

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

<b>Application No:</b>	P/2017/1274	<b>Grid Ref:</b>	310254.79 291198.41
<b>Community Council:</b>	Newtown	<b>Valid Date:</b>	<b>Officer:</b> 01/12/2017 Dunya Fourie
<b>Applicant:</b>	Mr Lee Davies, Going Green For A Living Community Trust Ltd, The Cross, Broad Street, Newtown, Powys, SY16 2BB.		
<b>Location:</b>	Sites A, B & C Nr. Riverside & Nr. Latham Park, Newtown, Powys.		
<b>Proposal:</b>	Full: Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The three sites are on land owned by Powys County Council

### Site Location and Description

This application concerns 3 sites in Newtown, the sites include a parcel of land on Trehafren Hill to the east of the football grounds (marked A on the site plan), another area is on the banks of the River Severn to the south of the football ground and car park (marked B on the site plan) and the third area is again on the banks of the Severn adjacent to Severn public carpark and the existing formal play area (marked C on the site plan).

This application seeks consent for works in connection with a community green infrastructure project; Going Green. There are a number of pending applications for different types of recreational facilities within Newtown. This application seeks consent for the following development:

- Erection of a hub building, storage and parking facility (site A), construction includes insulated cladding and roof panels with powder coated windows and doors. The dimensions of the building would extend to 29.7m in length x 14m in width and 8.4m in height. The building accommodation would be set over two floors and set into the existing topography. Hard standing is to be provided for up to 50 cars. Access to the site is via Trefafren road.
- Bike pump track (B); Landscaping an area of ground to provide a bicycle pump track. The track would be created by changing the landscape profile round the track to make berms, rollers, table tops and double bumps. The maximum height of a roller would be 5m.
- Riverside play area (C); redevelopment of the existing play area, including erection of new fencing, new benches, landscaping to accommodate riverside terraces, new benches and installation of new play equipment. Play equipment includes climber pyramid with integrated steel slide (7.4m in height), inclusive roundabout, nest swing (1.7m in height), timber jungle

bridge (3.2m x 1.2m), timber walk and stretch, timber stepping posts, balance beams, balance weave, log stack climber, robina pole castle.

## **Consultee Response**

### Newtown Town Council

*Letter of the 9<sup>th</sup> January 2018*

The town council supports this application

### Highways Authority

*Letter of the 10<sup>th</sup> April 2018*

The County Council as Highway Authority for the County Unclassified Highway, U4231

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Prior to any other works commencing on the development site, detailed engineering drawings for a footway along the U4231 and associated works, and cross sections through the highway verge/bank along the easterly visibility splay shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 15 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 15 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 The centre line of the first 15 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each

direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 15 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than 50 cars and one heavy goods vehicle together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC12 The width of the access carriageway, constructed as Condition 7 above, shall be not less than 5.5 metres for a minimum distance of 15 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC13 Prior to the first beneficial use of the development a radius of 10.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

HC21 Prior to the first beneficial use of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC32 No surface water drainage from the site shall be allowed to discharge onto the county highway.

*Letter of the 11<sup>th</sup> January 2018*

The County Council as Highway Authority for the County Unclassified Highway, U4231

Wish the following recommendations/Observations be applied

#### Recommendations/Observations

This application should be deferred.

#### Reasons for Deferral

A full application such as this should include full highway access details.

The visibility splay for the car park access is drawn incorrectly and does not include pertinent detail such as gradient[s], width, and means of draining the access.

No blue line plan has been submitted, therefore, we are unsure if the proposed visibility splay is within land in the control of the applicant.

Drawing number SO61.1.1.11 Rev A shows that the embankment to the west of the proposed access is to be “cut back”, yet no cross sections of the proposed cut have been submitted for consideration. The same drawing shows that an access track for the Severn Trent, yet no other detail is included.

The proposed radius of “5 metre” is considered to be too tight due to the vehicles sizes which are to use the proposed access. Furthermore the access road in its proposed location will undermine the root system of the existing tree.

There is no footway link to the site currently, as such, the applicant should submit a revised plan showing a footway link to tie into the existing footway/footpath in each direction.

The applicant has failed to submit any detail in relation to the proposed movements from the car park and Hub Building, nor a breakdown of the vehicle sizes.

Should the applicant submit revised reflecting the above comments, we shall comment further.

To ensure that adequate provision is made for highway access onto the County Unclassified road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

#### Wales & West Utilities

*E mail of the 19<sup>th</sup> December 2018*

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it.

They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

## Severn Trent Water

*E mail of the 22<sup>nd</sup> December 2018*

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

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

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

## Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

To request a water map please follow the link, <https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> select "Water and / or Sewer map request form" fill out the relevant details and fee payment and return to:

## Environmental Health

*E mail of the 5<sup>th</sup> January 2018*

Environmental Protection has no objection to the application.

## Contaminated Land Officer

*E mail of the 14<sup>th</sup> January 2018*

In relation to Planning Application P/2017/1274, there would be no requirements in relation to land contamination.

## Powys Ecologist

*E mail of the 5<sup>th</sup> January 2018*

Thank you for consulting me with regards to planning application P/2017/1274 a full planning application for proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound,

formation of car park, new entrance and all associated works at sites A, B & C Nr. Riverside & Nr. Latham Park, Newtown.

I have reviewed the proposed location plans, aerial images as well as local records of protected and priority species and designated sites within 1km of the proposed development. The data search identified 879 records of protected and priority species within 1km of the proposed development including records of bats, reptiles and otter - no records were for the site itself.

There are no statutory or non-statutory designated sites within 1km of the proposed development.

Site A – Regarding the Felling of an existing Oak Tree

Bat species have been recorded in close proximity to the proposed development site. Bats may be potentially utilising the area to roost or for foraging and commuting purposes.

Bat tree-roosts are extremely difficult to identify, and it should be assumed that any mature native-species tree is an actual roost.

Bats utilise tree features such as trunk hollows, knot holes, splits/cracks and also roosting behind dense ivy. It appears that a number of the sycamore trees within the proposed development site are covered in ivy.

All British bat species are European Protected Species by virtue of their listing under Annex IV of EC Directive 92/43/EEC ('The Habitats Directive'). This Directive has been transposed into British Law under the *Conservation of Habitats and Species Regulations 2010*.

Regulation 9(5) of the 2010 Regulations requires all local planning authorities, in the exercise of all their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by those functions.

*Under Regulation 41 of the 2010 Regulations it is an offence to:*

*(1) deliberately capture, injure or kill any wild animal of a European protected species;*  
*(2) deliberately disturb animals of any such species. Disturbance of animals includes in particular any disturbance which is likely—*

*(a) to impair their ability—*

*(i) to survive, to breed or reproduce, or to rear or nurture their young; or*

*(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or*

*(b) to affect significantly the local distribution or abundance of the species to which they belong*

*(3) deliberately take or destroy the eggs of such an animal; or*

*(4) damage or destroy a breeding site or resting place of such an animal (including sites that are currently unoccupied).*

*Furthermore that all British bats are protected under Schedule 5 of the Wildlife and Countryside Act (1981) (as amended). This legislation makes it an offence to intentionally to kill, injure, take from the wild, possess or trade in any species of British Bat, as well as*

*intentionally or recklessly damage, destroy or obstruct access to any structure or place which bats use for shelter or protection. It is also an offence to disturb a bat/ bats whilst they are using such a place.*

There are no available photographs or images of the site or the existing oak tree.

Therefore, further information to enable assessment of the tree for its bat roost potential and the potential for any impacts is required, this could take the form of:

- A preliminary bat assessment by a suitably qualified and experienced ecologist

OR

- Up to date pictures of the existing tree to demonstrate if it has potential to support roosting bats

I have attached a guidance document which provides information regarding roosting bats and features which are used for roosting purposes to help the applicant determine whether or not a bat assessment may be necessary.

If a preliminary bat roost assessment is undertaken and identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required.

Bat activity surveys will need to be undertaken in accordance with Powys County Council's planning application guidance note (Powys Bat Survey Guidance 2009) and the Bat Conservation Trust's Bat Surveys for Professional Ecologists – Good Practice Guidelines 3<sup>rd</sup> Edition, 2016. Therefore, the survey should be undertaken by suitably licensed and qualified ecologists and comprise a thorough internal and external inspection and three activity surveys; two dusk surveys and a dawn survey during the recognised activity season May – September, the surveys should be spread throughout the activity season (as far as reasonably possible to do so) to allow a broad picture of any bat roost use of the site to be developed. Where deviations from the standard guidelines are considered to be necessary, full justifications for the methods used will be required.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

If bats are found to be using the building for roosting purposes and there is potential for the roost to be destroyed or disturbed i.e. an offence is likely to be committed a European protected species licence would be required to allow the works to proceed, as part of the planning process the Local Planning Authority must establish whether the three tests as defined by the Conservation of Habitats and Species Regulations 2010 (as amended) have been met prior to determining the application. If the Wildlife Licensing Unit at Natural Resources Wales (NRW) is also happy that these Tests have been satisfied, then an EPS development licence can be granted.

The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"

3. That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”

In order to address the 3rd test appropriate mitigation would need to be identified. The proposed mitigation will need to be located in a suitable location and appropriate to the species identified. Mitigation details need to be clearly illustrated on the architectural plans and must provide sufficient detail to enable them to be subject to a planning condition/s106 agreement.

Details of ecological consultants working in Powys can be found at <http://www.cieem.net/members-directory> (please note this is not a Powys County Council approved list of ecological consultants but lists ecological consultants who are members of the Chartered Institute of Ecology and Environmental Management). I have also attached some guidance notes regarding commissioning ecological consultants to undertake survey work.

### Pollution Prevention Plan

I note from reviewing aerial images of the proposed development sites the river Severn is in close proximity to the North of all the sites. Given the proximity of proposed development to the watercourse present and the nature of the proposed works it is considered that a pollution prevention plan will need to be identified to ensure no negative impact is caused during construction activities and during operation of the site. I therefore recommend that a Pollution Prevention Plan is secured through a planning condition. However as further information has been requested the provisions of details submitted at this stage would avoid the need for a pre-commencement condition requiring this information.

It is recommended that reference is made to Pollution Prevention Guidelines Series in particular PPG 6 - Working at construction and demolition sites and GPP 5 – Works and maintenance in or near water; these documents can be found at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

### Tree and Hedgerow Replacement

From the submitted information it is unclear if trees or hedgerow will be impacted by the proposed development (except for the felling of one oak tree on site A). The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

‘Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows’

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – ‘Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value’. Hedgerows are also listed as a “habitat of principal importance for the purposes of conserving biodiversity” as identified in on



Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area. A tree and hedgerow replacement plan could be secured through a planning condition, however the provisions of details submitted with a planning application would avoid the need for a pre-commencement condition requiring this information.

### Tree Protection Plan

Given the proximity of development and works to the surrounding trees on the proposed development sites, it is considered prudent to require information from the applicant as to how these features biodiversity importance for wildlife will be protected during the construction period of works. A tree protection plan could be secured through a planning condition, however the provisions of details submitted with a planning application would avoid the need for a pre-commencement condition requiring this information.

### *Tree Protection Plan in accordance with BS:5837:2012*

### Landscaping Planting Scheme

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. A Landscaping Plan could be secured through a planning condition, however as further information has been requested the provisions of details submitted at this stage would avoid the need for a pre-commencement condition requiring this information.

### Lighting

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. This information could be secured through a planning condition, however the submission of a Wildlife Sensitive Lighting Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

### Biodiversity Enhancements

As further information has been requested it is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development - In accordance with Part 1 Section 6 of the

Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process.

These measure could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;
- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

### Natural Resources Wales

*Letter of the 15<sup>th</sup> January 2018*

We recommend 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.

We also include informative comments (end of letter) made by our Recreation Access and Partnership officer, as this project has developed in consultation with NRW over time. These comments are purely informative and do not form part of the official response, they just aim to provide background information on this project and a justification for any of the concerns raised.

### Summary of Requirements and Conditions

Requirement 1 – Flood risk: The submission of additional construction details for the proposed amphitheatre and canoe access point to establish the acceptability of the proposal and Flood Risk Activity Permits requirements.

Condition 2 – biosecurity: the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Condition 3 – PPP: The submission and implementation of a Waste Management Plan and a Pollution Prevention Plan for all operations likely to have an impact on the water quality of the river Severn.

### Flood Risk

The application sites B and C lies within Zone C2 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note 15: Development and Flood Risk (TAN15) (July 2004). Our Flood Map information, which is updated on a quarterly basis, confirms the

site to be within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Severn.

We have no concerns with the proposed car park and Hub building at site A as this falls outside the floodplain.

The BMX track at site B is close to the river bank. From a flood risk perspective, as the track will include engineered raised sections of ground, to avoid impact on or by out of bank flood flows, the preference is for the facility to be sited further from the top of bank, which would also ensure a suitable watercourse green corridor is maintained. This approach would be in line with pre-application conversation NRW had with the applicant.

As the proposal is in the recognised floodplain, material should be sourced from within the floodplain, where possible, to ensure there is no detriment to floodplain storage. Any net loss of floodplain storage should be kept to a minimum.

We note that some of the proposed work for the Play Park, site C, involves the construction of an amphitheatre very close of the river bank and a canoe access / egress point. There are no detailed plans for these two aspects of the proposal and therefore the information available to date is considered inadequate.

Further detail on the precise location, sectional design, construction techniques and a justification for requirement is needed at this stage in order to agree the detailed principle. If this is cannot be provided at this stage then detailed, chargeable Flood Risk Activity Permits will be required.

Requirement 1 – Flood risk: The submission of additional construction details for the proposed amphitheatre and canoe access point to establish the acceptability of the proposal and Flood Risk Activity Permits requirements.

## Biosecurity

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

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site, if present; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Condition 2 – biosecurity: the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

## Protected Species

NRW has not considered European Protected Species (EPS) because the application does not appear to include an EPS report. Please consult NRW again if an EPS report identifies the presence of EPS.

We have records of bat, otter and water vole using the river corridor in this area and we note the proposed works will involve changes to the river bank and its vegetation as well as conversion of a building to cafe. Should you decide an ecological appraisal is not required, we advise that a Reasonable Avoidance Measures scheme (RAMS) for the species listed above should be secured via appropriate conditions.

#### Pollution Prevention

Due to the proximity of some of the proposed works to the river, NRW is concerned that the proposal has the potential to lead to suspended solids entering the River Severn.

A Pollution Prevention Plan will be required together with a Waste Management Plan to demonstrate there will be no impact on water quality.

All works proposed along the river bank must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

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

Any waste material stored, used or disposed of must be done so in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010.

#### Scope of NRW Comments

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/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 [www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk) [www.cyfoethnaturiolcymru.gov.uk](http://www.cyfoethnaturiolcymru.gov.uk) interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

#### Welsh Government Transport

##### *Letter of the 20<sup>th</sup> December 2018*

I refer to your consultation of 13/12/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A489 trunk road does not issue a direction in respect of this application.

## Sports Council for Wales

*E mail of 5<sup>th</sup> January 2018*

Thank you for your email providing notification of the above application. Sport Wales is the statutory consultee on planning applications affecting playing fields and it is noted that the proposed construction of the BMW pump track at site B encroaches onto a playing field including what appears to be a football pitch.

Sport Wales applauds the efforts of the 'Going Green for a Living' project to enhance the green spaces of Newtown and while Sport Wales does not object to the proposed BMX pump track as it will still be an outdoor recreation facility that will no doubt prove attractive to many encouraging physical activity, Sport Wales would be grateful to know what consideration has been given to the impact it will have on other activities most obviously football? It is noted there are several other pitches running along the river corridor and elsewhere in the town, are these sufficient to cater for demand?

## CADW

*Letter of 21<sup>st</sup> December 2018*

Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monument MG160 Newtown Hall Castle Mound. Our assessment of the application is given below.

### Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site.

We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority. It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

### National Policy

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

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if

development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24 : The Historic Environment elaborates by explaining that when considering development proposals that affect scheduled monuments or other nationally important archaeological remains, there should be a presumption in favour of their physical preservation in situ, i.e. a presumption against proposals which would involve significant alteration or cause damage, or would have a significant adverse impact causing harm within the setting of the remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

## Assessment

The three proposed projects are located inside 500m of scheduled monument MG160 Newtown Hall Castle Mound but intervening buildings and vegetation will block or heavily screen all views between them and the scheduled monument. Consequently the proposed development will cause no damage to the setting of scheduled monument MG160.

## Public Response

A site notice was erected at each of the three sites, no decision was made for a continuous period of 21 days from the date of the site notice. No third party responses have been received.

## Planning History

No relevant planning history

## Principal Planning Policies

### National Planning Policies

Planning Policy Wales (9<sup>th</sup> Edition, November 2016)  
Technical Advice Note 5-Nature Conservation and Planning (2009)  
Technical Advice Note 12-Design (2016)  
Technical Advice Note 15-Development and Flood Risk (2004)  
Technical Advice Note 16-Sport, Recreation and Open Space (2009)  
Technical Advice Note 18-Transport  
Technical Advice Note 24-The Historic Environment (2017)

### Local Planning Policies

Local Development Plan for Powys (April 2018)

SP7-Safeguarding Strategic Resources and Assets  
DM2-The Natural Environment

DM4-Landscape  
DM5-Development and Flood Risk  
DM6-Flood Prevention Measures and Land Drainage  
DM11-Protection of Existing Community Facilities and Services  
DM13-Design and Resources  
T1-Travel Traffic and Transport Infrastructure

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

## **Other Legislative Considerations**

Crime and Disorder Act 1998  
Equality Act 2010  
Planning (Wales) Act 2015 (Welsh language)  
Wellbeing of Future Generations (Wales) Act 2015

## **Officer Appraisal**

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

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

### Principle of Development

Policy DM3 concerns development proposals within public open space, the proposed development is either wholly or partially within public open space and as such this policy is relevant.

While this development proposes recreational facilities they would affect areas considered to be open space and as such the criteria set out under policy DM3 needs to be considered. The policy includes a set of criteria that seeks to ensure public space is only lost where there is adequate reuse and alternative uses for the space have been explored.

While this development would result in limited loss of open space, development of the sites through this proposal would result in formalising the use of areas of open space. Sites B and C are within the River Severn green corridor which runs through the middle of Newtown, these sites comprise a very small portion of this band of open space, as such the alternative uses of these sites would still allow plenty of open space to remain. Site A would occupy a small detached piece of open space which appears to be unmaintained, the size of the site is small in comparison to the areas of open space along the green corridor and these areas of open space are in easy walking distance.

The scale of the three sites in relation to the overall area of open space to be retained in Newtown and the proposed alternative uses are in keeping with the policy criteria set out under DM3 and as such the proposed formalised play areas are considered acceptable in principle.

## Flood Risk

Sites B is located within the River Severn C2 floodzone and site C is located partially within the river Severn C2 floodzone, as defined by the TAN15 Development Advice Flood Maps (DAMs). Site A is outside of the floodzone and NRW confirm they have no concerns regarding development of this site in relation to flooding.

Development on site B involves the re-profiling of a small area of land and planting trees to form the bike track. The works are on an area of existing recreational land and do not involved the construction of any hard standing area. The site shall remain free draining and the profiled bike track has been moved away from the river bank, in accordance with NRW comments.

Development on site C is partially with the C2 floodzone, the area is currently used as informal amenity space, the proposed works would involve the erection of play infrastructure and the ground surface would remain amenity grass. There would be small areas of bound rubber mulch safety surfacing around some of the play equipment, two of these areas would be within the flood zone.

The amended plans submitted on the 16<sup>th</sup> July 2018 confirm the removal of the amphitheatre and canoe access which were originally sited on the riverbank and the re-sting of the BMX/pump track further away from the bank in line with NRW comments. The use of the land would remain as existing; for recreational use, which is not classed as highly vulnerable to flooding. The area of semi hard standing is very small in relation the surrounding area of free draining land.

Based on the above, it is concluded the scheme would not increase surface water run off to cause flooding elsewhere and the scheme would not increase vulnerability to flooding above that which already exists. The proposed development is therefore considered to be in accordance with policies DM5 and DM6 of the Powys LDP, Technical Advice Note 15 and Planning Policy Wales.

## Landscape and Visual impact

The character of the surrounding landscape is a mixture of urban and riverine, the two structures which are of a height which could be viewable in the surrounding area are the Hub building on site A and the climber pyramid on site B. Policy DM4 seeks to protect valued landscape characteristics and qualities from development which would have an unacceptable adverse effect.

The site is outside of any protected or registered landscapes and as detailed under the Historic section of this report, the development would not have an unacceptable adverse impact on the nearby SAM. The height of the hub and pyramid are in proportion with other structures, including dwellings close to site A, and the structures do not occupy on exposed or elevated sites within the landscape. As such it is concluded the proposed development would not have an unacceptable adverse impact on valued landscape characteristics and qualities and would be easily integrated into the existing built landscape of Newtown.

## Ecological impact



It is important to be mindful of how a development proposal would impact directly and indirectly on biodiversity and in particular those species identified as being at risk under the Habitat Regulations (HR). In accordance with the HR, policy DM2 seeks to protect biodiversity from development which would have an unacceptable impact on the favourable conservation status of protected species.

The County Ecologist raised concern regarding the loss of an oak tree on site A and its potential to have an impact on bat populations identified in the area. The planning agent confirmed in writing of the 11<sup>th</sup> January the oak tree on the site, located at the entrance to the proposed car park facility, is to be retained and the site layout plan details a 'no dig solution' to the road surface close to the tree at the entrance to the site, this measure is to protect the root system of the tree. The agent also confirmed the scheme would not result in the loss of any trees or hedges across the three sites and new tree plant is proposed on site B and C as shown on the approved plans.

In light of the confirmation of development received, and in absence of any other concerns raised by the Ecologist in their response, no further information has been requested and it is concluded the development of the sites would not have a detrimental impact on the favourable conservation status of protected species.

#### Impact on highway infrastructure

In accordance with policy T1 all development proposals are assessed in relation to their potential to generate traffic. Suitable parking provision and a safe means of access are key to determining whether or not development would be acceptable in terms of highway safety.

The proposed development at sites B and C would have little to no impact on the existing highway infrastructure. Both sites are in close proximity of the existing large public Dolerw car park and are well linked to foot and bicycle access routes.

Development of site A would generate traffic to the site in connection with the facilities the Hub building provides and the proposal includes provision of a new parking facility associated with the use of the site. The nearby highway infrastructure includes a single width traffic controlled section of road with a mixture of existing uses surrounding the site, including a football pitch, library, school and dwellings.

Following the Highway Authority's initial response on the 11<sup>th</sup> January, additional information was provided and on site discussions took place between with the Highway Authority and the planning agent, the initial concerns, including provision of a footway link along the U4231 and confirmation of suitable visibility at the entrance to the site were resolved. An updated response was received from the Highway Authority on the 10<sup>th</sup> April which raises no objection to the scheme provided the recommended conditions form part of any forthcoming consent. In light of the above and subject to the recommended conditions, it is not considered that the proposed would unacceptably affect highway safety or movement, compliant with the relevant planning policies.

#### Impact on the historic environment

Historic assets are a finite resource and as such in accordance with policy SP7 and TAN24, development proposals need to be carefully assessed in terms of the impact on these strategic assets.

Sites B and C are in proximity to Newtown Hall Castle Mound (MG160) and as such the visual impact of the proposals on the mound need to be carefully assessed. The intervening buildings and vegetation between the development sites and the Mound ensure the setting of the Mound would not be compromised through the proposed development. CADW confirm in their response of the 21<sup>st</sup> December the development would cause no damage to the scheduled ancient monument.

On the basis of the above and comments received, Officers consider the proposal to be in accordance with policy SP7 of the Powys LDP, Technical Advice Note 24 and Planning Policy Wales.

#### Impact on residential amenity

Site A is adjacent to dwellings on the Trehafren residential development, the amenity of the residents needs to be considered in terms of whether their amenity would be reduced through disturbance from the use of the proposed site. Access to the site would utilise the existing road network and new parking facilities are being provided on site in association with the use of the Hub building. The Hub building would include 3 rooms which it is proposed would be used for conferences and as a training facility. There would also be an equipment storage facility.

It is anticipated the use of the building and associated traffic generation would not reduce the amenity currently enjoyed by dwellings on the adjacent side of the road to the site entrance and as such the development is considered in accordance with policy DM13.

### **RECOMMENDATION**

Having carefully considered the proposed development, Officers consider the proposal to be in accordance with planning policy and therefore, the recommendation is one of approval subject to the conditions detailed below.

#### 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 as approved. The plan references include updated riverside play park plan (2940-012 rev A), updated pump track plan (2940-021 rev A), proposed hub site plan (option 3 dated 31.07.17), location plan (S061.1.0.01 dated 29.06.17)
3. Prior to the first beneficial use of the development any entrance gates shall be set back at least 15 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
4. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 15 metres measured from edge of the adjoining carriageway along the centre line of the

access and shall be retained at this gradient for as long as the development remains in existence.

5. The centre line of the first 15 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

6. Prior to the commencement of any other development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

7. Prior to the commencement of any other development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 15 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

8. Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than 50 cars and one heavy goods vehicle together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

9. Prior to the commencement of any other development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

10. The width of the access carriageway, constructed as Condition 7 above, shall be not less than 5.5 metres for a minimum distance of 15 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

11. Prior to the first beneficial use of the development a radius of 10.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

12. Prior to the first beneficial use of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

13. Upon formation of the visibility splays as detailed in condition 6 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

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

15. Prior to the erection of any external lighting, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved scheme.

16. Prior to commencement of development of sites b and c, as shown on the approved location plan, a biosecurity risk assessment shall be submitted to and approved in writing by the local planning authority. The risk assessment shall include:

(i) appropriate measures to control any INNS on site, if present; and

(ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme. Thereafter, the development shall be undertaken strictly in accordance with the biosecurity risk assessment as approved.

17. Prior to the commencement of development on sites B and C as shown on the approved location plan, a scheme detailing reasonable avoidance measures for otters, water vole and bats shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken strictly in accordance with the reasonable avoidance measures as approved.

18. Prior to the commencement of development on sites B and C as shown on the approved location plan, a pollution prevention plan shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken strictly in accordance with the pollution prevention plan as approved.

19. Prior to the commencement of development on sites B and C as shown on the approved location plan, a waste management plan shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken strictly in accordance with the waste management plan as approved.

#### 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 highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)

4. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)

5. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)

6. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)

7. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)

8. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)

9. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)
10. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)
11. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)
12. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)
13. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)
14. In the interests of highway safety and to accord with Local Development Plan policies DM13 and T1 (2018), Planning Policy Wales (2016) and Technical Advice Note 18-Transport (2007)
15. In the interests of ecology and to accord with local authority plan policies DM2 and DM13 (2018) and Planning Policy Wales (2016) and Technical Advice Note 5 (2009)
16. In the interests of ecology and to accord with local authority plan policies DM2 and DM13 (2018) and Planning Policy Wales (2016) and Technical Advice Note 5 (2009)
17. In the interests of ecology and to accord with local authority plan policies DM2 and DM13 (2018) and Planning Policy Wales (2016) and Technical Advice Note 5 (2009)
18. In the interests of ecology and to accord with local authority plan policy policies DM2 and DM13 (2018) and Planning Policy Wales (2016) and Technical Advice Note 5 (2009)
19. In the interests of ecology and to accord with local authority plan policy policies DM2 and DM13 (2018) and Planning Policy Wales (2016) and Technical Advice Note 5 (2009)

## **Informative Notes**

### Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

---

Case Officer: Dunya Fourie- Planning Officer  
Tel: 01597 82 7111 E-mail:dunya.fourie@powys.gov.uk