

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 18/0475/FUL **Grid Ref:** E: 308008
N: 253502
Community Council: Llanelwedd Community **Valid Date:** 05.09.2018

Applicant: Mr Keri Davies

Location: Wernhalog Farm, Llanfaredd, Builth Wells, Powys, LD2 3TE

Proposal: Erection of 2 No. agricultural buildings for poultry production, with associated feed bins, hardstandings, drainage attenuation pond and a new highway access to the A481

Application Type: Full Application

The reason for Committee determination

The application is supported by an Environmental Statement.

Consultee Responses

Consultee	Received
Community Council	25th Oct 2018

Cyngor Cymuned Llanelwedd Community Council

: 18/0475/FUL Grid Ref: E: 308008 N: 253502 Proposal: Erection of 2 No. agricultural buildings for poultry production, with associated feed bins, hardstandings, drainage attenuation pond and a new highway access to the A481 Location: Wernhalog Farm, Llanfaredd, Builth Wells Powys LD2 3TE

Llanelwedd Community Council discussed the above application at their October monthly meeting this week

Members of the public attended and raised concerns regarding the above application.

The Councillors believe some of the residents close to the proposed site have placed their own objections to the planning department. The Chairman invited their apprehensions to

be raised at the meeting and as representatives of the community the Council feel the need to place their concerns to you via the local tier of government.

One concern is that it will be broiler unit not an egg production unit and the turn over is around 5-6 weeks (45 days) This regular turn around will involve disturbance to residents.

Concern was raised about water pollution with this regular turn around as well as light pollution when units are cleaned out. The residents informed the Council that the site is on wet pasture which they believe is inappropriate.

Another concern was that it is to be built only 1000yards from and SSI. This is the resident's fact which the Councillors have not verified but it is an issue which planning must be aware of.

I hope you can look into the concerns of local people living close to the proposed site and investigate their concerns.

Our next meeting will be on the 20th November and the Council would appreciate a reply which can be looked at then.

Megan Cox

Clerk to the Llanelwedd Community Council

Jo Hammonds Clerk to Glascwm Community Council - 22.10.2018

Concerns were raised by members that the site would be situated on very wet ground. There does not seem to be a manure plan available and concerns were raised over where the manure would be stored and spread. The nearest property is only 80m away from the proposed site. There have been concerns raised that no planning notice was put up as the only picture available of any planning notice is on a pole that is no where near the site entrance.

PCC-Building Control

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

**Wales & West Utilities - Plant
Protection Team**

3rd Oct 2018

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Welsh Water

15th Oct 2018

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

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE

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

CATCHMENT

The purpose of DCWW reviewing and commenting on this application is to make the applicant aware that their development is within a drinking water catchment under Article 7 of the Water Framework Directive, and that Article 7.3 requires the avoidance of deterioration in water quality where this may lead to additional purification treatment being required. We ask the developer to be mindful of this, and to refer to best practice when operating such facility to ensure water quality is not compromised

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

PCC-Ecologist

18th Feb 2019

Thank you for consulting me with regards to planning application 18/0475/FUL which concerns an application for the Erection of 2 No. agricultural buildings for poultry production, with associated feed bins, hardstandings, drainage attenuation pond and a new highway access to the A481 at Wernhalog Farm, Llanfaredd, Builth Wells, Powys.

I have reviewed the proposed plans and supporting information submitted with the application as well as aerial photographs of the site and surrounding habitats and local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 14 records of protected and priority species within 500m of the proposed development, one record was for the site itself this was an otter spraint on the Cnithio Brook – it appears that is a record from the Preliminary Ecological Appraisal undertaken to inform the application. Other records identified within 500m were for badger, hare, pipistrelle bat, common lizard, small heath butterfly and a number of Schedule 1 Wildlife & Countryside Act and Section 7 Environment (Wales) Act 2016 bird species.

No statutory or non-statutory designated sites were identified within 500m of the proposed development.

The proposed development is within 10km of the River Wye SAC, the Cnithio Brook to the south of the proposed development is a tributary of the River Wye SAC and the Manure Management Plan has identified that land holdings that will potentially be utilised by the applicant for the purposes of spreading manure generated by the proposed development are adjacent to the River Usk SAC, consideration has been given to the need for a Habitats Regulations Assessment to be undertaken. Having reviewed the proposed development, it was determined that there was potential for the proposed development to impact the SACs and/or their associated features. I have undertaken a HRA Screening of the proposed development for the River Usk SAC and River Wye SAC and their associated features. The Screening found that the proposed development would not result in Likely Significant Effects to the SACs and/or their associated features in light of the identified features and nature and scale of the proposed development. I have attached a copy of the Screening Assessments for your records.

A Preliminary Ecological Appraisal Report produced by Craig Emms and Dr Linda Barnett has been submitted with the application. Desk studies and field surveys were carried out to inform the assessment of the potential for the proposed development to impact feature of biodiversity importance. I have reviewed the report and consider that the survey effort employed was in line with current best practice guidelines.

Field surveys were undertaken on the 30th April 2018, an assessment of the habitats present was undertaken and used to identify the potential for the site to support protected species. The report states that the site of the proposed development is situated within an agricultural landscape dominated by pasture and arable land. Habitats present on and adjacent to the proposed development site include grassland, arable land, a wooded watercourse and hedgerow. No ponds are present within the proposed development site itself, however 3 ponds were identified within 500m.

The proposed development includes a new farm access track, the route of the new access track crosses a wooded watercourse (Cnithio Brook) and an arable field. A short section of hedgerow along the A481 highway is identified as being required to be removed to accommodate the proposed access.

The western section of the site and location of the proposed development was identified to be semi-improved grassland. It grades from an area of bare earth in the north through to damp grassland along the edge of the Cnithio Brook and was observed as being heavily poached by grazing animals and farm vehicles in some areas. The eastern section of the site was identified to be improved grassland. Plant species recorded in the semi-improved and improved grassland were found to be widespread and common species.

The Cnithio Brook flows east to west just south of the proposed development. The brook was found to be narrow, with low earth banks and a silt/gravel/boulder substrate. Both sides of the brook is vegetated with a narrow band of trees and bushes. Plant species recorded along the brook were found to be widespread and common species.

A native species poor intact hedgerow was identified along the southern boundary of the proposed development site adjacent to the A481. The Hedgerow was assessed using the Ecological Importance criteria set out in the Hedgerow Regulations 1997, the assessment found that the hedgerow does not qualify as 'Ecology Important' according to the Hedgerow Regs. No features with potential to support roosting bats were identified within the hedgerow. A short section of the hedgerow will be required to be removed to accommodate the proposed access onto the A481, the remainder of the hedgerow will remain in situ.

An assessment of the proposed development site and adjacent habitats was carried out to determine the potential presence of protected or priority species including badgers, otters, bats, breeding birds, great crested newts and reptiles.

No great crested newts were observed on the site during the survey. No ponds are present within the development site itself, however 3 ponds were identified within 500m of the proposed development. The 3 ponds within 500m of the proposed development were assessed using the GCN Habitat Suitability Index (HSI), Pond 1 was assessed as having Average Suitability, Pond 2 was assessed as having Good Suitability and Pond 3 was assessed as having Poor suitability to support great crested newts. Pond 1 is approximately 72m east of the proposed development site. The terrestrial habitats covering the majority of the proposed development site were considered to be unfavourable to support great crested newts due to management regime and lack of suitable features and cover. Whilst the terrestrial habitats were considered to be unfavourable further surveys were recommended due to the results of the HSI scores to establish whether great crested newts are present within these ponds and therefore the local area.

A Great Crested Newt Environmental DNA Water Body Testing Report produced by Craig Emms and Dr Linda Barnett has been submitted with the application. The report details the findings of environmental DNA (eDNA) surveys carried out following the survey protocol stated in the technical report DEFRA WC1067 endorsed by NRW at the 3 ponds identified within 500m of the proposed development. The analysis of the samples collected from each pond identified great crested newt DNA was detected in Pond 1 and Pond 3, no great crested newt DNA was detected in pond 2. The results of this survey identify that great crested newts are present within proximity of the proposed development and probable breeding sites were confirmed within 72m of the proposed development. I note that NRW have recommended in their responses dated 15th and 30th October 2018 that an EPS licence in relation to great crested newts would be required for the proposed development as they consider the proposed development is likely to harm or disturb great crested newts, in addition they have recommended that conditions requiring the submission of details regarding mitigation and compensation for loss of amphibian habitat should be attached if planning permission is granted. Given that this information would be required to enable the LPA to determine whether the proposal would be detrimental to the favourable conservation status of great crested newts – one of the three tests required to be applied when determining whether an EPS licence should be granted for an action – I consider that it would not be appropriate for submission of this information to be secured through a planning condition. Further to discussions with

yourself regarding this matter a Draft Conservation Strategy & Scheme of Mitigation for Great Crested Newt Report produced by David Clements Ecology Ltd has been submitted. I have reviewed the submitted strategy and consider that the information and measures identified are appropriate to demonstrate that the proposed development would not be detrimental to the favourable conservation status of great crested newt populations in the local area. The report identifies that further surveys will be undertaken in April-June 2019 for the purposes of establishing a population estimate to support the required EPS Licence application, recommendations have been made with regards to compensation for habitat loss as a result of the proposed development as well as additional habitat enhancement measures – the attenuation pond required for the proposed development will be constructed to create new habitat suitable for great crested newts and two large hibernacula will be constructed to improve terrestrial habitat for both great crested newts and reptiles.

Subject to adherence to the recommendations identified in the Draft Conservation Strategy & Scheme of Mitigation for Great Crested Newt Report produced by David Clements Ecology Ltd it is considered that the proposed development would not result in negative impacts to the favourable conservation status of great crested newts. **I therefore recommend inclusion of an appropriately worded planning condition to secure adherence to these measures.**

The PEA determined that the habitats present at the site were of limited value to reptiles due to lack of potential features suitable for basking, refugia and hibernacula use. Whilst habitats present were considered to be of low suitability it was identified that there is potential for common species of reptile to be present in low numbers as such recommendations have been made with regards to construction activities to minimise risk of harm to any reptiles potentially present at the site. The measures proposed are considered to be appropriate and in addition to the measures identified with regards to great crested newts it is considered that the proposed development would not result in negative impacts to reptile species.

Features present at the site were assessed for their suitability to support roosting bats. No buildings are present on the site. With the exception of a single hollow oak tree which was considered to have low potential for roosting bats, all trees and bushes were considered to have negligible potential to support roosting bats due to lack of suitable potential roosting features. The hollow oak tree was inspected with an endoscope during the survey, no roosting bats or evidence of roosting bats was observed. Given the tree has been classed as low potential to support roosting bats no detailed surveys have been identified as required,

however it has been recommended that an inspection of the tree cavity is carried out prior to felling to confirm absence of bats.

The wooded watercourse was assessed as being of importance for foraging and/or commuting bats in the local area, with the exception of a short section of this habitat which is proposed to be culverted to provide access to the site this habitat will not be impacted. Impacts from introduction of artificial lighting have been identified as having potential to negatively affect bat activity at the site (as well as potential to impact great crested newts), recommendations have been made with regards to artificial lighting at the site to ensure minimal impacts to nocturnal wildlife at the site and in the wider environment. It is noted that the Environmental Statement identifies that the development does not require 24hour external lighting. 3 days over each flock cycle will involve night time catching operations and lighting will be required in the form of directional flood lighting above the catching doors. Outside of the catching periods, 24 hour lighting is not required and motion sensor trigger lighting will be provided for staff needing to visit the site during the hours of darkness. **It is recommended that submission of a detailed external lighting plan is secured through an appropriately worded planning condition.**

No otters or otter field signs were observed on the proposed development site. A single otter spraint was observed on a rock in the Cnithio Brook to the south of the site. The Cnithio Brook was found to generally be of low suitability to support otter due to lack of suitable otter resting habitat lack of significant population of fish as a food source. The report concluded that the brook is likely to be used as a route for otters to move within the wider landscape. No further otter surveys have been identified as required, however implementation of a permanent fenced off 5m wide buffer zone on the northern bank of the brook has been identified as a precautionary measure to prevent disturbance of otter. **It is recommended that implementation and maintenance of this buffer zone is secured through an appropriately worded planning condition.**

Features within the site were identified as having potential to support nesting birds, recommendations have been made regarding timing of works or pre-works checks with regards to vegetation removal to ensure compliance with relevant legislation.

No impacts to dormice are considered likely due to the hedgerow along the A481 being assessed as having low suitability to support this species. This conclusion is based on the

lack of species-richness within the hedgerow – especially with regards to species suitable for foraging dormice – and the fact that the hedgerow is managed annually.

No badger setts or evidence of badger activity were observed on the proposed development site or within 50m of the proposed development site's boundary.

No Invasive Non-Native Species of plants were observed on the site during the survey.

Subject to adherence to the recommendations identified in the Preliminary Ecological Appraisal Report produced by Craig Emms and Dr Linda Barnett and the Draft Conservation Strategy & Scheme of Mitigation for Great Crested Newt Report produced by David Clements Ecology Ltd as well as inclusion of the identified conditions regarding external lighting and buffer zone along the Cnithio Brook it is considered that the proposed development would not result in negative impacts to or loss of biodiversity at the proposed development site.

NRW have reviewed the information provided within the Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Poultry Houses at Wern Halog Farm, Llanfaredd, Builth Wells, Powys produced by AS Modelling & Data Ltd dated 26th November 2015 submitted to inform the application with regards to statutory designated sites. In their responses dated 15th October 2018 and 30th October 2018 NRW have confirmed that the predicted deposition of ammonia and nitrogen are below the thresholds applied to determine potential impacts to protected sites with regards to Colwyn Brook Marshes (North and South) SSSI and River Wye (Tributaries) SSSI under which the application has been considered and are therefore considered to be acceptable.

With regards to Ancient woodland preliminary modelling was run to determine the maximum annual mean ammonia concentration rate at the identified ancient woodland sites, this modelling indicated that there was a potential for the deposition to exceed the identified lower threshold percentage of the Critical Level for several of the AW sites. Detailed deposition modelling was then run for these sites, the results of the detailed modelling identified that that the process contribution to ammonia concentrations and nitrogen deposition rates would not exceed the Environment Agency's lower threshold (100% for non-statutory sites) of the precautionary Critical Level of 1.0 µg/m³ or the Critical Load of 10.0 kg/ha at the AW sites.

A Manure Management Plan Version 4 produced by CXCS dated January 8th 2019 has been submitted to support the application, the plan identifies that there are sufficient land holdings available to the applicant to accommodate the spreading of all of the manure produced by the unit (in addition to manure for existing livestock numbers at the farm) in accordance with DEFRA's CoGAP recommended upper limit of 250kg N/ha. The MMP includes details of 'no-spread' zones in accordance with the CoGAP recommendations i.e. buffers of 10m have been provided to all watercourses and ponds, 50m of springs, wells and boreholes and no spreading will take place in these buffers, the 'no-spread' zones are considered to in line with current guidelines. The plan includes details of contingency measures when spreading of manure is not possible i.e. wet, waterlogged or frozen conditions; in these instances manure, slurry and dirty water will be stored in one of the covered areas on the farm. The MMP identifies that any contaminated wash water will be stored in containers separate from other manures and will be disposed of by a specialist contractor licensed to deal with such wastes. Subject to the site being operated in accordance with this manure management plan, it is considered unlikely that the proposed development would cause pollution to the wider environment. **It is therefore recommended that an appropriately worded condition is included to secure adherence to the identified Manure Management Plan to ensure compliance with the requirements of Powys LDP policy DM2.**

Details of drainage for the site have been provided Drainage Layout Plan drawing no. IP/KD/04A produced by Ian Pick Associates Ltd dated November 2018 these identify that dirty and clean water will be kept separate. Dirty water from wash down will be collected in an underground sealed tank (compliant with SSAFO Regulations (Wales) 2010 Standards, dirty water will then be collected and taken off site by a sealed tanker and disposed of whenever it is full. Clean water from roof and clean surfaces will be drained to a piped system each side of the buildings, the clean water will then discharge to an attenuation pond to the east of the proposed poultry buildings. At the wash down stage the clean water system around the yard will be diverted to the underground dirty water tank. Subject to implementation of the identified drainage plan it is considered that the proposed development would not cause pollution to the wider environment. **It is therefore recommended that an appropriately worded condition is included to secure adherence to the identified drainage plan to ensure compliance with the requirements of Powys LDP policy DM2.**

A Method Statement and Pollution Prevention Plan has been submitted with the application. I have reviewed the submitted information and considered that the measures identified are appropriate and in line with current guidelines – it should be noted that GPP5 – January 2017

was updated to Version 1.2 in February 2018 - the most current version of the GPP can be found at http://www.netregs.org.uk/media/1418/gpp-5-works-and-maintenance-in-or-near-water.pdf?utm_source=website&utm_medium=social&utm_campaign=GPP5%2027112017

In addition NRW have reviewed the information and have stated that they considered that if the development is undertaken in accordance with this plan, the proposal would be unlikely to adversely impact the surrounding environment. **It is therefore recommended that an appropriately worded condition is included to secure adherence to the identified Pollution Prevention Plan to ensure compliance with the requirements of Powys LDP policy DM2.**

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

No development, earth moving or vegetation clearance shall take place or material or construction machinery brought onto the site until a minimum 5m fenced buffer zone has been established along the northern bank of the Cnithio brook. The buffer zone shall be maintained in perpetuity.

Reason: To comply with Powys County Council's LDP Policy DM2 in relation to the Natural Environment and meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

The development shall be carried out strictly in accordance with the mitigation and enhancement measures identified in the Draft Conservation Strategy & Scheme of Mitigation for Great Crested Newt Report produced by David Clements Ecology Ltd dated February 2019. The identified measures shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policy DM2 in relation to the Natural Environment and meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

The development shall be carried out strictly in accordance with the measures identified in the Recommendations Section of the Preliminary Ecological Appraisal Report produced by Craig Emms and Dr Linda Barnett dated 8th May 2018. The identified measures shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policy DM2 in relation to the Natural Environment and meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016

The development shall be carried out strictly in accordance with the details and measures identified in the following documents:

- i. Method Statement and Pollution Prevention Plan for Proposed Broiler Unit at land west of Wern Halog, Llanfaredd, Builth Wells*
- ii. Manure Management Plan Version 4 produced by CXCS dated January 8th 2019 and associated appendices*
- iii. Drainage Layout Plan drawing no. IP/KD/04A produced by Ian Pick Associates Ltd dated November 2018*

The measures identified shall be adhered to and implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policy DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

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.

Reason: To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following informatives:

Warning: A 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.

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017

It is therefore an offence to:

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

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

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

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

that works to trees or structures where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

Natural Resources Wales (North)

15th Oct 2018

DPAS

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which was received on 27/09/2018.

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

Requirement 1 - Manure Management Plan

Requirement 2- Manure Contingency Plan

Subject to the satisfaction of these requirements, we would request the following conditions:

Condition 1 - Submission of detailed amphibian avoidance and mitigation measures that include the construction and maintenance of barrier fencing throughout construction works;

Condition 2 - Submission of long term proposals to offset or compensate the loss of amphibian habitat. This shall include, but not necessarily limited to:

(a) Habitat creation and enhancement proposals;

(b) Long term management plan, including how it will be resourced and implemented; and

c) Long term surveillance scheme. Methodology to be compliant with and results uploaded into the online Wales GCN Monitoring Scheme (<https://www.cofnod.org.uk/LinkInfo?ID=7>)

Condition 3 - To prevent pollution to watercourses during the construction and operational phases of the proposal, the development shall be carried out in accordance with the:

i) Drainage plan ('Drainage Layout Plan A1', drawing number IP/KD/04 dated Aug 18 by Ian Pick Associates)

ii) Pollution Prevention Plan ('Method Statement and Pollution Prevention Plan for Proposed Broiler Unit at land west of Wern Halog, Llanfarred, Builth Wells', unreferenced)

iii) Manure Management Plan (subject to the satisfaction Requirement 1 and 2)

Manure Management Plan

The purpose of a manure management plan is to detail how manure arising from the development will be managed in order avoid pollution to watercourses and harm to semi-natural habitats.

If manure is to be utilised on the applicant's holding, the manure management plan will need to demonstrate that the farm has sufficient land to spread the manures produced, alongside other manure generated on the farm at a rate and in accordance with the Code of Good Agricultural Practice (CoGAP).

Requirement 1 - Manure Management Plan

The plan needs to include:

- o Details of how the manure produced on site will be dealt with
- o Calculation of total Nitrogen and Phosphate produced from the proposed poultry unit and all other sources of nutrient imported or produced from the site
- o Details of the area of land available to spread dirty water and litter
- o Calculation of nutrient loading (Nitrogen and Phosphate) per hectare of land available for spreading
- o Show how nutrients will be used by the holding for agricultural benefit
- o Risk of proposed spreading area (if manure spreading is to take place) indicating sensitive receptors, e.g. boreholes, wells, lakes, rivers, other water bodies or habitats that may require assessment under EIA Agriculture Regulations

Guidance to help complete a Manure Management Plan can be found in the Code of Good Agricultural Practice.

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

Manure Contingency Plan

Applications need to demonstrate that there is contingency for storing any manure, slurry and dirty water produced at times where the usual method of manure disposal is not possible.

Requirement 2- Manure Contingency Plan

Contingency for storing wash water during and after disease outbreak must be detailed as this is classified as hazardous waste and depending on the severity and type of outbreak may need to be stored for longer than normal and separate from other manures and slurry. The contingency plan can be included into the Manure Management Plan.

Protected Species

Great Crested Newts

We have reviewed the Great Crested Newt Environmental DNA Water Body Testing Report (Emms, D, and Barnett, L. (2018). Great Crested Newt Environmental DNA Water Body Testing Report: Wern Heulog, Llanfaredd, Builth Wells, Powys. Craig Emms and L K Barnett. Unpublished) submitted in support of the proposal. We note that only eDNA and Habitat Suitability Index surveys have been conducted. No abundance assessments have been conducted. However, in our view the absence of this information does not inform our assessments of this proposal.

We note that the ecological report submitted in support of the above application has identified that great crested newts (GCN) are present within the environs of the application site.

Great crested newts and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017. Any development that would contravene the protection afforded to bats under the Regulations would require a derogation licence from Natural Resources Wales. A licence may only be authorised if:

i. There is no satisfactory alternative and

ii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. In addition,

iii. the development works to be authorised must be for the purposes of preserving public health or 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.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

We consider the proposed development is likely to harm or disturb GCN.

We therefore advise that implementation of the proposal is carried out in accordance with the provisions of a European protected species derogation licence issued by Natural Resources Wales under Regulation 55 of the Conservation of Habitat and Species Regulations 2017.

We consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range provided any consent is subject to planning conditions or obligations requiring:

Condition 1 - Submission of detailed amphibian avoidance and mitigation measures that include the construction and maintenance of barrier fencing throughout construction works;

Condition 2 - Submission of long term proposals to offset or compensate the loss of amphibian habitat. This shall include, but not necessarily limited to:

(d) Habitat creation and enhancement proposals;

(e) Long term management plan, including how it will be resourced and implemented; and

(f) Long term surveillance scheme. Methodology to be compliant with and results uploaded into the online Wales GCN Monitoring Scheme (<https://www.cofnod.org.uk/LinkInfo?ID=7>)

This advice applies to the proposal in its present form. Please consult us again if the plans are changed in ways that may harm or disturb the GCN or cause damage or destruction to their breeding sites and resting places at this site.

NRW would refer the Planning Authority to the letter from the Welsh Government to Chief Planning Officer's dated 01 March 2018 which advises Local Planning Authorities to attach an informative regarding licence requirements to all consents and notices where European Protected Species are likely to be present on site.

Bats

Bats and their breeding and resting places are protected under the Wildlife and Countryside act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (SI 2017 No. 1012), and they are a material consideration for planning.

We note that there is no information about bats with the application and, therefore, are assuming that your Authority has screened the application and concluded that there is not a reasonable likelihood of protected species being present.

Drainage Plan

We have reviewed the Drainage Plan ('Drainage Layout Plan A1', drawing number IP/KD/04 dated Aug 18 by Ian Pick Associates) submitted in support of this proposal.

The plan shows the clean and dirty water being drained separately. The clean water will drain to an attenuation tank. The dirty water will drain to an underground tank built to comply with the SSAFO standards.

Provided the drainage system is built in accordance with this plan, it is unlikely the proposal will cause pollution to the wider environment.

Pollution Prevention Plan

We have reviewed the Pollution Prevention Plan ('Method Statement and Pollution Prevention Plan for Proposed Broiler Unit at land west of Wern Halog, Llanfarred, Builth Wells', unreferenced) submitted in support of this proposal.

Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified immediately on our incident hotline 03000 65 3000.

Provided the construction works and the site operations take place in accordance with this plan, the proposal is unlikely to adversely impact the surrounding environment.

Protected Sites and Aerial Emissions

Intensive agricultural units have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition). As this proposal applied before the change

of assessment thresholds introduced in April 2017, we have assessed the proposal using the thresholds used before this date. We have therefore assessed the proposal on a screening distance of 10km for European sites, and 5km for Sites of Special Scientific Interests (SSSIs).

Detailed aerial emissions modelling has been submitted ('A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Poultry Houses at Wern Halog Farm, Llanfared, Builth Wells, Powys' by AS Modelling & Data Ltd dated 26th November 2015).

The report states there are 2 SSSIs within 2km of the site, which are:

- o Colwyn Brook Marshes (North and South) SSSI
- o River Wye (Tributaries) SSSI

These sites form part of the River Wye SAC, which is within 10km of the site.

The background ammonia concentration (annual mean) in the area around Wern Halog Farm and the wildlife sites is 0.97 $\mu\text{g}/\text{NH}_3/\text{m}^2$. The background nitrogen deposition rate to woodland is 25.76kgN/ha/yr and to short vegetation is 15.82kgN/ha/yr. These figures were sourced from APIS.

The report has assessed the proposal using the 1 μg threshold.

The report predicts the process contributions to ammonia concentrations and nitrogen deposition are below the thresholds we apply in our assessment of potential impacts on protected sites.

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.

Condition 3 - Biosecurity Risk Assessment

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; and

(ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of construction phase of the scheme.

Advice for the Developer:

Environmental Permitting Regulations

As the proposal is for a 90,000 poultry rearing unit, which is over the threshold of 40,000, an Environmental Permit will be required from NRW under the Environmental Permitting Regulations 2010. A detailed assessment of the proposal under the Habitat Regulations 2010 will be undertaken at this stage.

We note the applicants have provided a copy of the Environmental Permit which they have been granted by NRW's Permitting team.

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

The written consent of NRW or registration for exemption by the developer will be required for any discharge (e.g. foul drainage to watercourse/ditch etc.) from the site and may also be required for certain discharges to land. All necessary NRW consents or exemptions will need to be obtained prior to works progressing on site.

Advice on Poultry Units

Advice on poultry units can be found in NRW's guidance document 'GN020 Assessing the impact of ammonia and nitrogen on designated sites from new and expanding intensive livestock units' and 'GN021 Poultry Units: planning permission and environmental assessment' available on our website: <https://naturalresources.wales/guidance-and-advice/business-sectors/farming/good-farming-practice/?lang=en>

Abstractions

Applicants intending to supply new units from ground or surface waters are advised to check the abstraction limits and apply for a permit to abstract if required.

<https://naturalresources.wales/apply-for-a-permit/water-abstraction-licences-and-impoundment-licences/?lang=en>

Discharges

The written consent of NRW or registration for exemption by the developer will be required for any discharge from the site (e.g. foul drainage to a watercourse) and may also be

required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

<https://naturalresources.wales/apply-for-a-permit/water-discharges/discharges-to-surface-water-and-groundwater/environmental-permitting-for-discharges-to-surface-water-and-groundwater/?lang=en>

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

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

(<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

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

Natural Resources Wales (North)
DPAS

30th Oct 2018

Thank you for re-consulting Cyfoeth Naturiol Cymru / Natural Resources Wales with the additional information regarding the above, which was received on 24/10/2018.

Further to our previous letter referenced SO05/GB/CAS-69502-L3Q7 dated 15/10/2018, we have the following advice to provide.

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

Condition 1 - Submission of detailed amphibian avoidance and mitigation measures that include the construction and maintenance of barrier fencing throughout construction works;

Condition 2 - Submission of long term proposals to offset or compensate the loss of amphibian habitat. This shall include, but not necessarily limited to:

(a) Habitat creation and enhancement proposals;

- (b) Long term management plan, including how it will be resourced and implemented; and
- (c) Long term surveillance scheme. Methodology to be compliant with and results uploaded into the online Wales GCN Monitoring Scheme (<https://www.cofnod.org.uk/LinkInfo?ID=7>)

Condition 3 - To prevent pollution to watercourses during the construction and operational phases of the proposal, the development shall be carried out in accordance with the:

- i) Drainage plan ('Drainage Layout Plan A1', drawing number IP/KD/04 dated Aug 18 by Ian Pick Associates)
- ii) Pollution Prevention Plan ('Method Statement and Pollution Prevention Plan for Proposed Broiler Unit at land west of Wern Halog, Llanfarred, Builth Wells', unreferenced)
- iii) Manure Management Plan (document titled 'Wernheulog Farm - MMP Summary' (and appendices) by CXCS)

Manure Management Plan

We have reviewed the manure management plan (document titled 'Wernheulog Farm - MMP Summary' (and appendices) by CXCS) submitted in support of the proposal.

The document shows it has calculated the quantity of manure to be spread on the land and shows the nitrogen loading to be under 250kg/ha. The plan includes a contingency plan. Contaminated washings will be removed by a contractor. Manure spreading plans have been submitted showing areas where manure spreading will be avoided to prevent pollution to the wider environment.

Provided the site operates in accordance with this plan, the proposal is unlikely to adversely impact the surrounding environment. We confirm Requirement 1 and 2 of our previous letter have been addressed.

Protected Species

Great Crested Newts

We have reviewed the Great Crested Newt Environmental DNA Water Body Testing Report (Emms, D, and Barnett, L. (2018). Great Crested Newt Environmental DNA Water Body Testing Report: Wern Heulog, Llanfaredd, Builth Wells, Powys. Craig Emms and L K Barnett. Unpublished) submitted in support of the proposal. We note that only eDNA and Habitat Suitability Index surveys have been conducted. No abundance assessments have been conducted. However, in our view the absence of this information does not inform our assessments of this proposal.

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Advice for the Developer:

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Discharges

The written consent of NRW or registration for exemption by the developer will be required for any discharge from the site (e.g. foul drainage to a watercourse) and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

<https://naturalresources.wales/apply-for-a-permit/water-discharges/discharges-to-surface-water-and-groundwater/environmental-permitting-for-discharges-to-surface-water-and-groundwater/?lang=en>

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

Our comments above only relate specifically to matters that are included on our consultation topics list (September 2018) which is published on our website:

(<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

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

Natural Resources Wales (North)
DPAS

8th Nov 2018

Thank you for consulting NRW on the additional information submitted in support of this proposal. We do not have any further comments to make to those made in our letter referenced SO05/GB/CAS-70568-K7X3 dated 30/10/2018.

HC1 Prior to the first beneficial use of either poultry building 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.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 20 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 20 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 215 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 areas 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.

HC30 Upon formation of the visibility splays as detailed 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.

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 20 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.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 6 metres for a minimum distance of 20 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.

HC21 Prior to the first beneficial use of either building the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 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.

HC8 Prior to the first beneficial use of either building, provision shall be made within the curtilage of the site for the parking of not less than 2 cars per and 2 heavy goods vehicles 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.

HC13 Prior to the occupation of the development a radius of 15 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.

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

PCC-Environmental Health

22nd Nov 2018

I have had a look at the above mentioned planning application and have attached a word document with my response. Additionally, please also see below comments from Environmental Protections Private Water Supplies Teams:

Comments from Private Water Supplies Team

There are three main intended areas of manure application, at Llanfaredd, Hundred House and around Tretower/Glanusk.

Llanfaredd (see attached map - PWS Llanfaredd Locality 1)

According to our records Hendre Einon Farmhouse is served by a spring PWS. The applicant should determine the exact location of the spring catch pit and any intermediate storage tanks/reservoirs associated with this supply and adjust the intended manure application area accordingly to provide a buffer zone of at least 50m, depending on topology of the land around the spring source.

Further, we do not know if the property at Craigddu is served by a private water supply. The applicant should determine if Craigddu is served by a PWS and if so, locate the spring/borehole/well source and adjust the intended manure application area accordingly to provide a buffer zone of at least 50m, depending on the topology of the land around any PWS source located.

Hundred House (see attached map - PWS Hundred House Locality)

The spring source for Ffynnonau is located close to an intended manure application area. The intended manure application area on the field immediately to the east of this spring source should be adjusted to provide a buffer zone of at least 50m, and further depending on the topology of the land at this location. This land slopes steeply in this locality.

Glanusk (see attached map - PWS Glanusk Locality)

According to our records there are a number of private water supplies (PWSs) at this locality - marked by red dots on the attached map. Most have sources that are located outside the intended manure application areas. However, I have identified 5 PWSs where the exact location of the source (i.e. spring or borehole) is unknown. These are labelled on the attached and are at the following properties:

Fro Farm, NP8 1SF (2 sources - borehole and spring).

Maescelyn Cottage, NP8 1 RB (spring)

Cwm Gu Fawr Farmhouse, NP8 1RL (spring)

Cwm Gu Fawr Cottage, NP8 1RG

The applicant should determine the exact location of the spring catch pit and/or borehole and any intermediate storage tanks/reservoirs associated with this supply and adjust the intended manure application area accordingly to provide a buffer zone of at least 50m, depending on topology of the land around the spring/borehole source.

Should permission be granted I would recommend the following conditions be attached.

Recommendations

Conditions

(a) Noise Conditions

Transport Noise

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

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

(b) Prevention insect and of odour nuisances during storage of manure and manure spreading.

(i) General Odour condition

All emissions to air arising from the units hereby approved shall be free from odours levels that are likely to be offensive or cause serious detriment to the amenity of the local outside the site boundary of the holdings, as perceived by an authorised officer of the local planning authority by olfactory means.

Reason: To protect the local amenities of the local residents from the excess of malodorous emissions.

(ii) Manure transportation

All vehicles used for the movement of manure if taken off site shall be sheeted and/or fully covered.

Reason: To prevent spillage of manure and minimise odour dispersion and prevent population increase of insects.

PCC-Environmental Health

11th Jan 2019

I have the following additional comments from Technical Officer Steve Baker of the Private Water Supplies Team, in relation to additional Information submitted by the agent/applicant:

The applicant states that there are no known PWSs serving the properties at Hendre Einion and Craigddu. There is a mains water supply at this locality and it may be that these properties are now served by a mains water supply.

From all the information on manure management that has been submitted to date, the agent/applicant does not appear to have demonstrated that application of manure to land at the Glanusk locality will be sufficiently distant to the private water supplies that we understand serves the following properties.

- o Fro Farm, NP8 1SF (borehole).
- o Maescelyn Cottage, Tretower, Crickhowell, NP8 1RB (spring?)
- o Cwm Gu Fawr Farmhouse, Tretower, NP8 1RG (spring?) - possible contact Glanusk Estate Offices.
- o Cwm Gu Fawr Cottage, NP8 1RG (borehole) located at grid ref. 319966, 220913

The agent/applicant should determine if these properties are served by private water supplies; identify the exact location of the source of each supply, i.e. spring catch pit and/or borehole and any intermediate storage tanks/reservoirs associated with this supply and adjust the intended manure application area accordingly to provide a buffer zone of at least 50m, depending on topology of the land around the spring/borehole source.

Maps showing the location of these properties have been previously submitted

PCC-Environmental Health

14th Jan 2019

I have a further response from our Private Water Supplies Team below, who are concerned still about the areas where manure will spread.

1. With regards to the three adjusted manure management plan maps uploaded by planning department on the 11th January 2019, it would appear the indicator points and associated buffer zones on the map only show the property served by a PWS, NOT the exact location of any spring/borehole/well PWS.

To satisfy this department that there is no risk to Private water supplies from manure spreading the applicant/agent still needs to identify the exact locations of the sources of the PWS serving Fro Farm; Maescelyn Cottage; Cwm Gu Fawr Farmhouse and Cwm Gu Fawr Cottage . Subsequently updating maps accordingly.

Natural Resources Wales (North)
DPAS

24th Jan 2019

Thank you for notifying NRW of the additional information submitted in support of this proposal.

We do not have any further comments to make on those provided in our consultation letter referenced CAS-70568-K7X3 dated 30/10/2018.

PCC-Built Heritage Officer

13th Dec 2018

Recommendation - No objection - subject to landscaping conditions

Background to Recommendation

Designation

Scheduled Ancient Monuments

RD014 Caer Einon Camp

RD123 Cwm Berwyn Camp

RD237 The Gaer Hillfort

RD122 Carneddau Roundn Cairn

RD222 Cwm-berwyn round Cairn

RD226 Cilberllan ring Cairn

Listed Buildings

Cadw ID 23028 Hope Chapel, attached house & vestry included on the statutory list on 21/03/2000

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 9th edition 2016

Conservation Principles published by Cadw

TAN24

Managing Change to Listed Buildings in Wales - Annexe to TAN24

Managing Conservation Areas in Wales - Annexe to TAN 24

Setting of Historic Assets in Wales - Annexe to TAN24

Registered Historic Parks and Gardens - Annexe to TAN24

Heritage Impact Assessments - Annexe to TAN24

Historic Environment Records

Local Development Plan

Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 - Guardianship of natural, built and historic assets

LDP Objective 13 - Landscape and the Historic Environment

Comments

I note that the higher land surrounding the site contains a number of Iron Age camps and also a number of burial cairns, Cadw are the consultee in respect of the setting of Scheduled Ancient Monuments and my comments are in respect of the setting of the listed buildings only.

The proposal is for 2 poultry units each one 92m in length, 22m in width and 6m in height to the ridge however the vents and grain stores are higher than the ridge.

The proposed buildings would be sited to the north west of Hope Chapel one field away from the A481. I note the proposed new access road to the development that would be accessed from the A481.

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

However, I would also refer to more recent guidance in paragraph 6.1.10 of Planning Policy Wales 10 Dec 2018 which states, " Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

Section 6.1.4 of Planning Policy Wales 9th edition requires that "Decisions on planning applications and listed building and conservation area consents must be based on adequate information provided by the applicant and any action must be in proportion to the impact of the proposals, and the effects on the significance of the assets and their heritage values." Section 1.26 of TAN 24 advises that "It is for the applicant to provide the local planning authority with sufficient information to allow the assessment of their proposals in respect of scheduled monuments, listed buildings, conservation areas, registered historic parks and gardens, World Heritage Sites, or other sites of national importance and their settings"

TAN24 addresses setting with some of the factors to consider and weigh in the assessment including

- o the prominence of the historic asset
- o the expected lifespan of the proposed development
- o the extent of tree cover and its likely longevity

- o non-visual factors affecting the setting of the historic asset

Paragraph 1.26 identifies the other factors that may affect the setting of an historic asset to include inter-visibility with other historic or natural features, tranquillity, noise or other potentially polluting development though it may have little visual impact. Cadw have prepared guidance on the setting of historic assets that in an annexe to TAN24 with advice on how to assess the setting of historic assets .

Section 1 of the guidance on Setting of Historic Assets identifies that setting often extends beyond the property boundary of an historic asset and in to the surrounding landscape or townscape. The setting of a historic asset can include physical elements of its surroundings, for instance the setting of a listed farmhouse might be its physical agricultural surroundings, both built and landscape features such as buildings, boundaries or fields.

This section outlines the general principles that both assessors and decision makers should consider when assessing the impact of a proposed change or development on the setting of historic assets. There are four stages.

Stage 1: Identify the historic assets that might be affected by a proposed change or development and their significance.

Stage 2: Define and analyse the settings to understand how they contribute to the ways in which the historic assets are understood, appreciated and experienced.

Stage 3: Evaluate the potential impact of a proposed change or development on those settings.

Stage 4: Consider options to mitigate the potential impact of a proposed change or development on those settings.

Hope Chapel, attached house and vestry is situated on the N side of the A481 approximately 4.5km NE of Builth Wells towards Hundred House. The building was included on the statutory list for its special architectural interest as a well-preserved chapel showing the mid C19 transition in Wales from the traditional long-wall facade on its exterior, to the orientation on the gable end, as reflected in the interior layout with end pulpit. Chapel, house and vestry form an attractive group.

The building is 2 storey house with attached chapel slightly higher albeit single storey interior and vestry or schoolroom and a lower level.

The chapel is located in isolation from other buildings, as was not uncommon in non-conformist chapels which often served a large rural community . It is noted that the application is for an agricultural building albeit a large agricultural building.

The proposed buildings are to be sited to the north of a mature belt of trees adjacent to Cnithio Brook. The hedge is maintained at a low level however the trees are substantially higher. There will be the loss of some trees to afford access to the site and it is noted that the proposed access would be sited in close proximity to another small access where there are a number of mature trees adjacent to the road, however it appears from the plan that the vast majority of them would remain, nevertheless a number of trees would need to be felled to provide a bridge over the Cnithio Brook.

The tree cover is extensive and adjacent to a stream and as such provide good screening of the proposed development during the months when the trees are in leaf, however at this time of year the trees provide little screening to the very large buildings. I would therefore request that consideration is given to additional significant landscaping along the tree line to screen the building in the winter months, preferably with a good mix of evergreen.

It is also noted that a break in the tree cover is proposed , however this is at the western element of the field farthest way from the listed Hope Chapel. Whilst there will be a view of the poultry unit from the A481 at that point, and the new access onto the A481 will accentuate that break in the tree cover, it is not considered that the view of the building

through the access will be for any significant period of time should additional planting be implemented.

With appropriate landscaping, it is not considered that the proposed would have a significant impact on the setting of Hope Chapel subject to the tree cover being retained as per the application and enhanced.

The access road itself should also be considered. The field adjacent to the A481 is relatively flat, and will be visible when directly outside Hope Chapel, however the flat gradient of the field would not result in the proposed access having a visual impact on the setting of the listed chapel. It is noted that there are other accesses along that road, including one immediately to the east of the chapel on the other side of the road that serves a number of farms.

I would not consider that the proposed access road would have an impact on the setting of Hope Chapel.

I am aware of section 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The "special regard" duty of the 1990 Act has been tested in the Court of Appeal and confirmed to require that "considerable importance and weight" should be afforded to the decision maker to the desirability of preserving a listed building or its setting" [Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage and National Trust (2014)] . This duty does not require that no development ever be permitted adjacent to or in close proximity to a listed building but rather where a development does not preserve the setting and is unacceptable the application should be refused. The duty is directed to the desirability of preserving the setting of listed buildings and does not rule out acceptable change but gives the decision maker an extra task to perform which is to judge whether the change is acceptable. [Forest of Dean DC v Secretary of State for Communities and Local Government (2013)]

Taking into account our duty under Section 66, I acknowledge that an agricultural building in rural location has the potential to afford some harm to the setting of neighbouring listed

buildings, and as such there will be some small harm to the setting of Hope Chapel Cadw ID 23028, however I would not consider the harm would be significant and would be mitigated by the fact it is set back from the road and screened by existing trees, and for additional tree cover. With the landscaping mitigation currently in place and additional landscaping I would not consider that the proposal would affect the setting of Hope Chapel Cadw ID 23028 to a significant degree with the caveat that the existing tree cover be retained and supplemented. With that caveat I can confirm that I would have no objection to the proposal on built heritage grounds.

Representations

The application was advertised through the erection of a site notice and press advertisement. 13 objections have been received and are summarised below;

- Concerns regarding impact of development on River Wye SAC
- Concerns regarding cumulative impact of proposed development and impact on biodiversity
- Concerns regarding increase in traffic and traffic movements
- Concerns raised regarding the impact of the development on neighbouring properties
- Proposed development is located away from the main farm complex
- Proximity of the proposed development to neighbouring properties
- Concerns regarding the increase in larger vehicles
- Concerns regarding potential pollution and impact on adjacent rivers/streams
- Concerns regarding impact on listed buildings
- Concerns regarding detrimental impact on landscape and visual amenity
- Loss of value to properties
- Concerns regarding impact on health
- Concerns regarding potential light pollution
- Scale of development is out of keeping with the area
- Concerns regarding Great Crested NEwts

Planning History

App Ref	Description	Decision	Date
SC/2017/000 3	Request for an EIA Scoping Opinion in relation to 2 no poultry rearing buildings and associated works		28th Sep 2017

Principal Planning Constraints

Listed Building

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 10, December 2018)		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN6	Planning for Sustainable Rural Community		National Policy
TAN11	Noise		National Policy
TAN12	Design		National Policy
TAN15	Development and Flood Risk		National Policy
TAN18	Transport		National Policy
TAN23	Economic Development		National Policy
TAN24	The Historic Environment		National Policy
SP7	Safeguarding of Strategic Resources and Assets		Local Development Plan 2011-2026
DM2	The Natural Environment		Local Development Plan 2011-2026
DM4	Landscape		Local Development Plan 2011-2026
DM6	Flood Prevention Measures and Land Drainage		Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting		Local Development Plan 2011-2026

DM13	Design and Resources	Local Development Plan 2011-2026
DM14	Air Quality Management	Local Development Plan 2011-2026
E2	Employment Proposals on Non-Allocated Employment Sites	Local Development Plan 2011-2026
E6	Farm Diversification	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026

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

Site Location and Description

The application site lies within an area of open countryside within the community of Llanelwedd. The application site is approximately 1.8 miles to the east of the settlement of Llanelwedd and approximately 2.3 miles to the west of the settlement of Hundred House. The application site is bound to the north, east and west by agricultural land and to the south by the A481. Cnithio Brook runs through the site and a bridge is required to be constructed for access to the proposed development.

The application seeks full planning permission for the construction of two buildings for broiler rearing and associated feed bins, access track and highway access. The proposed buildings would measure approximately 92 metres in length, 22 metres in width, with a maximum height of 6.1 metres, falling to 3 metres at the eaves. The building will be a

steel portal construction finished in olive green profile sheeting. The buildings will each house 45,000 broilers.

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

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

Environmental Impact Assessment Regulations 2017

Part 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 reference lists of development and thresholds defining where a development proposal is EIA development. These are contained in Schedule 1 and 2 of the Regulations. Schedule 1 of the regulations lists where EIA is mandatory and Schedule 2 where development must be screened to determine if it is EIA development.

Schedule 1 of the Regulations states that the threshold for the “intensive rearing of poultry is 85,000 places for broilers or 60,000 for hens”. An Environmental Statement was submitted with the application.

Environmental Permitting Regulations (EPR 2010)

The operations at the site will require an environmental permit issued by Natural Resources Wales under the Environmental Permitting (England & Wales) Regulations 2010 (as amended). This is required on the basis that the amount of broilers to be reared on site passes the threshold for an environmental permit. It is Natural Resources Wales’ role to determine if the operation can be managed on an ongoing basis to prevent or minimise pollution. Planning Policy Wales states that Local Planning Authorities and Natural Resources Wales should work closely to ensure that conditions attached to planning consents and those attached to Environmental Permits are complementary however should not duplicate one another. Planning Authorities need to be satisfied that proposals are capable of effective regulations and Natural Resources Wales should assist in establishing this position. Good practice suggests that the parallel tracking of planning and environmental permitting and a planning application should be encouraged.

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

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

Confirmation has been received, as well as copies, that a permit has been issued by NRW. The permit (EPR/AB3496HZ) allows the site to house a maximum of 90,000 birds.

Introduction

The application seeks full planning permission for the construction of two poultry units to house a maximum 90,000 birds. Having considered the details submitted in respect of the proposed broiler rearing unit, the principal matters considered relevant to determination are as follows;

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on heritage assets;
- The effect of the proposed development on the local amenity;
- The effect of the proposal on nature conservation interests;
- The effect of the proposal upon highway safety; and
- The effect of other considerations on the overall planning balance.

Principle of Development

Policy E2 and E6 of the Powys Local Development Plan and Technical Advice Notes 6 and 23 accept the principle of appropriate agricultural development within the open countryside.

Policy E2 supports proposals for the limited expansion, extension or environmental improvement of existing employment sites and buildings within the open countryside such as this proposal. Policy E6 states that development proposals for farm diversification will be permitted where the proposed diversification will be of an intensity of use appropriate to the location and setting as well as not having a significant detrimental effect on the vitality and viability of any adjacent land uses. The proposed development provides an extension to an existing poultry building which serves the existing rural enterprise.

In light of the above, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

Farm Diversification

The applicants operate a traditional beef and sheep enterprise from Wern Halog. The farm seeks to diversify to generate alternative income streams in light of uncertainties surrounding Government subsidies, which are currently only guaranteed to 2020.

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

Notwithstanding the policy presumption in favour of appropriate rural development, support needs to be balanced against other material considerations including landscape and visual impact, highway safety implications, ecology together with the potential impact on local amenity. Consideration of such matters is duly given below.

Landscape Impact

Guidance within policy DM4 of the Powys Local Development Plan, indicates that development proposals will only be permitted where they would not have an unacceptable impact on the environment and would be sited and designed to be sympathetic to the character and appearance of its surroundings. Policy DM4 requires a Landscape and Visual Impact Assessment to be undertaken where impacts are likely on the landscape and proposals should have regard to LANDMAP, Registered Historic Parks and Gardens, protected landscapes and the visual amenities enjoyed by users of the Powys landscape and adjoining areas.

The application site comprises of agricultural land located approximately 275 metres to the south west of the existing Wern Halog farm complex. The application site has been chosen considering landscape impact, access arrangements and environmental considerations. The topography of the application site is generally flat and the land is scattered with broken hedgerows and trees. The proposal, involves the construction of two poultry sheds, feed bins, hardstanding and access works and would clearly represent a significant change to the application site. The development would result in the loss of a larger field, and the encroachment of built development into the open countryside.

The application site is located within the Rolling hills, central south-east aspect area (RDNRVS133) as defined by Landmap and is characterised by 'two large convoluted areas comprising most of the landscape, other than distinct hills and valleys, in centre and south east of county. Area extends from Wye/Ithon Valleys across to New Radnor basin. Generally peaceful, settled farmland with pleasant views. Gently rolling hills & valleys with strong pastoral field patterns, wooded watercourses and scattered trees & small woodlands. Numerous small villages and scattered farms.' The visual and sensory landscape value is recorded as moderate. The justification for the moderate value is given in LANDMAP as the area is 'attractive traditional pastoral landscape with strong field pattern, often with well laid hedges typifies Radnor - and results in overall moderate values as it is not unusual or particularly distinctive.'

The application is supported by a Landscape and Visual Impact Assessment has been undertaken by ACD Environmental LTs and submitted in support of the application. The Assessment concludes that 'the scale and nature of the development and its juxtaposition to other agricultural development will have a medium landscape character sensitivity and the magnitude of change is negligible/ Therefore resulting in a significance of landscape effect of minor/negligible i.e. not significant.'

The Landscape and Visual Impact Assessment (LVIA) outlines the characteristics of the host landscape and thereafter assesses the potential landscape and visual impact of the proposed development from key receptors including public highway and the rights of way network. Included within the assessment is a landscape mitigation proposal which indicates;

- Native and tree hedgerow planting to the site boundaries;
- Management and maintenance of existing surrounding hedgerow and trees;
- The use of materials for the external envelope of the buildings which minimise potential visual intrusion and follow local vernacular to aid visual blending, for example green metal sheeting.

The LVIA confirms that with suitable mitigation measures, the development will have a minor visual impact.

It is noted that the proposed units are located some 275 metres from the farm complex. Careful consideration therefore needs to be given to the isolated nature of the proposed development and its impact on the landscape. There would be a loss of the agricultural field and whilst the proposed development would not be grouped within a farm complex, taking account of the mitigation measures and the character and sensitivity of the landscape, on balance it is considered that the development would not have a significant adverse effect on the site and the landscape character of the area.

In light of the above observations and notwithstanding the scale of the proposed development, given the proposed topography of the area along with the proposed planting of native trees, it is considered that the proposed development is broadly in accordance with planning policy. Should Members be minded to grant planning permission it is recommended that any consent is subject to appropriate conditions restricting materials, securing the implementation and retention of existing and proposed landscaping whilst also requiring details of existing and proposed ground levels to be provided. Subject to the above, Officers consider that the visual and landscape impact associated with the proposed broiler development can be appropriately managed thereby safeguard the Powys landscape in accordance with policies SP7, DM2, DM4, DM7, DM13 and E6 of the Powys Local Development Plan.

Visual Impact

The A481 highway to the south of the site is separated from the proposal by intervening agricultural land and existing trees and vegetation. The broken hedgerows within the landscape and the roadside hedgerows restrict views into the site. Mitigation in the form of additional landscaping would also assist. It is possible that users of the highways may be aware of the presence of the poultry units and feed bins but it is not considered that there would be significant views of the proposed poultry development for users of the roads. It is considered that in the short term, the addition of a new highway access to serve the development would be the largest change for highway users. It would seem

likely that most users of the identified roads would be travelling between destinations and would not be highly sensitive to the visual impacts identified.

The nearest residential properties not associated with the Wern Halog farm complex, Hope Chapel, Lea Hall, Copperfield and Neuadd Fach (132 metres, 303 metres, 340 metres and 343 metres distance from the proposed unit). There may be the opportunity to see the development from these and other properties whose occupiers would be more sensitive to visual impacts. In particular it is possible that the upper parts of the buildings and feed bins would be discernible. But at the distance between the proposal and nearby properties, together with the trees and hedgerows on intervening land and the proposed landscape mitigation identified within the LVIA, it is not considered that there would be a significant impact on residential receptors.

There are public rights of way in the locality, with the closest being 240 metres to the south of the development and 320 metres to the north east. Other rights of way in the area may be in more elevated positions than those close by and may be able to view the site. Users are quite likely to be using these routes recreationally and it is likely that they would be sensitive to changes in the established rural setting of these routes. However, given the distance involved, the intervening highway and existing and proposed landscaping to mitigate the visual impact (the proposed planting and the use of appropriate recessive colours), it is considered that all of these factors would serve to adequately mitigate the view from these rights of way.

Whilst the proposed development will be visible from sensitive receptors including highways, public rights of way and residential properties in the locality, and it will be viewed as isolated development in the countryside, given the proposed landscaping together with observed distances, on balance, it is not considered that the proposed poultry development will have an unacceptable adverse visual impact.

On balance, it is therefore considered to be acceptable in terms of its visual impact in compliance with relevant policies SP7, E2, E6, DM4 and DM13 of the Powys Local Development Plan.

Built Heritage

Listed Buildings

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable

importance and weight" when the decision-maker carried out the balancing exercise. Therefore special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

Hope Chapel a grade II listed building is the closest property to the development being located to the south east of the proposed units. In light of the proximity to the listed building the application is supported by a Heritage Statement. The statement concludes stating that the proposed new structures would not be visible from the chapel given intervening and proposed vegetation and the orientation of the chapel.

The Built Heritage Officer was consulted on the application and in their response stated that the tree cover is extensive and adjacent to a stream and as such provides good screening of the proposed development during months when the trees are in leaf. They go on to state that with appropriate landscaping it is not considered that the proposed would have a significant impact on the setting of Hope Chapel subject to additional landscaping.

The Built Heritage Officer concludes with the following statement;

'Taking into account our duty under Section 66, I acknowledge that an agricultural building in rural location has the potential to afford some harm to the setting of neighbouring listed buildings, and as such there will be some small harm to the setting of Hope Chapel Cadw ID 23028, however I would not consider the harm would be significant and would be mitigated by the fact it is set back from the road and screened by existing trees, and for additional tree cover. With the landscaping mitigation currently in place and additional landscaping I would not consider that the proposal would affect the setting of Hope Chapel Cadw ID 23028 to a significant degree with the caveat that the existing tree cover be retained and supplemented. With that caveat I can confirm that I would have no objection to the proposal on built heritage grounds.'

On this basis and in regard to the comments received from the Built Heritage Officer, it is not considered that proposed development would have an unacceptable adverse impact on or harm the identified listed buildings together with their wider setting. The proposed development is therefore considered to be in accordance with the relevant policy SP7 and DM13 of the Powys Local Development Plan, Planning Policy Wales and Technical Advice Note 24: The Historic Environment.

Impact on Amenity, Living Conditions and health of Local Residents

Broiler rearing units have the potential to impact on the living conditions of residents living nearby through a number of factors in particular emissions of noise, odour and dust. The application is supported by an Environmental Statement, this contains chapters assessing the significant likely impacts on amenity and the living conditions of local residents. The statement contains a noise and vibration assessment and an assessment of the impacts

upon amenity in terms of odour, dust, flies and vermin. Other elements of the submission including the Ammonia Assessment, and chapters within the Environmental Statement consider air quality, health and climate, water resources, traffic also contain information on the proposal relevant to assessing its impact on those who will have to live nearest to the development.

The closest non-associated residential dwellings are as follows;

- Hope Chapel – approximately 132.2 metres from the unit
- Lea Hall and adjacent property – approximately 283 and 303 metres from the unit
- Valley View – approximately 320 metres from the unit
- Copperfield – approximately 340 metres from the unit
- Neuadd Fach – approximately 343 metres from the unit

Noise

As stated above, the submission is accompanied by an Environmental Statement which includes a Plant Noise Assessment. The assessment concludes stating that the proposed development will not result in an adverse noise impact, which will therefore avoid noise from giving rise to an unacceptable degree of disturbance.

The Environmental Health department has reviewed the submitted information and has not raised any objection to the proposal, it is considered unlikely that the proposed development will have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of noise. Therefore, Development Management considers the proposal to be in accordance with policy DM13 of the Powys Local Development Plan.

Members are also advised that noise from the poultry units is controlled by the Environmental Permit.

Odour

The application is supported by an A Dispersion Study of the Impact of Odour. The report concludes stating that the modelling predicts that at all receptors not associated with Wern Halog, the 98th percentile odour concentrations would not exceed the applicable threshold for moderately offensive odours, a maximum annual 98th percentile hourly mean concentration of 3.0 ouE/m³. The submission also identifies the most likely source of odour arising from manure disposal as well as other potential sources such as manufacture and selection of feed, feed storage, inadequate ventilation, litter management, carcass disposal, cleaning out and dirty water management.

Given that the Council's Environmental Health department have not objected to the proposal and that the proposal is supported by an odour management plan, Development

Management considers the proposal to be in accordance with policy DM13 of the Powys Local Development Plan.

Members are also advised that odour is controlled by the Environmental Permit.

Water Quality

Concerns have been raised from the Environmental Health Private Water Supplies Team regarding the information submitted. A number of plans have been submitted along with the manure management plan to identify the location of private water supplies.

Officers are minded that this information could be conditioned to be provided and an appropriate condition restricting the spreading of manure within 50 metres of any private water supplies and springs/boreholes/wells will be included in any grant of consent.

Conclusion

It is considered that the comments made by Environmental Health and the environmental permitting regime provides reassurance that the poultry development should not be incompatible with a good standard of living conditions in the surrounding area. It is concluded that the proposed development would not unacceptably worsen the amenities of local residents or visitors to the area, and that it would not conflict with the objectives of Policy DM13 of the Local Development Plan.

Transport

The proposed development will utilise and existing access from the A481 with the provision of a new access. Information submitted indicates that the proposed development would generate the following movements per 45-day flock cycle;

- Chick delivery – 2 movements
- Feed delivery – 8 movements
- Thinning – 4 movements
- Catching gang bird – 2movements
- Clearing birds – 9 movements
- Manure removal – 6 movements
- Wash down – 1 movement
- Gas delivery – 1 movement
- Shavings delivery – 1 movement
- Dirty waste remover – 3 movements
- Chick crumb – 1 movement

This equates to 76 additional movement (two-way) over a flock cycle. Of these 52 two-way movements are HGVs. The proposal will operate eight flock cycles a year therefore generating an additional 608 two-way vehicular movements per annum.

The Highway Authority have been consulted on the application and offer no objection to the proposed development subject to a condition requiring sufficient parking to be provided prior to the first beneficial use of the development.

Given the comments received from the Highways Authority, it is not considered that the proposed development will have an unacceptable adverse impact on highway safety and movement. Development Management is therefore satisfied that the proposed development is in accordance with policies T1 and DM13 of the Powys Local Development Plan, Technical Advice Note 18 – Transport and Planning Policy Wales.

The Natural Environment

Policy DM2 states that proposals shall demonstrate how they protect, positively manage and enhance biodiversity and geodiversity interests. Proposals which would impact on natural environment assets will only be permitted where they do not unacceptably adversely affect those assets. This is further emphasised within Technical Advice Note (TAN) 5.

Both Natural Resources Wales and Powys Ecology have been consulted on the application.

SSSIs and SACs

The application site is within 10km of the following sites;

- River Wye SAC
- Colwyn Brook Marshes (North and South) SSSI
- River Wye (Tributaries) SSSI

The manure management plan identified land holdings that will potentially be utilised by the applicant for the purposes of spreading manure generated by the development which is adjacent to the River Usk SAC.

The application is supported by a Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Poultry Houses at Wern Halog. Both NRW and Powys Ecology have reviewed the submitted information regarding the potential for the development to impact on SSSIs and SACs.

The Powys Ecologist undertook a Habitats Regulation Assessment on both the River Wye and River Usk SACs and concluded that the proposed development would not result in the likely significant effects to the SACs and/or their associated features either alone or in combination with other projects or developments.

NRW confirm in their response that, with regards to statutory designated sites, that the predicted deposition of ammonia and nitrogen are below the thresholds of exceedance

under which the application has been considered and are therefore considered to be acceptable.

As such it is considered that there would be no potential for a Likely Significant Effect to the identified SSSIs and SACs and/or their associated features and the proposed development would comply with the requirements of LDP policy DM2.

Ancient Woodland

With regards to ancient woodland, preliminary modelling was run to determine the maximum annual mean ammonia concentration rate at the identified woodland sites. This modelling indicated that the process contribution to ammonia and nitrogen deposition rates would not exceed the precautionary lower threshold of the Critical Level for the site.

Powys Ecology has reviewed this information and has offered no objection to the proposed development.

Protected Species

A Preliminary Ecological Appraisal Report produced by Craig Emms and Dr Linda Barnett has been submitted in support of the application.

The Ecological report states that the site of the proposed development is situated within an agricultural landscape dominated by pasture and arable land. Habitats present on and adjacent to the proposed development site include grassland, arable land, a wooded watercourse and hedgerow. No ponds are present within the proposed development site itself, however 3 ponds were identified within 500m. As such a Great Crested Newt Environmental DNA Water Body Testing Report produced by Craig Emms and Dr Linda Barnett.

NRW were consulted on the application and offered no objection to the proposed development subject to conditions being attached to any grant of consent. Powys Ecology reviewed the submitted information, along with an additional Draft Conservation Strategy & Scheme of Mitigation for Great Crested Newt Report produced by David Clements Ecology Ltd. In their response Ecology state that they have reviewed the submitted strategy and consider that the information and measures identified are appropriate to demonstrate that the proposed development would not be detrimental to the favourable conservation status of great crested newt populations in the local area. The report identifies that further surveys will be undertaken in April-June 2019 for the purposes of establishing a population estimate to support the required EPS Licence application, recommendations have been made with regards to compensation for habitat loss as a result of the proposed development as well as additional habitat enhancement measures.

As such, no objection is raised subject to the imposition of conditions securing the Great Crested Newt measures.

Whilst no evidence that the proposed development would impact on any bats or their roosting it is considered necessary that a condition restricting the use of external lighting is attached to any grant of consent in order to ensure that any lighting is acceptable with regards to protected species.

Conclusion

In light of the comments received from the Powys Ecologist and NRW on the application it is considered that the application is in accordance with policies SP7, DM2, DM4 and DM13 of the Powys Local Development Plan, Technical Advice Note 5: Nature Conservation and Planning and Planning Policy Wales.

Drainage

Details of the drainage for the site has been provided and identifies that dirty and clean water will be kept separately. Dirty water will be collected and stored in a dirty water tank before being disposed of by a specialist contractor and clean water will be discharged to an attenuation pond to the east of the proposed poultry buildings.

Following consultation with NRW, Powys Ecology and Environmental Health no objections have been raised. As such it is considered that the proposed development is in accordance with policy DM13 of the Powys Local Development Plan.

Manure Management

A Manure Management Plan (MMP) has been submitted in support of the application. The MMP identifies that there are sufficient land holdings available to the applicant to accommodate the spreading of all of the manure produced by the unit (in addition to manure for existing livestock numbers at the farm). The MMP includes details of 'no-spread' zones in accordance with the CoGAP recommendations i.e. buffers of 10m have been provided to all watercourses and ponds, 50m of springs, wells and boreholes and no spreading will take place in these buffers, the 'no-spread' zones are considered to in line with current guidelines. The plan includes details of contingency measures when spreading of manure is not possible i.e. wet, waterlogged or frozen conditions; in these instances manure, slurry and dirty water will be stored in one of the covered areas on the farm. The MMP identifies that any contaminated wash water will be stored in containers separate from other manures and will be disposed of by a specialist contractor licensed to deal with such wastes.

Following consultation with NRW and Powys Ecology no objections have been received to the proposed development.

Tourism Assets

The LDP within policies SP7 and DM13 seek to ensure that proposals which would have an unacceptable adverse effect upon the environmental setting of established tourist attractions will be opposed. The high quality landscapes of Powys, public rights of ways and listed buildings are noted to be of interest to tourists and a wide interpretation should be given to what can legitimately be considered a tourist asset.

It is noted that third parties have raised concerns regarding the potential impact on visitors to the area and users of rights of way, highways etc. Consideration should be given to the technical professional reports submitted with the application and the comments raised by the Environmental Health Officer who offers no objection to the proposed development. Whilst the concerns raised by objectors are noted the evidence submitted and reviewed detail that the development would not have a detrimental impact on amenity.

The impact upon listed buildings in the locality has been considered above. As discussed above, on balance, the visual and landscape impacts are considered acceptable subject to landscaping measures and as such it is considered that the environmental setting of established tourist attractions would not be unacceptably adversely affected by the proposal in accordance with policies SP7 and DM13 of the Powys Local Development Plan.

Recommendation

Having considered all statutory consultee responses, due consideration has been given to the proposed development and its potential impact upon the amenity and character of the area in this locality.

Having visited the site, Officers are satisfied that the proposed development complies with the relevant policies within the Powys County Council Local Development Plan and the decision is one of conditional consent in line with the conditions as set out below.

The Environmental Information submitted has been considered in full in the determination of this application.

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.

1. The development shall be carried out strictly in accordance with the approved plans and documents (drawing no's: IP/KD/01 dated Nov 18, IP/KD/02A dated Nov 18, IP/KD/03 dated May 18, IP/KD/04A dated Nov 18, IP/KD/05 dated Aug 18, 20195-01-1 Revision A dated Nov 18, 20195-01-2 Revision A dated Nov 18 and documents; Environmental Statement dated August 2018, Wernheulog Farm – MMP Summary, MMP Summary dated 7th December 2018, MMP Summary dated 8th January 2019,

Method Statement and Pollution Prevention Plan and Heritage Impact Statement dated July 2018).

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit shall be erected without the consent of the Local Planning Authority.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 as amended or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used for any purpose other than that hereby authorised.

5. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7. No development, earth moving or vegetation clearance shall take place or material or construction machinery brought onto the site until a minimum 5m fenced buffer zone has been established along the northern bank of the Cnithio brook. The buffer zone shall be maintained in perpetuity.

8. The development shall be carried out strictly in accordance with the mitigation and enhancement measures identified in the Draft Conservation Strategy & Scheme of Mitigation for Great Crested Newt Report produced by David Clements Ecology Ltd dated February 2019. The identified measures shall be adhered to and implemented in full and maintained thereafter.

9. The development shall be carried out strictly in accordance with the measures identified in the Recommendations Section of the Preliminary Ecological Appraisal Report produced by Craig Emms and Dr Linda Barnett dated 8th May 2018. The identified measures shall be adhered to and implemented in full and maintained thereafter.

10. The development shall be carried out strictly in accordance with the details and measures identified in the following documents:

- iv. Method Statement and Pollution Prevention Plan for Proposed Broiler Unit at land west of Wern Halog, Llanfared, Builth Wells
- v. Manure Management Plan Version 4 produced by CXCS dated January 8th 2019 and associated appendices
- vi. Drainage Layout Plan drawing no. IP/KD/04A produced by Ian Pick Associates Ltd dated November 2018

The measures identified shall be adhered to and implemented in full and maintained thereafter.

11. 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.

12. Prior to the commencement of development, a detailed amphibian avoidance and mitigation measures that include the construction and maintenance of barrier fencing throughout construction works shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved details.

13. Prior to the commencement of development, a long term scheme to offset or compensate the loss of amphibian habitat shall be submitted to and approved in writing by the Local Planning Authority. This shall include, but not necessarily limited to:

- (a) Habitat creation and enhancement proposals;
- (b) Long term management plan, including how it will be resourced and implemented; and
- (c) Long term surveillance scheme. Methodology to be compliant with and results uploaded into the online Wales GCN Monitoring Scheme (<https://www.cofnod.org.uk/LinkInfo?ID=7>)

Development shall be carried out in strict accordance with the approved scheme.

14. Prior to the commencement of development, a Biosecurity Risk Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment must include details of implementation along with the following;

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of construction phase of the scheme.

15. Prior to the first beneficial use of either poultry building 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.

16. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 20 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.

17. The centre line of the first 20 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.

18. 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 215 metres

distant in each direction measured from the centre of the access along the edge of the adjoining carriageway.

19. Nothing shall be planted, erected or allowed to grow on the areas 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.

20. Upon formation of the visibility splays as detailed at Condition 18 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.

21. 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 20 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.

22. The width of the access carriageway, constructed as Condition 21 above, shall be not less than 6 metres for a minimum distance of 20 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.

23. Prior to the first beneficial use of either building the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 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.

24. Prior to the first beneficial use of either building, provision shall be made within the curtilage of the site for the parking of not less than 2 cars per and 2 heavy goods vehicles 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.

25. 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.

26. Prior to the occupation of the development a radius of 15 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.

27. No storm water drainage from the site shall be allowed to discharge onto the county highway.
28. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
29. All vehicles used for the movement of manure if taken off site shall be sheeted and/or fully covered.
30. Notwithstanding the manure management plan, no manure shall be spread within 50 metres of Private Water Supplies or any spring/borehole/well serving a Private Water Supply.

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. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
4. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to Policy DM13 of the Powys Local Development Plan and Planning Policy Wales (2016).
5. To comply with Powys County Council's LDP Policy SP7 in relation to protection of listed buildings and TAN24 and DM2 in relation to the Natural Environment and meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016
6. To comply with Powys County Council's LDP Policy SP7 in relation to protection of listed buildings and TAN24 and DM2 in relation to the Natural Environment and meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016
7. To comply with Powys County Council's LDP Policy DM2 in relation to the Natural Environment and meet the requirements of Planning Policy Wales (Edition 10, 8. December 2018), 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 DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10,

December 2018), 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 LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

11. To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

12. To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

13. To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

14. To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), 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 T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

16. To comply with Powys County Council's LDP Policies T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

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23. To comply with Powys County Council's LDP Policies T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

24. To comply with Powys County Council's LDP Policies T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

25. To comply with Powys County Council's LDP Policies T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

26. To comply with Powys County Council's LDP Policies T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

27. To comply with Powys County Council's LDP Policies T1 and DM13 in relation to highway safety and to meet the requirements of Planning Policy Wales (Edition 10, 2019) and TAN 18: Transport.

28. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy DM13 of the Powys Local Development Plan and Planning Policy Wales.

29. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy DM13 of the Powys Local Development Plan and Planning Policy Wales.

30. In order to control prevent the potential contamination of existing private water supplies in accordance with policy DM13 of the Powys Local Development Plan (2018) and Planning Policy Wales (2016).

Informatives

Warning: A 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.

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

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017

It is therefore an offence to:

- Deliberately capture, injure or kill an otter;

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

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

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

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or structures where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000