LPA approval prior to commencement of development.

The Ecology Report states that the roots of existing and retained boundary hedgerows and trees should be protected during the groundworks in accordance with BS5837:2012. I therefore recommend that a hedgerow and tree protection plan including an appropriate buffer is prepared in accordance with BS5837:2012 and provided for LPA approval prior to commencement of development.

The submitted Pollution Prevention Plan (Berrys, no date given) and Surface Water Management Plan (Hydro-Logic, April 2017) appear to be comprehensive and acceptable provided that the measures outlined are implemented. However, I recommend that NRW are consulted for their views on these.

Considering the potential for significant effects to the Afon Gwy SAC as a result of air and water pollution discussed above a Habitats Regulations Test of Likely Significant Effects should be completed by the LPA for this site, in accordance with the Conservation of Species and Habitats Regulations, prior to determination of planning.

Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:

The recommendations regarding bats, nesting birds and reptiles identified in Section 4.3 of the Ecological Report by Turnstone Ecology dated May 2017 shall 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 and ENV7 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.

The mitigation regarding bats, badgers and reptiles in Section 4.3 of the ecological report by Turnstone Ecology dated May 2017 and water pollution identified in Section 9.6 of the Environmental Statement by Berrys shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 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.

Prior to commencement of development, a Biodiversity Enhancement Plan including details of the proposals for bat and bird boxes, grassland seeding and tree 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, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

The Pollution Prevention Plan and Surface Water Management Plan submitted to the Local Planning Authority shall be 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 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

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

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

Reason: To comply with Powys County Council's 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.

No manure from the egg laying unit shall be spread on the holding without the prior written approval of the LPA. In no circumstances shall such manure be spread within 10m of any watercourse, protected dwelling or SSSI.

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

The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.

Reason: To comply with Powys County Council's UDP Policy 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.

Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.

Reason: To comply with Powys County Council's UDP Policy 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.

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Consultation response received 13/10/17:

Habitats Regulations Assessment Screening Report:

The River Wye, on the border of England and Wales, is a large river representative of sub-type 2. It has a geologically mixed catchment, including shales and sandstones, and there is a clear transition between the upland reaches, with characteristic bryophyte-dominated vegetation, and the lower reaches, with extensive *Ranunculus* beds. There is a varied water-crowfoot *Ranunculus* flora; stream water-crowfoot *R. penicillatus* ssp. *pseudofluitans* is abundant, with other *Ranunculus* species – including the uncommon river water-crowfoot *R.*

fluitans – found locally. Other species characteristic of sub-type 2 include flowering-rush *Butomus umbellatus*, lesser water-parsnip *Berula erecta* and curled pondweed *Potamogeton crispus*. There is an exceptional range of aquatic flora in the catchment including river jelly-lichen *Collema dichotum*. The river channel is largely unmodified and includes some excellent gorges, as well as significant areas of associated woodland.

The Annex I habitats that are a primary reason for selection of the site are:

- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation

Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:

- Transition mires and quaking bogs

The Annex II species that are a primary reason for selection of this site are:

- White-clawed (or Atlantic stream) crayfish
- Sea lamprey
- Brook lamprey
- River lamprey
- Twaite shad
- Atlantic salmon
- Bullhead
- Otter

Annex II species present as a qualifying feature, but not a primary reason for site selection:

- Allis shad

Vulnerability:

- Water quality impacts arising from changing agricultural land-use within the catchment are having direct and indirect effects on the SAC interests through effects of diffuse pollution such as nutrient run-off and increased siltation. The Countryside Council for Wales and Natural England are seeking to address such issues through improved targeting of existing and new agri-environment schemes and through improvements in compliance with agricultural Codes of Practice.

- Water quality is also affected by synthetic pyrethroid sheep-dips and by point-source discharges within the catchment. The impact of sewage treatment works on the SAC is being addressed through the Asset Management Plan process and review under the Habitats Regulations. Loss of riparian habitat is occurring as a result of changes in agricultural land-use practices and other factors, including riverside development and the loss of alder tree-cover through disease. These impacts and concerns over water quality will be identified and actions recommended within the joint The Countryside Council for Wales/Natural England Environment Agency conservation strategy for the river.

- Fishing activities are implicated in the decline of the salmon; initiatives such as the Wye Salmon Action Plan will help to address this issue.

- There is increasing demand for abstraction from the river for agriculture and potable water. The impact of this is still being investigated by the Environment Agency, but maintenance of water levels and flow will be addressed under the review of consents under the Habitats Regulations.

- Demand for increased recreational activities is a source of potential concern for the future. Regularisation of the functions of the competent authorities, currently being sought, should reduce the risk of damage to the SAC as a result of developments for such activities.
- Fish stocking can adversely affect population dynamics through competition, predation and alteration of population genetics and introduction of disease.
- Acoustic barriers (noise/vibration) – Shad and salmon can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works (piling, drilling)
- Artificial barriers restricting migration of allis and twaite shad.

Assessment Criteria

Construction activities at the site and the operational use of the site have potential to result in the release of materials which could result in pollution of the River Wye SAC. Improper management of manure produced from the development has potential to affect the River Wye SAC through release of nutrients including phosphates.

The proposal involves demolishing 5 existing poultry units and erecting 2 replacement poultry units, which will house a maximum of 56,000 birds per cycle for the rearing of broiler breeder birds. The total floor space will be 6,700m².

No land take is required from the River Wye SAC for this proposal.

The proposal is located approximately 0.9km south-east of the River Wye SAC. The nearest watercourse to the site is located approximately 0.3 km north-west, which flows into the River Ithon approximately 1.2 km north-west of the site.

There will be no resources taken from the River Wye SAC.

Construction activities have the potential to release materials that, if not properly managed, could enter the River Wye SAC including sediments and fuel from machinery used.

Improper management of manure and waste water produced by the unit could result in nutrients entering the River Wye SAC catchment which could affect water quality and negatively affect sensitive vegetation communities and associated features of the River Wye SAC.

Ammonia and nitrogen emissions generated by the proposed development have potential to affect habitats and their associated flora.

There will be no excavation requirements within the River Wye SAC.

Excavations will be required to construct the new buildings; these will be located approximately 0.9km from the River Wye SAC.

There will be no transportation requirements from the River Wye SAC.

Transportation of materials to the site is not expected to have a significant impact on the River Wye SAC.

Construction is likely to commence once planning permission has been granted.

The construction phase of the development has not been defined.

It is anticipated that operation of the development will continue for the lifetime of the site.

The proposed development will not result in a reduction in the habitat area of the River Wye SAC.

The proposed development is located approximately 0.9km from the River Wye SAC.

The habitats affected by the proposed development are not considered suitable to support mobile features of the River Wye SAC e.g. Otter.

It is therefore considered that the proposed development would not result in significant negative impacts through disturbance to key species for the River Wye SAC.

The proposed development is located approximately 0.9km from the River Wye SAC.

The habitats affected by the proposed development are not considered suitable to support mobile features of the River Wye SAC e.g. Otter.

It is therefore considered that the proposed development would not result in significant negative impacts through habitat or species fragmentation for the qualifying features of the River Wye SAC.

The proposed development is located approximately 0.9km from the River Wye SAC.

The habitats affected by the proposed development are not considered suitable to support mobile features of the River Wye SAC e.g. Otter.

It is therefore considered that the proposed development would not result in significant negative impacts through reduction in species density for the qualifying features of the River Wye SAC.

The proposed development is located approximately 0.9km from the River Wye SAC.

The following information has been provided with the application:

Ecological Appraisal Report by Turnstone Ecology dated May 2017.

Environmental Statement by Berrys (no date given).

A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Pullet Rearing Houses, prepared by AS Modelling & Data Ltd dated 7th February 2017.

Pollution Prevention Plan by Berrys (no date given).

Surface Water Management Plan by Hydro-Logic dated April 2017.

Section 8 of the Pollution Prevention Plan states that standard pollution prevention measures will be implemented during the site construction phase based on industry best practice and the EA's PPGs. Section 9 of the report details operational pollution risks and controls that would be implemented, which would also include the construction phase. A risk assessment and emergency procedure is also outlined.

Mitigation for the collection and treatment of dirty water is specified in the ES and involves spreading the dirty water collected from cleaning the buildings onto agricultural land. Appendix 5 of the ES includes a Surface Water Management Plan explaining how surface water from the site would be collected and discharged. Surface water would be dealt with separately in attenuation tanks before being discharged into a nearby land drain, which ultimately connects with local watercourses.

Details are also included in the ES of proposed surface water management via the installation of two attenuation tanks, which would require regular maintenance to remain effective. The ES recommends that outflow should be directed into the existing drainage pit, located in the north-west corner of the site. Flows entering the pit would then be conveyed to the nearby watercourse, located west of the site, by an existing land drain. The conveyance channel would also provide the additional benefit of allowing any particulate matter in the attenuated water to settle out of solution, therefore preventing it reaching the nearby watercourse. The ES also suggests that runoff from the proposed impermeable surfaces on site would be conveyed to the attenuation basin using suitable channels and that levels on the site should allow for flows to convey to the attenuation tanks under gravity.

Implementation of these measures will ensure prevention of pollution of nearby watercourses which in turn will prevent pollution of the River Wye and provide protection of the key indicator of Water Quality of the River Wye SAC.

In their Pre-application Consultation response dated 13th April 2017, NRW reviewed the findings of the Ammonia Report and confirmed that, with regard to the River Wye SAC, the process contributions of ammonia from the proposed unit are above 4% which is significant but not adverse considering the thresholds that they apply in their assessment of potential impacts on SACs.

The ES confirms that all the manure will be taken off-site to 3rd party sites as follows: "it will be the responsibility of the receiving party to ensure that the manure is spread in the appropriate way. At the end of the flock cycle the buildings will be fully cleaned out by specialist contractors. Manure will be loaded into trailers directly inside the doors. The trailers will be sheeted and the litter taken straight off the site for spreading on third party land in appropriate conditions".

"Records will be kept of the names and addresses of receiving farms for the manure and any dirty water. Contingency arrangements will be put in place for emergency scenarios. The receiver of the manure will confirm, by signing a docket, that the litter will be spread on land in accordance with the Code of Good Agricultural Practice and regulations under Natural Resources Wales and the Environment Agency including in accordance with the receiver's own manure management plan".

It is therefore considered that the development will not result in significant negative impacts to key indicators i.e. water quality of the River Wye SAC.

No changes to the River Wye SAC are considered likely from the proposed development as a result of climate change.

Welsh Government Planning Division

No response received at the time of writing this report.

NRW Ecology

Thank you for your consultation received on 21st June 2017. We have previously commented on this case on 21st February 2017 SC/2017/0001 CAS-28690-Z3B4 LPA scoping opinion consultation and 13th April 2017 Maj Pre-app CAS-30380-K7K7 Major Pre-app response.

In the Major pre-app response we advised that we required a site drainage plan, a pollution prevention plan and confirmation of manure export arrangements. We stated that we would provide further comment when we received the ecological report and noted that a drainage and flood assessment was under preparation.

We recommend that that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. These would address significant concerns that we have identified. Therefore, we would not object provided the requirements are met and you attach the conditions to the planning permission.

Summary of Requirements and Conditions

Requirement 1: Confirmation of manure export arrangements and contingency

Requirement 2: Correction and clarification regarding the site pollution prevention and an incident plan specific to the construction stages.

Condition 1: A Lighting Plan should be submitted that is suitable to prevent light spillage in dark woodland river corridors that could be used by bats.

Manure

Requirement 1: Confirmation of manure export arrangements and contingency

Reason: Manure export and spreading is not covered by the permit.

At pre-app stage we understood that all manure was to be exported and therefore a manure management plan would not be required although we did request confirmation of manure export arrangements.

Page 10 of the environmental statement states that 'records will be kept of the names and addresses of receiving farms for the manure and any dirty water. Contingency arrangements will be put in place for emergency scenarios. The receiver of the manure will confirm, by signing a docket, that the litter will be spread on land in accordance with the code of good agricultural practice'. Page 24 of the ES states that is no storage of used litter outside the house at any one time, therefore it is not clear what contingency measures will be in place.

We require confirmation of manure export arrangements and contingency as there is insufficient explanation in the environmental statement.

Pollution Prevention Plan

Requirement 2: Correction and clarification regarding the site pollution prevention and an incident plan specific to the construction stages.

Reason: To confirm that appropriate pollution prevention measures will be in place at all stages.

The existing use of the site as an intensive poultry unit indicates that land contamination could be present. The requirements of Planning Policy Wales and the Guiding Principles for Land Contamination (GPLC) should be followed. The site is located on a Secondary B aquifer.

The Pollution Prevention Plan is satisfactory in its consideration of the operational phase of the development. Section 8 states that 'relevant procedures will be adhered to during construction' 'and a site pollution prevention and incident plan specific to the construction stages will be implemented in all phases'.

The 'site pollution prevention and incident plan specific to the construction stages' does not appear to have been submitted and the Pollution Prevention Plan refers to out of date guidance. Guidance for Pollution Prevention GPP5 "Works and maintenance in or near water" has recently been updated (January 2017) and will be found at <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Should any contaminated water or materials enter or pollute the watercourse or groundwater is the incident must be notified to NRW Tel: 03000 65 3000.

We note that existing farm buildings are to be demolished. Any slurry must be collected and stored in accordance with The Water Resources (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil)(Wales) Regulations 2010 and Welsh Governments Code of Good Agricultural Practice (CoGAP).

Any waste excavation material or building waste generated in the course of the development and necessary demolition must be recovered/ disposed of satisfactorily in accordance with the Duty of Care requirements under Section 34 of the Environmental Protection Act 1990.

The waste shall be transported using registered waste carriers to suitably permitted or exempt sites in accordance with the Environmental Permitting Regulations 2016. Transfer notes shall be kept for each load for a minimum of 2 years.

Wherever practical the quantity of waste arising from demolition works should be reduced. In this regard the developers should consider the reuse of existing material within the proposed development site. This will reduce the potential impact on existing landfill facilities.

Drainage and Surface Water

We previously requested a site drainage plan and a pollution prevention plan as the details submitted at pre-app stage did not have sufficient clarity. The water quality concerns within the site boundaries have been addressed through the permit process through the Environmental Permitting (England and Wales) (Amendment) Regulations 2016.

We have considered the Flood Consequence Assessment and Surface Water Management Plan (FCA&SWMP) (RefL0061/1 April 2017) by Hydrologic Services. The Environmental Statement includes a site drainage plan on page 46 and there is further information on figure 11, 12 and 13 in the FCA&SWMP. The plans show the position of conveyance channels to attenuation tanks with hydrobrakes and the outflow to a watercourse.

We advise that for ease of maintenance and to limit the possibility of pollution incident in the event of equipment failure, suitably designed natural ponds and swales would be preferable to hydrobrakes and attenuation tanks. We would prefer a drainage system that is not reliant on machinery and concrete structures, however the current submissions demonstrate that appropriate pollution prevention measures are in place for the operational phase of the development.

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

Further information is available in the following guidance:

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

Protected Species

We have considered chapter 9 of the ES and the Ecological Appraisal by Turnstone Ecology May 2017 Rev01.

- Bats

Condition 1: A Lighting Plan should be submitted that is suitable to prevent light spillage in dark woodland river corridors that could be used by bats.

Reason: The Environmental Statement states on page 38 that a lighting plan will be produced but this does not appear to have been included in the planning submissions

Bats their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Any development that would contravene the protection afforded to bats under the Regulations would require a derogation licence from Natural Resources Wales. As there are woodland corridors and watercourses that could be used by commuting and foraging areas for bats, a lighting plan should be submitted to the LPA.

- Badgers

Badgers and their setts are protected under the Protection of Badgers Act 1992 and NRW are the licensing authority under the act. A license allows certain activities to be carried out that would otherwise be illegal under the law. As there are badger setts in the vicinity of the proposal the applicant will need to apply to NRW for the appropriate license. Further information may be found at <http://naturalresourceswales.gov.uk/permits-and-permissions/protected-species-licensing/uk-protected-species-licensing/badger-licences-issued-by-natural-resources-wales-and-the-welsh-government/?lang=en>

Environmental Permitting

Intensive agricultural units have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition).

The description of the proposed development states that five existing poultry sheds at an existing intensive poultry unit will be demolished and that they will be replaced by two larger sheds with a total floor space 5,260m². This will increase bird numbers at the poultry unit from 33,000 birds per cycle to a maximum of 44,000 birds per cycle which is above the threshold for permitting.

The EPR permit EPR/AB3498HW agreed on 3rd July 2017 2014 has already assessed pollution impacts relating to the permit process through the Environmental Permitting (England and Wales) (Amendment) Regulations 2016.

NRW's air quality guidelines changed on April 1st 2017 however the old air quality thresholds will apply to this proposal as the permit application was received on 7th February 2017.

The permit covers addresses any concerns that NRW may have regarding air quality, protected sites, abstractions and discharges.

Foul Drainage

We note that there will be a package treatment plant for foul drainage from the existing dwellings and proposed latrines and showers.

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they 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 will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered.

Water Resources Act (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil) (Wales) Regulations 2010

All wash water and manures arising from poultry units must be collected and stored in accordance with The Water Resources (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil)(Wales) Regulations 2010 and Welsh Governments Code of Good Agricultural Practice .

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.

Consultation response received 13/10/2017:

Full: Redevelopment of site, including the demolition of 5 poultry units, and the erection of 2 replacement poultry units and all associated works Gaufron Farm Howey, Llandrindod Wells, Powys, LD1 5RG

We have previously commented on this case on 21st February 2017 SC/2017/0001 CAS-28690-Z3B4 LPA scoping opinion consultation and 13th April 2017 Maj Pre-app CAS-30380-K7K7 Major Pre-app response and advice to the developer on 18th July 2017 CAS-35101-T0D0.

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

Summary of Conditions

Condition 1: A Lighting Plan should be submitted that is suitable to prevent light spillage in dark woodland river corridors that could be used by bats.

Condition 2: To prevent pollution to watercourses during the construction and operational phases of the proposal the development shall be carried out in accordance with the;

- i) Pollution Prevention Plan received on 16th August 2017
- ii) Flood Consequence Assessment and Surface Water Management Plan Report L0061/1 April 2017.

Protected Species

We have considered chapter 9 of the ES and the Ecological Appraisal by Turnstone Ecology May 2017 Rev01.

• Bats

Condition 1: A Lighting Plan should be submitted that is suitable to prevent light spillage in dark woodland river corridors that could be used by bats.

Reason: The Environmental Statement states on page 38 that a lighting plan will be produced but this does not appear to have been included in the planning submissions

Bats their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Any development that would contravene the protection afforded to bats under the Regulations would require a derogation licence from Natural Resources Wales. As there are woodland corridors and watercourses that could be used by commuting and foraging areas for bats, a lighting plan should be submitted to the LPA.

- Badgers

Badgers and their setts are protected under the Protection of Badgers Act 1992 and NRW are the licensing authority under the act. A license allows certain activities to be carried out that would otherwise be illegal under the law. As there are badger sets in the vicinity of the proposal the applicant will need to apply to NRW for the appropriate license. Further information may be found at <http://naturalresourceswales.gov.uk/permits-and-permissions/protected-species-licensing/uk-protected-species-licensing/badger-licences-issued-by-natural-resources-wales-and-the-welsh-government/?lang=en>

Manure

The Requirements as of our response 18/07/17 CAS-35101-T0D0 have been met as follows;

Requirement 1: Confirmation of manure export arrangements and contingency.

From the email received on 16th August we understand that all manure is to be taken off site per long standing arrangements as the existing poultry unit has been operating for more than 40 years. The contingency arrangements were confirmed in the email received 12th September as, "In the unlikely event that there is a reason why the manure could not be taken off-site the manure would be stored temporarily on the concrete yard. This would be bunded and covered."

Pollution Prevention

Requirement 2: Correction and clarification regarding the site pollution prevention and an incident plan specific to the construction stages.

From the emails received on 16th August and 12th September we understand that any standing water has the potential to attract wild birds to the site which could potential bring disease and infect the poultry birds. Therefore, attenuation ponds are not appropriate to this proposal. The amended Pollution Prevention Plan now includes information on the demolition and construction stages in section 8.

The Pollution Prevention Plan received on 16th August 2017 needs to be secured by a condition.

Condition 2: To prevent pollution to watercourses during the construction and operational phases of the proposal the development shall be carried out in accordance with the;

- i) Pollution Prevention Plan received on 16th August 2017
- ii) Flood Consequence Assessment and Surface Water Management Plan Report L0061/1 April 2017.

Environmental Permitting

Intensive agricultural units have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition).

The description of the proposed development states that five existing poultry sheds at an existing intensive poultry unit will be demolished and that they will be replaced by two larger sheds with a total floor space 5,260m². This will increase bird numbers at the poultry unit from 33,000 birds per cycle to a maximum of 44,000 birds per cycle which is above the threshold for permitting.

The EPR permit EPR/AB3498HW agreed on 3rd July 2017 2014 has already assessed pollution impacts relating to the permit process through the Environmental Permitting (England and Wales) (Amendment) Regulations 2016.

NRW's air quality guidelines changed on April 1st 2017 however the old air quality thresholds will apply to this proposal as the permit application was received on 7th February 2017.

The permit covers addresses any concerns that NRW may have regarding air quality, protected sites, abstractions and discharges.

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.

Welsh Government Transport

I refer to your consultation of 21/06/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 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 provide an Annual Average Daily Traffic (AADT) vehicle movement value for proposed application, which must also include all other properties/businesses utilising the same access off the A483 Trunk Road.

Consultation response received 01/09/2017:

I refer to your consultation of 21/06/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A483 trunk road does not issue a direction in respect of this application.

Network Rail

Thank you for your email dated 21 June, together with the opportunity to comment on this proposal.

Whilst there is no objection in principle to this proposal, the development must not affect Network Rail's current ability to access, inspect, examine and maintain the earthwork and drainage assets. This can be controlled by an appropriately worded planning condition.

Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

DRAINAGE

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

ACCESS POINTS

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

FENCING

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

Please feel free to get in contact if you have any questions.

Representations

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

Planning History

P/2013/1095 – Raise roof of 4 poultry houses – Granted – 03/20/2014

R1658 – Erection of turkey breeding house – Approved – 08/11/78

R1658A – Extension of existing poultry sheds – Approved – 08/04/83

R1658B – Full: Extension of 2 poultry houses – Approved – 04/04/89

R1658C – Full: Proposed 40' x 45' extension to poultry houses – Approved – 10/09/91

PR165804 – Full: Demolition of existing poultry house and erection of larger unit and ancillary works – Approved – 03/07/96

Principal Planning Constraints

Open Countryside

Principal Planning Policies

National planning policy

Planning Policy Wales (Edition 9, November 2016)

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

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

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 12 – Design (2016)

Technical Advice Note 13 – Tourism (1997)

Technical Advice Note 15 – Development and Flood Risk (2004)

Technical Advice Note 16 – Sport, Recreation and Open Space (2009)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Technical Advice Note 24 – The Historic Environment (2017)

Welsh Office Circular 11/99 – Environmental Impact Assessment

Natural Environment and Rural Communities Act (2006)

Local planning policies

Powys Unitary Development Plan (2010)

SP3 – Natural, Historic and Built Heritage

SP4 – Economic and Employment Developments

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV4 – Internationally Important Sites

ENV5 – Nationally Important Sites

ENV6 – Sites of Regional and Local Importance

ENV7 – Protected Species

ENV17 – Ancient Monuments and Archaeological Sites

ENV18 – Development Proposals Affecting Archaeological Sites
EC1 – Business, Industrial and Commercial Developments
EC7 – Farm/Forestry Diversification for Employment purposes in the Open Countryside
EC9 – Agricultural Development
EC10 – Intensive Livestock Units
T10 – Rail Facilities and Operations
T11 Road and Rail Freight Interchanges
RL6 - Rights of Way and Access to the Countryside
TR2 – Tourist Attractions and Development Areas
DC3 – External Lighting
DC9 – Protection of Water Resources
DC13 – Surface Water Drainage

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

Officer Appraisal

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

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

Environmental Impact Assessment Regulations 2016

Part 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 reference lists of development and thresholds defining where a development proposal is EIA development. These are contained in Schedule 1 and 2 of the Regulations. Schedule 1 of the regulations lists where EIA is mandatory and Schedule 2 where development must be screened to determine if it is EIA development.

Schedule 1 of the Regulations states that the threshold for the “intensive rearing of poultry is 85,000 places for broilers or 60,000 for hens”. The proposed development will measure approximately 67,500 square metres and therefore exceeds the applicable threshold of 500 square metres and will house 56,000 broilers. It is therefore considered that the proposed development for the purposes of the regulations is Schedule 2 development requiring a screening opinion to be issued. The development was assessed and by virtue of its scale and location a EIA has been submitted with this application.

Environmental Permitting Regulations (EPR 2010)

The proposed development will be housing 56,000 broilers which is above the threshold of 44,000 for regulation of poultry farming under the Environmental Permitting (England and Wales) (Amendment) Regulations (EPR) 2016 and as such will require a permit issued by Natural Resources Wales.

The permit will address relevant issues relating to air, water and land and including management and operations Inc. Noise and Odour.

Emissions of noise that are generated outside of the environmental permit such as construction noise does fall within the remit of Environmental Protection.

Introduction

In consideration of the details submitted in respect of the proposed poultry development, the principal matters considered relevant to determination are as follows;

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on local amenity;
- The effect of the proposed development on transport;
- The effect of the proposed development on ecology; and
- The effect of other considerations on the overall planning balance.

Principle of Development

Policies EC1, EC7, EC9 and EC10 accept the principle of appropriate agricultural development within the open countryside. In light of the above, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

Farm Diversification

Rural enterprises play a vital role in promoting healthy economic activity within rural areas. Planning Policy Wales (2016) and Technical Advice Note 23 (2014) emphasise the need to support diversification and sustainability in such areas, recognising that new businesses are key to this objective and essential to sustain rural communities. Local Authorities should therefore look to facilitate appropriate rural developments. This support should be balanced against other material considerations, such as impact of proposals on the quality of the landscape and environment.

Gaufron farm presently has 5 operational poultry units which it is seeking to re-develop by demolishing the existing units and erecting 2 other units in their place.

Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan indicates that development proposals will only be permitted where they would not have an unacceptable impact on the environment and would be sited and designed to be sympathetic to the character and appearance of its surroundings.

The application site is located in an area of low-lying land set amidst an undulating topography. Surrounding the application site are areas of agricultural land and further away a couple of residential dwellings and a caravan park.

The Powys Unitary Development Plan through policy EC9 seeks to ensure that the harm from new agricultural buildings is minimised through sensitive design and siting. Guidance

within EC9 suggests that wherever possible, new buildings should be grouped with existing buildings and utilise materials which are sympathetic to the site's surroundings. It is noted that the proposed development will erect two new poultry sheds in place of the 5 existing poultry units. The proposed units will utilise materials commonly used on agricultural buildings and will be finished in a portal framed construction with insulated box profile metal sheeting to the walls and box metal profile sheeting roofs.

The proposed buildings are substantial in size and will measure approximately 97.5 metres in length by 32 metres in width and 7.7 metres to the ridge. The proposed buildings are within close proximity from the existing farmhouse and other buildings. Existing site boundaries are made up of mature hedgerows and trees and given the undulating topography the application site is well screened.

Given the current units on site the proposed development will be seen as a continuance of the general agricultural nature of the surrounding area and will not be seen as out of context to the surrounding landscape. As well as the general topography of the land and screening by mature hedgerows and trees there is a reduction in the impact that the proposed development would have on the landscape.

Given the limited visibility of the application site together with existing landscaping, it is considered by Officers that the proposal is capable of being accommodated without causing unacceptable harm to the existing character and appearance of the Powys Landscape. In light of the above it is considered that the proposed development would be adequately absorbed into the landscape and would not have a significant adverse effect on the site itself or the surrounding landscape in accordance with policies ENV2, EC1 and EC9 of the Powys Unitary Development Plan (2010) and Planning Policy Wales.

Transport Impacts

Policy GP4 of the Powys Unitary Development Plan requires a safe access, parking and turning area as well as appropriate visibility splays which are fundamental requirements of any application.

Access to the site is provided via the U1316 which leads to the A483 trunk road. No alterations are proposed to the existing means of access or visibility splays.

Powys County Council's Highway Authority has been consulted on the proposed development and has stated that following the information supplied regarding traffic movements associated with the redevelopment of the existing poultry facility it is evident that the proposed development will effectively mirror the levels currently experienced with the existing facility. The Officer has stated that given the existing access arrangements remain unaltered, there would be no grounds to offer any objection to the proposal.

Welsh Government Trunk Road Agency have also been consulted on the proposed development and initially requested additional information in relation to traffic movements at the junction of the trunk road. Following the submission of additional information the Trunk Road Agency have not issued a direction in relation to the proposed development.

In light of the above the proposed development fundamentally complies with policy GP4 of the Powys Unitary Development Plan (2010) and Technical Advice Note 18 (2007).

Ecology and Biodiversity Impact

Guidance contained within UDP Policy ENV3, ENV4, ENV5, ENV6 and ENV7 indicates that development proposals should preserve and enhance biodiversity and features and sites of ecological interest. Technical Advice Note 5 further emphasises this and the need to preserve and enhance biodiversity. Specific guidance within UDP policy ENV4 confirms that development proposals should not significantly affect the achievement of the conservation objectives for which a SAC is designated either individually or in combination with other proposals. In addition to the above, policy ENV5 confirms that there will be a presumption against proposals for development likely to damage either directly or indirectly, the nature conservation interest of national nature reserves or sites of special scientific interest.

The proposed site of development is located approximately 0.9km to the south east of the River Wye SAC, the nearest watercourse to the site is located approximately 0.3km north west which flows into the River Ithon approximately 1.2km north west of the site.

In terms of the application of manure, all manure is to be taken off the site as per the long standing arrangements. Manure has been taken off site and has been identified that records are kept of the recipient of the manure and a statement being signed that the manure will be applied on the recipients land holding in accordance with CoGAP and NRW/EA regulations and therefore no manure management plan is requested. The contingency arrangements are that manure would be stored temporarily on the concrete yard and this would be bunded and covered. Following consultation with NRW and Powys County Council's Ecologist it is considered that no further information is required within the planning process for the management of manure as the manure is taken away from site.

Powys County Council's Ecologist has been consulted on the proposed development. The Ecologist initially required additional information in relation to a site drainage plan and a Habitat Regulation Assessment in order to appropriately assess the impact of the proposed development.

Following the submission of several additional documents relating to the proposed development which included a site drainage plan. The ecologist confirmed that the information submitted was satisfactory in order to assess the proposed development in terms of the drainage plan. Furthermore a Habitat Regulations Assessment has also been undertaken for the development and confirmation has been received that the proposed development would not be likely to have significant effects on the River Wye SAC.

On the basis of the submission and the advice from NRW and Powys County Council's Ecologist, it is considered that the proposal complies with the relevant local and national nature conservation policies subject to the attachment of appropriately worded conditions.

Residential Amenity

Poultry units have the potential to impact on the living conditions of residents living nearby. The submission considers emissions of noise and odour of the proposal which is considered relevant to assessing its impact on those who live nearest to the development.

- Noise

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Intensive livestock units have the potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

Powys County Council's Environmental Health Officer has been consulted on the proposed development and has stated that they have no concerns, however, they have recommended that should planning permission be granted a condition be attached that would ensure that the local amenities of local residents are not impacted upon by noise disturbance.

On the basis of the comments received, Officers consider that sufficient information has now been submitted to demonstrate that the proposed poultry development will not have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of noise. As such, the proposed development is considered to fundamentally comply with UDP policies GP1, EC1 and EC10, Technical Advice Note 11 and Planning Policy Wales.

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

Taking into account national and local planning policy, together with the consultee responses, it is considered that the proposal complies with relevant planning policy, subject to the use of conditions.

Environmental information has been taken into consideration when arriving at this recommendation.

Conditions

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XX/XX/XX (drawing no's: Dwg No GW-3D, Dwg No GW-3C, Dwg No GW-5, Dwg No GW-1B & Dwg No GW-2B).
3. Prior to the construction of the buildings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the buildings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

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

Deliveries to and removal of plant, equipment, machinery and waste, including soil, from the site must also only take place within the permitted hours detailed above. During construction (including soil movement and landscaping activities) the contractor shall take all reasonable steps to prevent dust formation from dusty activities and any dust formed shall be prevented leaving the site by continuous watering down.

5. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
6. The recommendations regarding bats, nesting birds and reptiles identified in Section 4.3 of the Ecological Report by Turnstone Ecology dated May 2017 shall be adhered to and implemented in full.
7. The mitigation regarding bats, badgers and reptiles in Section 4.3 of the ecological report by Turnstone Ecology dated May 2017 and water pollution identified in Section 9.6 of the Environmental Statement by Berrys shall be adhered to and implemented in full.
8. Prior to commencement of development, a Biodiversity Enhancement Plan including details of the proposals for bat and bird boxes, grassland seeding and tree planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
9. The Pollution Prevention Plan and Surface Water Management Plan submitted to the Local Planning Authority shall be implemented as approved and maintained thereafter.
10. A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and agreed in writing by the Local Planning Authority and carried out in full.
11. 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.
12. No manure from the egg laying unit shall be spread on the holding without the prior written approval of the Local Planning Authority. In no circumstances shall such manure be spread within 10m of any watercourse, protected dwelling or SSSI.
13. The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.
14. Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.
15. The development hereby approved must not affect Network Rail's current ability to access, inspect, examine and maintain the earthwork and drainage assets along the Heart of Wales Line.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
4. In the interests of the amenities of existing residential property in the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
5. In the interests of the amenities of existing residential property in the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
6. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 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.
7. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 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.

8. 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 TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

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

10. 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.

11. 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.

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

13. To comply with Powys County Council's UDP Policy 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.

14. To comply with Powys County Council's UDP Policy 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.

15. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1, GP4, T10 and T11.

Informative Notes

Public Rights of Way:

No public rights of way should be obstructed during the development process and at no time should any materials be placed or stored on the line of any public right of way; any damage caused to the surface of any public right of way must be made good to at least its current condition or better. Should the public path be required to be temporarily closed for development purposes then the applicant should make contact with Countryside Services directly to discuss, prior to any works taking place. Any application for a temporary closure needs to be processed and approved before the path can be legally stopped-up for a defined period.

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

Network Rail:

FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be

no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

DRAINAGE

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

ACCESS POINTS

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

FENCING

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

Case Officer: Thomas Goodman- Planning Officer
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