

Planning, Taxi Licensing and Rights of Way Committee Report

UPDATE REPORT

Application No:	P/2018/0587	Grid Ref:	315781.85 294091.63
Community Council:	Abermule with Llandyssil	Valid Date:	Officer: 06/06/2018 Tamsin Law
Applicant:	Powys County Council		
Location:	Abermule Business Park, Abermule, Powys		
Proposal:	Hybrid application comprising of a full application for a proposed recycling bulking facility and associated works and an outline application for the erection of business units (B1/B2/B8) and all associated works		
Application Type:	Application for Full Planning Permission		

The reason for the update

Further response has been received from Powys Land Drainage

Consultee Response

Land Drainage

I refer to your recent email in respect to the subsequent revision(s) to satisfy the requirements of Welsh Government Trunk Road with regard to the field access (as shown on revised drawing no.2395/P03/012/rev C).

Having considered this revised submission, the LLFA would raise no objection to the proposal and is, in principle, content with the culverting of the watercourse channel to improve junction safety. Design Details for the culverting proposal shall be agreed prior to commencement. These details will also form part of the Ordinary Watercourse Consent that the Applicant will need to secure from the LLFA.

Officer Appraisal

The original report to Committee advised that further comments were sought from Land Drainage with regards to the comments made by Welsh Government Trunk Road. Land Drainage were provided with the amended plans and offered no objection to the submitted information and state that they are content with the principle of culverting the watercourse channel to improve junction safety. They also advise that this information will also form part of an Ordinary Watercourse Consent that will need to be applied for separately.

As such the proposed development is considered to be acceptable with regards to land drainage.

Recommendation

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. An additional condition regarding the phasing of the outline element of the scheme has been added to this report. The recommendation is therefore one of conditional approval subject to the conditions outline below.

Conditions

Conditions in respect of full application

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 and documents approved on XX/XX/XXXX (drawing no's; 2395/P03/001, 2395/P03/009, 2395/P03/008, 2395/P03/003, 2395/P03/004, 2395/P03/011, 2395/P03/010, 2395/P03/006, 2395/P03/007, 2395/P03/005, H2395/P03/013, 2395/P03/012, 2395/P03/016, 70019430-DP-01_P01 Rev P01 and documents; Phase 1 Geo-Environmental Desk Study dated December 2017, Design and Access Statement dated June 2018, Flood Risk Appraisal Phase 2 dated November 2016, Planning Statement dated June 2018, Noise Impact Assessment dated February 2018, Arboricultural Report dated March 2018, Addendum to Preliminary Drainage Strategy and Flood Consequence Assessment dated June 2018, Flood Consequence Assessment dated April 2018, Waste Planning Assessment dated June 2018, Offsite Impacts Mitigation dated May 2017, Statement of GCN Conservation and Mitigation Works dated April 2018, Reptile Survey dated June 2018, Preliminary Ecological Appraisal dated April 2017, Preliminary Drainage Strategy dated April 2018, Flood Consequence Assessment dated June 2018, Ecological Compliance Schedule and Habitat Management Plan dated June 2018, Great Crested Newt Method Statement dated June 2018, Noise Impact Assessment dated June 2018, Technical Note dated June 2018, Ecological Compliance Schedyle and Habitat Management Plan dated July 2018, Transport Statement dated July 2018 and Great Crested Newt Reasonable Avoidance Method Statement dated July 2018).
3. The use shall not be carried out outside the hours of 07:00 to 18:00 Monday to Sundays.
4. Prior to the first beneficial use of the development, a bus shelter and all associated works shall be constructed alongside the bus layby on the B4386. The specification of which is to be agreed in writing with the Local Planning Authority.
5. Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 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.

6. 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 33 cars and 25 heavy goods vehicles together with all operational access routes within the site such that all vehicles serving the site may both enter and leave the site in a forward gear.
7. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
8. No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins. The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.
9. No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).
10. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. All work and submissions carried out for the purposes of this condition must be conducted in

accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

11. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
12. The mitigation measures regarding great crested newts identified in the Statement of GCN Conservation and Mitigation Works Reference RT-MME-126868-02-Rev A produced by Middlemarch Environmental dated 18th April 2018 and Great Crested Newt Method Statement Reference RT-MME-126868-03 produced by Middlemarch Environmental dated June 2018 shall be adhered to and implemented in full and maintained thereafter.
13. The measures identified in the Ecological Compliance Schedule and Habitat Management Plan Reference RT-MME-127496 RevA produced by Middlemarch Environmental dated July 2018 shall be adhered to and implemented in full and maintained thereafter.
14. Installation of external lighting features at the site will be carried out in accordance with the Lighting & Signage Plan – Recycling Bulking Facility drawing no. 2395/P03/008 Rev A produced by CWIC dated 5th June 2018, the identified lighting plan shall be adhered to and implemented in full and maintained thereafter.
15. The Tree constraints plan identified in the Tree Survey Data & Tree Constraints Plan produced by Arboricultural Technician Services dated 23rd March 2018 shall be adhered to and implemented in full and maintained thereafter.
16. The reasonable avoidance measures regarding great crested newts identified in the Hedgerow Translocation Works - Great Created Newt Reasonable Avoidance Method Statement produced by Middlemarch Environmental Reference RT-MME-127521-02 dated 20th July 2018 shall be adhered to and implemented in full and maintained thereafter.
17. No development shall commence until full engineering details and drawings for the surface water and land drainage arrangements, together with details on the surface water flood compensation pond has been submitted to and approved in writing by the local Planning Authority. The approved scheme shall be completed prior to the first beneficial use of the development.

18. The proposed amended field access & culvert must be constructed in accordance with approved drawings 2395/P03/12 Rev C & P03/016 Rev A, including the translocation of 100m of existing hedgerow prior to the development being brought into use.

Reasons in respect of full application

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. To ensure that the amenities of local residents are safeguarded in accordance with policy DM13 of the Powys Local Development Plan 2018.
4. In the interest of highway safety and free flow of traffic in accordance with policy T1 and DM13 of the Powys Local Development Plan and TAN18 and Planning Policy Wales.
5. In the interest of highway safety and free flow of traffic in accordance with policy T1 and DM13 of the Powys Local Development Plan and TAN18 and Planning Policy Wales.
6. In the interest of highway safety and free flow of traffic in accordance with policy T1 and DM13 of the Powys Local Development Plan and TAN18 and Planning Policy Wales.
7. In the interest of highway safety and free flow of traffic in accordance with policy T1 and DM13 of the Powys Local Development Plan and TAN18 and Planning Policy Wales.
8. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.
9. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.
10. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.

11. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.
12. To comply with Powys County Council's LDP Policies DM2 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, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016
13. To comply with Powys County Council's LDP Policies DM2 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, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
14. To comply with Powys County Council's Policies LDP DM2 and DM7 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 Part 1 Section 6 of the Environment (Wales) Act 2016
15. To comply with Powys County Council's LDP Policies DM2 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 Section 6 of the Environment (Wales) Act 2016.
16. To comply with Powys County Council's UDP Policies DM2 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, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
17. To ensure that the proposed surface water and land drainage features for the development follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design in accordance with policy DM6 of the Powys Local Development Plan.
18. The conditions are included to maintain the safety and free flow of trunk road traffic in accordance with policy T1 and DM13

Conditions in respect of outline application

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
4. The development shall be carried out strictly in accordance with the plans and documents approved on XX/XX/XXXX (drawing no's; 2395/P03/001, 70019430-DP-01_P01 Rev P01 and documents; Phase 1 Geo-Environmental Desk Study dated December 2017, Design and Access Statement dated June 2018, Flood Risk Appraisal Phase 2 dated November 2016, Planning Statement dated June 2018, Noise Impact Assessment dated February 2018, Arboricultural Report dated March 2018, Addendum to Preliminary Drainage Strategy and Flood Consequence Assessment dated June 2018, Flood Consequence Assessment dated April 2018, Waste Planning Assessment dated June 2018, Offsite Impacts Mitigation dated May 2017, Statement of GCN Conservation and Mitigation Works dated April 2018, Reptile Survey dated June 2018, Preliminary Ecological Appraisal dated April 2017, Preliminary Drainage Strategy dated April 2018, Flood Consequence Assessment dated June 2018, Ecological Compliance Schedule and Habitat Management Plan dated June 2018, Great Crested Newt Method Statement dated June 2018, Noise Impact Assessment dated June 2018, Technical Note dated June 2018, Ecological Compliance Schedule and Habitat Management Plan dated July 2018, Transport Statement dated July 2018 and Great Crested Newt Reasonable Avoidance Method Statement dated July 2018).
5. Prior to occupation of the business/employments units on the development, an impact assessment will be submitted to and approved by the Council to demonstrate how the proposed use, design and any required mitigation measures will ensure that the amenity of nearby noise-sensitive properties shall not be unacceptably affected by levels of noise. The assessment will consider the potential combined impacts of noise from all permitted uses on the Abermule Business Park development site (i.e. including the Recycling Bulking Facility), and will be conducted in accordance with the method set out in BS 4142:2014, and must demonstrate that the combined noise impact from the development site will be no greater than indicated in the Abermule Business Park Noise Impact Assessment report ref 70032991-NV1-02-R1.
6. The mitigation measures regarding great crested newts identified in the Statement of GCN Conservation and Mitigation Works Reference RT-MME-126868-02-Rev A produced by Middlemarch Environmental dated 18th April 2018 and Great Crested Newt Method Statement Reference RT-MME-126868-03 produced by Middlemarch Environmental dated June 2018 shall be adhered to and implemented in full and maintained thereafter.
7. The measures identified in the Ecological Compliance Schedule and Habitat Management Plan Reference RT-MME-127496 RevA produced by Middlemarch Environmental dated July 2018 shall be adhered to and implemented in full and maintained thereafter.

8. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
9. Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.
10. The Tree constraints plan identified in the Tree Survey Data & Tree Constraints Plan produced by Arboricultural Technician Services dated 23rd March 2018 shall be adhered to and implemented in full and maintained thereafter.
11. No development shall commence until full engineering details and drawings for the surface water and land drainage improvements, together with a management and maintenance plan for the culvert inlet, are submitted to and approved in writing by the local planning authority. The approved scheme shall be completed prior to the first beneficial use of the business park development.
12. No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins. The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.
13. No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

14. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).
15. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
16. Prior to the commencement of development a phasing scheme for the business park shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reasons in respect of outline application

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To comply with Powys County Council Local Development Plan policy DM13 'Design and Resources'.

6. To comply with Powys County Council's UDP Policies DM2 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, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
7. To comply with Powys County Council's UDP Policies DM2 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, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.
8. To comply with Powys County Council's Policies LDP DM2 and DM7 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 Part 1 Section 6 of the Environment (Wales) Act 2016.
9. To comply with Powys County Council's LDP Policy DM4 in relation to ecological qualities of the landscape and meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016
10. To comply with Powys County Council's UDP Policies DM2 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 Section 6 of the Environment (Wales) Act 2016.
11. To ensure that the proposed surface water and land drainage features for the development follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design in accordance with policy DM6 of the Powys Local Development Plan.
12. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.
13. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.
14. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in

accordance with policy DM10 of the Powys County Council Local Development Plan 2018.

15. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the Powys County Council Local Development Plan 2018.

16. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

Informative Notes

Warning: An European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017.

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

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.

Reptiles – Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- Intentionally kill or injure these species of reptiles,
- Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 – which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Land Drainage

The LLFA is, in general, opposed to culverting of Ordinary watercourses and whenever practical will seek to have culverted watercourses restored to open channels. Any proposed culverting (or modification to an existing structure) of an Ordinary watercourse will require the prior consent from the LLFA under the terms of the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010).

Network Rail

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.

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.

GROUND DISTURBANCE

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

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.

PILING

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

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.

NOISE

Network Rail would remind the council and the applicant of the potential for any noise/vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should use conditions as necessary.

The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.

There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise.

LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

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.

HEAPING, DUST AND LITTER

It should be noted that because of the nature of the proposals we would not want to see materials piled against our boundary. Items to be heaped on site should be kept away from the boundary an equal distance as the pile is high to avoid the risk of toppling and damaging or breaching our boundary. We also have concerns over the potential for dust clouds and rubbish created from the processing at the site affecting the railway signal sighting. Therefore, adequate measures for preventing dust and rubbish blowing onto Network Rail property are to be in operation.

LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway

SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

ACCESS POINTS

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

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.

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