



- Application fails to address current manure
- Earthworks will be required to ensure the development is on a level site
- NRW Guidance has not been followed
- Regulation controlling manure will be introduced in April
- Phosphates have not been considered
- Consideration of Local Wildlife Site/SINCs and their species
- Detrimental impact on historic assets
- Impact on nearby commercial nursery
- Impact on nearby RHS Partner Garden
- Impact on rights of way
- Flawed climate change and wellbeing considerations

Since the report to Committee was published a further 14 comments in support of the application have been received and are summarised below;

- Increase locally produced food that has not been imported
- Highways have not objected and improvement will be made to the road
- Supporting the retention of local farming families
- Support diversifying farming enterprises
- Ample number of passing places already provided on the highway
- Countryside is a working environment that needs to diversify to survive
- Would not be out of keeping especially considering nearby impacts on the landscape such as wind turbines and poly tunnels which are all visible from public rights of way network
- Is in accordance with TAN6, Rural Development Programme and recent comments from Lesley Griffiths
- Location of development will mean that there is very little impact

### **Planning History**

| <b>App Ref</b> | <b>Description</b> | <b>Decision</b> | <b>Date</b> |
|----------------|--------------------|-----------------|-------------|
|----------------|--------------------|-----------------|-------------|

None as per  
GIS

### **Principal Planning Constraints**

Listed Buildings  
Historic Park and Garden  
Rights of Way  
SSSI and SAC  
Scheduled Monument

### **Principal Planning Policies**

| <b>Policy</b> | <b>Policy Description</b>                         | <b>Year</b> | <b>Local Plan</b>                |
|---------------|---|-------------|----------------------------------|
| 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 |
| DM8           | Minerals Safeguarding                             |             | 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)               |                                  |
| SPG    | Landscape  |                                  |

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

### **Officer Appraisal**

It is considered that the majority of additional comments received have already been addressed in the original Committee report. Further clarification is however provided below on other points.

#### Design and Impact of the development

The application site is located in an area of low land to the south of the main farm complex. In order for the development to be constructed an area of land will be levelled. The land does slop down however the most southern area of the development site will be raised some 3 metres with the northern section of the site reduced in order to provide level ground. Whilst one section of the site is being raised, the development will still remain some 4 metres below the brow of the slope which it is set against.

This has been considered in the submission and in the submitted technical reports and drawings.

### Biodiversity, Ecology & The Environment

Policy DM2 of the Powys Local Development Plan seeks to maintain biodiversity and safeguard protected important sites. Policy DM2 states that proposed development should not unacceptably adversely affect any designated site, habitat of species including locally important site designations. The Council's SPG on biodiversity provides guidance on assessing the impact of development on designated sites or protected species.

#### *Local Wildlife Site/SINC*

As advised in the original report the Powys Ecologist also requested that the Report was updated to include assessment of the Local wildlife Site/SINC Y Frochas in order to assess the impact of the development on these sites and including the Pearl Bordered Fritillary. Since further comments have been received the Powys Ecologist confirms that they have read the concerns raised, these were forwarded to them when the submission was made. The Ecologist contacted the local Wildlife Trust in August 2019 in order to obtain the full citation for the Y Frochas SINC which was provided the same day. The Ecologist has also confirmed that they undertook a site visit to the site and the Y Frochas SINC

With regards to the pearl bordered fritillary population associated with the Frochas SINC whilst not directly referred in Ecology's response they have advised as follows;

“this has been addressed in my comments with regards to potential impacts to the SINC – as the pearl bordered fritillary is the primary reason for designation of the SINC any comments made with regards to the SINC take into account impacts to this species - the concerns raised with regards to this Section 7 species relate to potential for the proposed development to negatively impact the habitat required by this species including the larval foodplant i.e. *viola* spp. In accordance with current guidelines when considering potential for aerial deposition of ammonia and nitrogen to non-statutory designated sites the proposals would be deemed acceptable subject to the process contribution being below 100% of the critical level. As Identified in my recent response, whilst the amended ammonia report failed to include the SINC in the assessment, receptor points surrounding the SINC were assessed and these identified that with regards to the precautionary Critical Level of  $1.0 \mu\text{g-NH}_3/\text{m}^3$ , this precautionary CL is applied where lower plants i.e. lichens and bryophytes are the sensitive feature, the larval food plant of pearl bordered fritillary are higher plants and would therefore be subject to the less strict critical level of  $3.0 \mu\text{g-NH}_3/\text{m}^3$  therefore when considering whether the proposals would be in accordance with current recognised guidelines when determining likely impacts the identified process contribution results were found to be well below the thresholds with regards to higher plants i.e when considered using the critical level of  $3.0 \mu\text{g-NH}_3/\text{m}^3$  the preliminary modelling identified process contributions

to receptor points 9, 10 and 11 located at points surrounding the Y Frochas SINC of 7.5%, 3.36% and 3.4% respectively.”

Ecology also confirm that consideration was also given to the potential impacts of the Manure Management Plan to the SINC and its associated features. During discussions with the applicant it was identified that poultry manure is currently being applied to the landholding including the fields to the east of the SINC, this was evident during the site visit conducted by the Ecologist where these fields were observed from the SINC boundary and were noted as being agriculturally improved and it was also evident that these fields slope away from the SINC. The Amended MMP has identified a 10m buffer will be maintained along the field boundaries between these field parcels and the SINC boundary. Therefore, the Ecologist has confirmed that when considering the MMP and determining potential for negative impacts as a result of the proposed development the assessment was made taking into account the existing baseline associated with current manure application associated with the farm, the topography of the fields adjacent to the SINC and the identification of a 10m buffer to be implemented between these areas through the MMP.

### *Phosphate*

Comments have been made regarding the impact of phosphate from the development following the recent evidence issued by NRW. This application site lies wholly outside any River SAC catchment areas which are subject to the recent evidence released by NRW.

Reference is also made to phosphate not being included in the MMP which the objector states is a requirement. It is advised that the document referred to is a guidance note produced by NRW, it is not a requirement or a policy. It is advised that NRW have reviewed the submitted MMP and offer no objection to the proposed development in relation to its manure management, phosphates or other matters relating to manure spreading.

### Manure Management

Comments have been made regarding the existing manure practices. The existing stock at the farm will have their manure spread on the 23 hectares not included in the manure spreading for the poultry unit. The applicant and their agent advise however that stock numbers are likely to fall when the broiler installation becomes operational.

During a site visit the Ecologist queries the existing manure application on the land. The applicant advised that the MMP identified with regards to the application would not result in increases to the areas on which manure was currently applied at the site however currently poultry manure was bought in for this purpose and if the application was approved that imported manure would no longer be required as they would then use the manure generated by the poultry unit instead.

During the application, NRW, Ecology and EHO reviewed the submitted information and did not object to the proposal.

### Highway Safety and Movement

Policy DM13 confirms that applications must demonstrate that the development has been designed and located to minimise the impacts on the transport network - journey times, resilience and efficient operation - whilst ensuring that highway safety for all transport users is not detrimentally impacted upon. In accordance with policies DM13 and T1, development proposals are expected to meet all highway access requirements, (for all transport users), vehicular parking standards and demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development.

Since reviewing the original report it was noted that the movements associated with manure removal were omitted. Manure will be removed at the end of each cycle by tractor and covered trailer. This will then be spread, stored or removed to an AD plant at Pool Quay, in accordance with the Manure Management Plan. This will be approximately an additional 98 movement per annum.

Discussions have been undertaken with Highways who do not object to the movements related to manure removal.

Given the comments received from the Highway Authority and Welsh Government, it is considered that the proposed development will not 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.

### Agricultural Land Classification

The site is a mix of 3a and 3b land. As the development is for the purposes of agriculture it is considered acceptable.

### Rights of Way and Tourism

LDP Policy DM13 seeks to oppose development which would have an unacceptable adverse impact on existing and established tourism assets and attractions.

Policy SP7 – Safeguarding Strategic Resources and Assets seeks to ensure that development does not have an unacceptable adverse impact on the resource or asset and its operation. Rights of way and tourism assets are considered to form part of policy SP7.

Consideration has been given within the original report to the impact of the development on users of nearby rights of way, including the Glyndwr's Way. Comments have been received regarding the Cross Britain Way which utilises the rights of way impacted upon by the development. It is noted that two rights of way will need to be extinguished and diverted in order to accommodate the development. These rights of way are likely to be diverted near to the development. Ongoing discussion have been undertaken with the Countryside Services team who have provided a draft plan of their preferred diversion which includes enhanced connectivity to the wider right of way network. This is however in draft and will be subject to a further separate legislative process. The diversion will need to take place prior to the construction of the buildings and will ensure that nearby footpath links are maintained so routes such as the Cross Britain Way will be maintained.

However, should the diverted route lead through or near to the development site it is considered that the impacts have been addressed. The site is likely to be visible however will not detrimentally impact upon the users of rights of way. Public footpaths regularly move through farm yards and their users will only be in close proximity to the site for a short stretch of the right of way before leading to the highway to the north of the wider right of way network to the south and south west.

Comments have been raised with regards to the nearby Dingle Nursery and Dingle Garden which is an RHS partner and is available for the public to access. The garden lies approximately 272 metres to the west of the proposed development. Noise and odour assessments demonstrate that properties lying closer to the site will not be negatively impacts upon by the development, and whilst manure will be spread on the neighbouring field this will be in line with the submitted manure management plan which details that manure will only be removed from the unit at the end of each cycle (approximately 7.6 times per annum) and includes appropriate buffers.

As such it is considered that the proposed development complies with policy SP7 and DM13 of the Powys LDP.

## **Recommendation**

In light of the above and the original committee report, the development is considered to comply with both national and local planning policies and legislation and is therefore recommended for approval subject to the conditions outlined below.

**The information submitted within the Environmental Statement has been considered in full in reaching the decision made on 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.



2. The development shall be carried out strictly in accordance with the approved plans and documents: GD-MZ227-01 dated 21/08/2019; GD-MZ227-02; GD-MZ227-03; GD-MZ227-05; GD-MZ227-06; GD-MZ227-07; GD-MZ227-08; GD-JTO/01 Rev B; Proposed Landscaping Plan; Environmental Statement dated December 2019; Non-Technical Summary dated December 2019; Mitigation and Conservation Scheme prepared by Arbor Vitae dated 20/05/20; Lighting Design Scheme; Method Statement Pollution Prevention; A Dispersion Modelling Study of the Impact of Odour from the Proposed Broiler Chicken Rearing Houses at Frochas Farm prepared by AS Modelling & Data Ltd dated 13<sup>th</sup> July 2018; A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Broiler Chicken Houses at Frochas Farm prepared by AS Modelling & Data Ltd dated 13<sup>th</sup> July 2018; Preliminary Ecological Appraisal prepared by Arbor Vitae dated 21/11/2019; Landscape and Visual Impact Assessment prepared by Viento Environmental Limited dated February 2019; Manure Management Plan; Impact on Setting of Llanerchydol Historic Park and Garden prepared by Trysor dated December 2019; Design and Access Statement dated December 2019; Plant Noise Assessment prepared by Matrix dated 30<sup>th</sup> January 2019; Noise Management Plan . The measures identified shall be adhered to, implemented in full and maintained thereafter.
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. The poultry units hereby approved shall be limited to occupation by 150,000 broilers.
6. The external cladding of the buildings and the feed silos shall be Juniper Green in colour for the lifetime of the development. The external elements of the mechanical fans shall also be Juniper Green or Black in colour for the lifetime of the development.
7. The development shall be carried out strictly in accordance with the mitigation and enhancement measures identified in Sections 6 and 7 of the Preliminary Ecological Appraisal Report produced by Arbor Vitae Environment Ltd dated 21<sup>st</sup> November 2019. The identified measures shall be adhered to and implemented in full and maintained thereafter.

8. The development shall be carried out strictly in accordance with the mitigation, compensation and enhancement measures with regards to great crested newts as identified in the Mitigation and Conservation Scheme Report produced by Arbor Vitae Environment Ltd dated 20<sup>th</sup> May 2020. 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 details and measures identified in the following documents:
  - a. Amended Manure Management Plan and associated maps produced by Roger Parry & Partners LLP (undated) uploaded to the Powys LPA Planning Portal on the 9<sup>th</sup> January 2020;
  - b. Drainage Plan drawing no. GD-MZ227-06 produced by Roger Parry & Partners LLP dated 21/08/2019;
  - c. Amended Method Statement Pollution Prevention Plan for Land at Frochas Farm, Frochas, Welshpool document produced by Roger Parry & Partners LLP (uploaded to the Powys LPA Planning Portal on the 7<sup>th</sup> January 2020)

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

10. Installation of external lighting features at the site will be carried out strictly in accordance with specifications identified in the Lighting Design Scheme – Erection of a Broiler Unit including silos and all associated works – Frochas Farm, Frochas Welshpool produced by Roger Parry & Partners LLP (undated) (uploaded to the Powys LPA Planning Portal on the 7<sup>th</sup> January 2020), the identified external lighting strategy shall be adhered to and implemented in full and maintained thereafter.
11. Notwithstanding the details submitted, prior to the commencement of development a detailed Native Landscaping Planting and Management Scheme building on the details set out in the Proposed Landscaping Plan drawing no. GD-MZ227-06 produced by Roger Parry & Partners LLP dated 21st August 2019 shall be submitted to and agreed with the Local Planning Authority. The approved scheme shall be implemented in the first planting season following occupation of the development. The submitted Native Landscaping Planting and Management Scheme shall include the use of native species, details of the planting specification for hedgerow, staggered tree and woodland planting areas - the species, sizes and planting densities - and a timetable for implementation and future management to ensure good establishment and long-term retention. The approved measures shall be adhered to and implemented in full and maintained thereafter.
12. The development shall be carried out in accordance with drawing numbers GD-JTO/01 Rev B & GD-MZ227-05.

13. No other development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. The 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.
14. No other development shall commence until the access has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
15. Upon formation of the visibility splays as detailed in condition 14 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.
16. Upon construction of the access as Condition 14 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.
17. Before any other development is commenced 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.
18. Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than two cars and two 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.
19. Prior to the first beneficial use of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course material or (a suitably bound material which is to be approved in writing by the LPA) 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.

20. Prior to any works being commenced on the development site the applicant shall construct two HGV passing bay shown on the approved drawing GD-JTO/01 Rev B. The passing bays shall be constructed to adoptable standard prior first beneficial/operational use of the development hereby approved.
21. 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.
22. No surface water drainage from the site shall be allowed to discharge onto the county highway.
23. Any vehicular entrance gates installed within the application site 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.

## **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the approved plans and documents in the interests of clarity and a satisfactory development.
3. In order to control the development which has the potential to have adversely affect the amenity of the area and local biodiversity in contradiction to Policy DM13 and DM2 of the Powys Local Development Plan and Planning Policy Wales (2018).
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6. In the interests of amenity and a satisfactory development in accordance with policies DM4 and DM13 of the Powys Local Development Plan (2018), Technical Advice Note 12 and Planning Policy Wales (Edition 10, 2018).
7. 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.
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12. In the interests of highway safety in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 and Planning Policy Wales (Edition 10, 2018).
13. In the interests of highway safety in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 and Planning Policy Wales (Edition 10, 2018).
14. In the interests of highway safety in accordance with policies DM13 and T1 of the Powys Local Development Plan (2018), Technical Advice Note 18 and Planning Policy Wales (Edition 10, 2018).
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## **Informatives**

### **Highways**

**NOTE: THE ATTENTION OF THE APPLICANT MUST BE DRAWN TO RELATED HIGHWAYS LEGISLATION WHICH MAKES PROVISION FOR THE FOLLOWING;**

1. Under Section 184 of the Highways Act 1980, it is a requirement that a licence is obtained from the Highway Authority, in addition to Planning Permission, for vehicular access works.
  - a. The need to avoid interference with and to make provision for the carrying of

existing highway drainage under the access to the satisfaction of the Highway Authority.

- b. The requirement of the Highway Authority for the Developer to ensure that no surface water is discharged onto the County Highway or, without prior approval, into the highway drainage system.
2. Under Section 50 of the New Roads & Street Works Act 1991 it is a requirement that a Streetworks licence is obtained from the Highway Authority to place, or to retain, apparatus in the highway and thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it.
3. Under section 171 of the Highways Act 1980 it is a requirement that a licence is obtained from the Highway Authority, in addition to Planning Permission, for the creation of passing bays or highway re-alignment works.
4. The need to inform and obtain the consent of Statutory Undertakers (Electricity, Water, Gas, BT), Land Drainage Authority, etc. to the works.
5. The New Roads & Street Works Act 1991 requires that all works, be properly notified and approved prior to commencement.

Further advice on the above highway matters can be obtained from:-

<http://www.powys.gov.uk/en/roads-transport-parking/>

[street.works@powys.gov.uk](mailto:street.works@powys.gov.uk)

Street Works

Powys County Hall

Spa Road East

Llandrindod Wells

Powys

LD1 5LG

0845 6027035

## Ecology

**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 (as amended)**

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 (as amended).

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.



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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop, and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email [enquiries@bats.org.uk](mailto: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 (as amended) and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000.

### **Wales and West**

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.

### **Natural Resources Wales 12/08/20**

Environmental Permitting Regulations

An Environmental Permit referenced EPR/BB3093NX for 150,000 birds was issued for the site on 26/11/2018.

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>

#### Groundwater

We refer the developer to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by Natural Resources Wales. In particular the developer should be aware of the position statements in Section G "Discharge of liquid effluents into the ground" and H "Diffuse (rural) sources of pollution".

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.

#### **Land Drainage**

The construction area is greater than 100m<sup>2</sup> and therefore this proposed development will require SAB approval prior to any construction works commencing onsite.

Please contact the SAB Team on 01597 826000 or via email [sab@powys.gov.uk](mailto:sab@powys.gov.uk)  
For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website  
<https://en.powys.gov.uk/article/5578/Sustainable-DrainageApproval-Body-SAB>

If for any reason you believe your works are exempt from the requirement for SAB approval, we would be grateful if you would inform us so we can update our records accordingly.

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs.

## **Rights of Way**

- o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...

- o Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.

- o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.

- o Temporary closures - The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.

- o Legal Diversion - If development directly affects a public right of way, the developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

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