



## Town Council – 28<sup>th</sup> November, 2021

The Ystradgynlais Town Council would like to submit the following observations in respect of application 20/1314/FUL.

### ROW'S

The Town Council notes the footpath diversion on the site and the comments of the Countryside Services. The proposed diversion would need to be applied for using the proper legal process involving local consultation.

### SECTION 106

The Town Council is concerned at the import of comments in the Planning Policy document regarding the LPA's assessment of the viability study for the development and OBJECTS to there being no requirement to fulfill a S106 Community Benefit payment. At the pre-consultation stage an observation was forwarded on the 20<sup>th</sup> July 2020 expressing (in part) the observation as follows "The Council has been advised that a Community Benefit of planning and Section 106 agreement is applicable in this case, although no set amount or recommended target was given by developers and the Council would like to have further discussions with the development team to make recommendations." Whilst it is understood that the site presents challenges and higher costs are anticipated, the Town Council does not accept the view that there should be no remuneration to the local community for the extra pressure on infrastructure. The developer has already renegotiated the original requirement for a %age of affordable housing, and only subsequently agreed to four residences to extend the site beyond the original permission. To now try and renegotiate the permission, which both LRW and Highways have significant concerns over, to reduce the contribution to the community for the additional services required is unacceptable. If the development is not financially viable then the tax payers should not be asked to subsidise it.

### ACCESS AND PARKING

The Town Council notes and supports the Highways Authorities comments regarding access and parking provision for the site and is concerned that insufficient provision has been made for the weight of traffic using the site.

## Highways - Second response – 29<sup>th</sup> November, 2021

Thank you for again re-consulting the Highway Authority (HA) on this planning application on land at Brynygroes Farm, Ystradgynlais.

Firstly, it is noted that an LPA case officer report has been made available to members of the PROW Planning Committee and that this application is scheduled to be considered and determined at the forthcoming PROW committee meeting, scheduled for 2<sup>nd</sup> December 2021. Unfortunately, it is noted that the LPA report does not include detail of the more recent HA responses provided in response to the many amended drawings and additional information submitted by the applicant over recent weeks. Further, the LPA report has also been prepared before the HA has had sufficient opportunity to provide

their final response as part of the current re-consultation process, which seemingly is not due to close until 5<sup>th</sup> December. The LPA report does not therefore include the final HA response and, it does not include any highway conditions, which will clearly be required if the committee is minded to grant planning permission. I therefore trust that this response, with attached conditions, will be made available as an update to members, before the application is debated and ultimately determined.

Moving on to the application itself, the content of the most recently amended drawing (R491P-03 Rev K), and the additional supporting statement from the agent, are duly noted.

For the purposes of clarity, it is felt necessary to address some of the points raised by the agent within the aforementioned supporting statement, before further considering the remaining highway issues. Those issues, relate predominantly, but not exclusively, to the shortfall in off-street parking provision.

The HA is somewhat surprised by the content of the initial paragraph of the agent statement, given that the current CSS Parking Standards have been in place for a number of years, and given that all the previous supporting planning statements produced by the agent, during both the PAC process and current planning application, clearly infer that the development would be designed in a manner that would provide off street parking in accordance with the adopted CSS Parking Standards. This point is demonstrated by the following extract which is taken direct from the agents "Planning Statement" which supports and informs this application.

#### **Parking**

- 4.13 The accompanying Site Layout demonstrates that car parking for the proposed dwellings can be provided in accordance with Powys' adopted parking standards, i.e. 1 space per bedroom up to a maximum of 3 spaces per dwelling.
  
- 4.14 The layout does not provide any on-site visitor parking (the above standards stipulate that 1 space should be provided per 5 dwellings); however, it is considered that sufficient space is provided for off-site parking.

Given the above, it is difficult to justify why the original design was not developed and brought forward in a manner which accords with the statements contained within their PAC submission and section 4.13 of their Planning Statement. It is also questioned why the robustness of the CSS Parking Standards were not challenged as part of the pre-planning discussions with the LPA and HA and why, it was not made clear from the outset that a reduction in parking would be sought. Indeed, the shortfall only became apparent when a detailed parking schedule was finally submitted by the agent on 11<sup>th</sup> August 2021; the original request for the submission of such, being made as part of the original HA response dated 14 October 2020. To be clear, the HA are not seeking an increase in parking on this site above those levels required by the CSS Parking Standards, nor are they seeking to increase levels above those which the agent and

applicant undertook to provide during all phases of the pre-application consultation and current planning process.

### Parking Policy Position

The HA takes issue with the statement which claims that the adopted Parking Standards are “*outdated & do not reflect the current direction of travel by Welsh Government*”. To the contrary, the CSS Parking Standards is the most relevant planning document available to developers and local authorities in Wales, when determining parking provision on new developments. It is used extensively by all authorities throughout Wales, the majority of which are more urban and benefit from better public transport when compared to Powys, and it still fully meets the requirements of the most recent National Planning Policy. The document makes clear that they are “maximum standards” and to reinforce that point, the document includes a “Sustainability” tool which enables the recommended levels to be reduced where sustainability is demonstrated; sustainability being demonstrated, in terms of walking distance to local facilities, public transport, cycle routes and the frequency of local public transport.

Whilst reducing reliance on the car is clearly the aim of WG, it also recognises that our region will continue to rely heavily upon the car as the main mode of transport in the immediate future and that point is recognised within the most recent national planning document “Future Wales”, from which the following extract is taken. “*The Welsh Government recognises that travel by road and car is central to regional movement across Mid Wales*”. In addition, it is significant that the CSS Parking Standards have also been incorporated into the recently published “Common Standards” guidance, which was funded by WG and which, has been produced by Welsh Local Authorities and other key stakeholders including the Home Building Federation, to assist and bring consistency to new developments. The following is an extract from the “Common Standards”.

*“Parking requirements are assessed according to the traffic generated by the type of development and the parking requirements set out in the Wales Parking Standards 2014, produced by the County Surveyors Society Wales.”*

It is important to note that the “Common Standards” is a “live” document which is continually under review to ensure it fully aligns with current guidance and it is intended that it will be amended in line with any new planning guidance that is issued by WG. Should parking provision form part of any review process going forward, then the levels/provision within the CSS Parking Standards will be amended accordingly. In the intervening period, the CSS Parking Standards in its current form, remains the most robust and reliable guidance available in Wales and Powys. The HA therefore contends that attempts to undermine the validity of these standards, should therefore be resisted by the LPA.

### Development Considerations

It is certainly not the aim of the HA to make this a “car dependent or car dominated”

development. It does however seek to provide appropriate levels of parking, which reflects current parking demand, in order to avoid the many historical issues associated with on street and on pavement parking which blights many older residential developments throughout Powys. The HA contends that the issues associated with such indiscriminate parking, poses an unacceptable danger to all highway users and pedestrians, deters and restricts Active Travel choices, and constitutes a blight on developments, that does not result in, or create *“high quality places”*. This point has seemingly been recognised by WG, with plans afoot to introduce measures/powers which will enable local authorities across Wales to take enforcement action against “on pavement parking”.

Active Travel is clearly high on the planning agenda and the provision of appropriate Active Travel routes and crossing facilities over the A4067 to serve this development, has steadfastly been pursued and insisted upon by the HA, despite protestations from the applicant, for reasons relating to “costs”. The provision of these features is clearly welcomed by the HA and, it is hoped that they will reduce the propensity to use vehicles, especially those for shorter journeys. There is not however, any robust evidence to demonstrate that such provision has or will, result in a reduction in car ownership in the short term, nor is there any evidence to suggest that a reduced parking allocation will result in reduced levels of car ownership. It is therefore surely prudent to provide parking which reflects current demand and, if and when the situation changes, consideration can be given to converting/reutilising any underused or superfluous car parking spaces for alternative uses. This approach would accord with WG aims.

Whilst the agent has sought to emphasise the perceived sustainability of the development, AT trips to the centre of the town, would involve a circa 1.8km round trip, requiring participants to cross the A4067 twice and negotiate stretches where gradients are 1:10. Notwithstanding the information submitted, it is noted that no attempt has been made to quantify or demonstrate sustainability of the development in line with the “sustainability calculator” contained within the CSS Parking Standards, which considers links to schools, public transport and supermarkets etc. Should the agent wish to submit a sustainability assessment which accords with the requirements set out in the CSS Parking Standards, the HA would clearly accept a reduction in parking provision should sustainability be demonstrated.

### Shortfall in Parking

The HA has further assessed the shortfall based on the most recent information submitted on drawing R491P-03 Rev K and would advise as follows.

- Plots 2 & 3 – 1 space short each (unlikely to have detrimental impact on road)
- Plots 21 - 22 – 1 space short each (2 total smaller 3 bed)
- Plots 26 - 29 – 1 space short each (4 total smaller 3 bed)
- Plot 35 - 1 space short (larger detached 3 bed)
- Plots 49-52 - 1 space short each (4 total smaller 3 bed)
- Plots 58 - 1 space short (detached 3 bed)

- Plots 81-82 - 1 space short each (2 total smaller 3 bed)
- Plots 84-87 - 1 space short each (4 total smaller 3 bed)
- Plots 103-106 - 1 space short each (4 total smaller 3 bed)
- Plots 109 & 110 - 1 space short each (2 total smaller 3 bed)

The revised allocation for the dwellings demonstrates that the provision has been improved, such that it is now 26 spaces below the recommended levels set out within the adopted CSS Wales Parking Standards, although the shortfall associated with plots 2 & 3 would have little effect on the main spine road. Of the remaining 24 space shortfall, 23 of the spaces affect the smaller 3 bed dwellings (98m<sup>2</sup>), with the remaining shortfall affecting plot 35, which is a larger (121m<sup>2</sup>) 3 bed detached dwelling.

Having reviewed the drawing further, the HA notes that there is still ample scope to improve the situation further, by increasing the provision fronting plots 21-22, 26-29, 49-52, 84-87, 103-106 & 109-110. It is clear that up to an additional 9 spaces could easily be created at these locations, without causing a detrimental impact upon the proposed housing density and without creating any marked detriment to the street scene. Whilst such an increase would not provide each dwelling with the recommended 3 spaces, it would provide alternate dwellings with 3 spaces, which would reduce the likelihood of issues associated with a shortfall in parking being concentrated in certain areas. Such additional provision, alongside the suggested visitor parking allocation (10 spaces), would clearly bring the allocation more closely in line with the recommended standards, leaving it just 5 spaces short in total. Such a shortfall would be acceptable to the HA in this instance, in recognition of the Active Travel improvements that have been secured. It is however, both disappointing and regrettable that the applicant has chosen not to discuss such a compromise direct with the HA, before bringing this application before committee. In conclusion therefore, if committee is minded to approve this application, it is respectfully recommended that a condition be applied that would require the applicant to submit a revised parking layout incorporating the 9 additional parking spaces referred to above.

Moving on to the remaining highway issues that were previously raised, the HA comments as follows.

Vehicular access from existing Haul Road.

The most recent submission still does not include any detail on how the existing haul road will be reprofiled to connect safely with the proposed main residential access road, which needs to be reprofiled and lowered by circa 1m below existing levels. This is necessary in order to achieve an acceptable gradient from the A4067. This is an important consideration as the haul road access is already steep and will ultimately join the new adoptable access road near to the junction with the A4067. Whilst the agent has suggested that this matter can be controlled by condition, it is again disappointing to note that no information has been brought forward given that the HA initially requested that this information be submitted as part of its original response provided 9<sup>th</sup> October 2020. Whilst the imposition of an appropriately worded condition has been included within the draft conditions

attached, the applicant should be aware that satisfying the condition will likely require significant works outside of the application site. (land required is however under their control).

### Internal Layout

It is again disappointing to note that none of the previous issues raised by the HA many months ago, have been addressed by the applicant as part of their latest submission. Whilst the HA is satisfied that most of the issues can be covered by the imposition of an appropriately worded condition, the requirement to amend the turning head provision for Roads 2 & 5 (at present refuse vehicles would be unable to turn if the adjacent car parking spaces are occupied), and the requirement to provide a turning head for the private road serving properties 98-102,(no provision at present) will require an alteration to the current layout. All of these requested amendments are in line with the requirements contained within the Wales Common Standards.

### Conclusion

The HA is fully aware of the importance of this development in terms of the aspirations of the LDP and the town itself. It is a designated site with many complex constraints and there are also conflicting standards and policy requirements that need to be considered, to enable a balanced decision to be reached. Such an approach should hopefully enable the development to come forward. Clearly viability is a pressing consideration, and with that in mind, the HA does acknowledge the financial commitment made by the developer in relation to the proposed renewal of the existing surface water culvert and most importantly, the provision of appropriate active travel links throughout the site, together with the signalised crossing over the A4067.

Whilst there is still clearly a shortfall in parking provision on the site, the shortfall could easily be reduced in line with the recommendations contained within this report, to a degree that should not cause any significant conflict. On balance therefore, taking into consideration amongst other things viability and active travel provision, the HA would not oppose the development if the HA recommendations in relation to parking, form part of any consent granted.

Notwithstanding the above, the HA strongly contends that the current CSS Parking Standards is still the most relevant planning document available to developers and local authorities in Wales, when determining parking provision on new developments. The HA wishes to make clear that they will continue to ensure that all new developments adhere to the recommendations within the document going forward, and that the decision taken in this instance, to accept a slight reduction in parking, is a balanced decision, which gives sufficient weight to the significant Active Travel improvements secured, and the many constraints associated with this site. The HA trusts that the LPA and members acknowledge this point and continue their support of the CSS Parking Standards.

### Suggested Conditions

1. Notwithstanding the submitted details, within 10 days from the commencement of the development a detailed suite of highway engineering drawings covering the highway works within the site, including those relating to the new culvert, provision of a revised parking layout, traffic calming measures and appropriate signing, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.
2. Notwithstanding the submitted details, within 30 days from the commencement of the development a detailed suite of highway engineering drawings and a completed independent Stage 1 & 2 Safety Audit covering the off-site highway works along the frontage of the A4067 county highway, including the realigned access from the A4067, the active travel link from the A4067 into the site & the Toucan Crossing installation, shall be submitted to and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.
3. The gradient of the access from the A4067 shall be constructed so as not to exceed 1 in 30 for the first 15 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
4. The gradient of the internal haul road shall be constructed so as not to exceed 1 in 20 for the first 10 metres measured from edge of the adjoining estate road along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
5. No dwelling hereby approved shall be occupied before the off-site highway works detailed in condition 2 above, have been fully constructed to an adoptable standard to the written satisfaction of the LPA. Such works shall include the commissioning of the Toucan Crossing, completion of the realigned access and widened footway links alongside the A4067 and the construction of the active travel footway link from the A4067.
6. Prior to the occupation of each of the dwellings hereby approved, provision shall be made within the corresponding plot for the parking of vehicles as detailed on the drawing secured by condition 2 above. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence
7. No dwelling hereby approved shall be occupied before the estate road carriageway and footways are constructed to binder course level to an adoptable standard, including the provision of any salt bins, surface water drainage and street lighting in front of that dwelling, and to the junction with the existing county highway.
8. No dwelling hereby approved shall be occupied until the vehicular access is finished in a 40mm bituminous surface course material for a distance of 15 metres from the edge of the adjoining A4067 carriageway. The area will be maintained to this standard for as long as the development remains in existence.
9. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last



house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.

10. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
11. Each private drive shall be surfaced in a suitably bound material, prior to the occupation of each respective dwelling and retained as such for as long as the development remains in existence.

#### Advisory Notes

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

##### Note:

All major off-site highway works shall be subject to an agreement (supported by a road bond) under Section 278 of the Highways Act 1980. The design and detail required as part of a Section 278 Agreement shall be prepared by the applicant and approved by Powys County Council. Implementation of the approved scheme shall be at the expense of the developer. Further information relating to Section 278 requirements can be found in Section 1.5 of the Powys County Council Highway Design Guide.

##### Note:

Where development results in (or retains the potential to) the creation of a private street (typically development in excess of 5 dwellings) Powys County Council has a statutory duty to issue and enforce an Advance Payment Code Notice (APC) under the provisions of Sections 219/220 of the Highways Act 1980. The Notice requires the applicant to secure a sum or bond with the local highway authority that covers the estimated costs of the identified street works. Applicants/developers may choose to discharge their private street works obligations by entering into a formal road adoption agreement with the local highway authority under Section 38 of the Highways Act 1980. Further information relating to the APC procedure and Section 38 road adoption agreements can be found in Sections 2.1 & 2.2 of the Powys County Council Highway Design Guide.

### **Officer Appraisal**

#### Highways Response consideration

A safe access and parking is a fundamental requirement of any development and LDP policy DM13 deals with highways issues.

Whilst Highways has responded formally at the beginning of the process and as general communication throughout the process, this Highways response is appreciated and it is acknowledged that it was submitted in response to a submission of amended plans and

regular dialogue throughout the life of the application.

The Highways Authority expressed concerns with the shortfall of parking spaces as compared to those stated as the maximum standards in the CSS Parking Standards. Comments are noted with regard to where the shortfall of spaces per dwelling are located: predominantly on the 3-bed dwellings with the third bedroom being a small single one. Whilst this is contrary to the maximum standards as per the CSS 2014 guidance, it is considered that the circumstances for the smaller three-bed dwellings might be acceptable under the discussion within the main report: considering active travel, promoting more sustainable methods of travel and less reliance upon the private car.

Whilst the shortfall is contrary to the Parking standards, to provide more parking in front of the dwellings may then have a detrimental impact on the features of design that are within the Ystradgynlais design SPG – dwellings fronting a street, terraced dwellings etc. In addition to this, as was discussed in the main committee report, it is considered that whilst there is a shortfall in private parking spaces, this is one development in Powys that is served well with public transport and has good Active Travel links to the town centre and central services. It is therefore considered that - on balance - it would be acceptable for an easement of the maximum standards to be applied to a site such as this.

In seeking to change future patterns of transport, the development has proposed the installation of electric car-charging points for each dwelling. These can be conditioned in order to ensure their presence.

With regard to the vehicular access from the existing Haul Road, the preference of the Highways Authority to have had the details submitted earlier in the progression of the application is noted, and their reasons for that preference. However, because they have accepted that a condition can be included to ensure the details can be submitted at a later date, this is considered an acceptable compromise.

The Highways response raised concerns with the internal highway layout, specifically in terms of the turning head provision at Roads 2 and 5, and stated that at the current design, they consider a refuse lorry would not be able to turn if private vehicles are parked within their allocated spaces. However, they have requested a condition to be applied should consent be given that would require for those internal issues to be resolved.

In conclusion, it can be considered that the issues of highways concerns with regard to

the Haul Road and the internal road layout have been conditioned to ensure that the highways concerns can be accommodated.

With regard to the parking standards, it is considered, on balance, that this site is acceptable with regard to the considerations given in Future Wales and PPW, and therefore it is considered that it is acceptable within the policy context, and in particular DM13.

### Brecon Beacons National Park

The boundary for the Brecon Beacons National Park is approximately 80m from the edge of the site to the Northeast. The Local Planning Authority has a duty to consider the impact of a development on the National Park.

In this instance, due to the lie of the land, with the slope of the land facing the South, it is considered that the development will not be visible to land within the National Park. In addition to this, it is considered important that external lighting is subject to conditions to ensure that inappropriate lighting will not adversely impact the night sky in the National Park.

In conclusion, it is considered that the proposal will not have an adverse impact upon the National Park.

### Public Open Spaces

As an update, the developer has agreed to provide a level of informal play features within some of the public open spaces. The detail of which is conditioned to be dealt with at a later date.

### Electric Car Charging Point

Following previous discussion, it can now be confirmed that charging points for electric cars will be included for every dwelling.

## RECOMMENDATION

In light of the above, it is considered that the proposed application would result in a well-designed development that responds to local needs and is assimilated well within the locality. Whilst the amount of off-street parking on the site has been raised as a concern, on balance it is considered that PPW and Future Wales does give provision for sites of this proximity to local services - such as those available some 500 metres away in Ystradgynlais to allow for flexibility.

It is therefore considered on balance that the proposed development is in accordance with relevant planning policies and the recommendation is therefore one of conditional

consent.

### Conditions

1 The development shall begin not later than five years from the date of this decision.

2. The development shall be carried out in accordance with the following approved plans and documents: R491 P-01, R491 P-02, R491 P-03, R491 P-04, R491 P-05, R491 P-06, R491 P-07, R491 P-08, R491 P-09, R491 P-10, R491 P-12, R491 P-13, R491 P-14, , R491 P-15, R491 P-16, R491 P-17, R491 P-18, R491 P-19, R491 P-20, R491 P-21, R491 P-23, R491 P-24, R491 P-25, R491 P-26, R491 P-27, R491 P-28, R491 P-29, R491 P-30, R491, RDS Landscape Plan, Topographic Survey (MW Surveys), C1537\_C-SK07 Highway Long Sections Sheet 1 of 2 Rev A, C1537\_C-SK08 Highway Long Sections Sheet 2 of 2 Rev B, Toucan Crossing v2-AT05, R491 POS Plan, Tree Survey by ArbTS LTD, Tree Protection Plan, Arboricultural Method Statement, Updated Ecological Survey by Fiona Elphick (21st July, 2019), Ecological Construction Method Statement.

3 No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

4 Prior to commencement of development, a detailed Construction Method Statement in respect of the control of noise and dust during the construction shall be submitted to the Local Planning Authority and shall be implemented thereafter as approved.

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

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

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

6 No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority. This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best practice, and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- A desk study
- A site reconnaissance
- Formulation of an initial conceptual model

- A preliminary risk assessment

If the preliminary risk assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a suitably qualified competent person. The contents of the scheme and scope of works are subject to the approval in writing of the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Land Contamination Risk Management (LCRM)' guidance and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

7 No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins. The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

8 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 7 has been received from the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

9 The subject site is located in a former coal mining area and ground gas protection measures which meet, as a minimum, Characteristic Situation 2 (CS2) specifications, as prescribed in BS8485:2015+A1:2019 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings', must be installed.

Appropriately qualified personnel as described in Ciria C735 must verify the installation and qualify the installer. The specification and verification methodologies, for the installation of the ground gas protection measures, must be provided in a Verification Plan (as described in Ciria C735) that is part of the Remediation Strategy and must be

approved in writing, by the local planning authority, prior to the commencement of the development.

10 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

11 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

12 The development shall be undertaken in strict accordance with the following

- i) Section 6 (Recommendations) and Ecological Construction Method Statement, Updated Ecological Survey, Land at Brynygroes, by Fiona Elphick, dated 21st July 2019
- ii) Landscape Masterplan, Drawing no. RS200613-01-03
- iii) Section 6.0 (Arboricultural Method Statement) and Appendix 4 (Tree Protection Plan), Arboricultural Report, by ArbTS Ltd, dated 21st June 2021
- iv) Proposed Access Arrangement & Culvert Works, Drawing no. C-SK13

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

13 Prior to commencement of development (including ground works and vegetation clearance), a Construction Environment Management Plan shall be submitted to the

Local Planning Authority and approved in writing. The CEMP shall include but not be limited to the following:

- o Ecological Construction Method Statement
- o Pollution prevention plan
- o Biosecurity risk assessment
- o Tree protection plan
- o Lighting during construction phase
- o Ecological enhancement plan to include number, location and timing of implementation of reptile refugia; and timing of planting, site preparation and aftercare measures.
- o Roles and responsibilities

The approved measures shall be adhered to and implemented in full.

14 Prior to any works being undertaken to trees, a bat survey of affected trees shall be undertaken by a suitably qualified ecologist. The survey shall be undertaken in accordance with Collins, J. (ed) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn.) The Bat Conservation Trust, London. Any works shall be undertaken in accordance with expert ecologist and arborist advice and European Protected Species license requirements where appropriate.

15 Access points to facilitate movement of hedgehog and small mammals shall be incorporated into all fencing forming any part of the site boundary or boundary between individual plots. A minimum of one access point comprising gaps of 130mm x 130mm (5" x 5") shall be installed along each fenced aspect of the boundary. If gravel boards are to be used, hedgehog friendly designs shall be used. The access points shall be maintained thereafter.

16 Prior to occupation of any dwelling a Welsh Language and Culture mitigation plan including details of mitigation measures and their implementation of measures shall be submitted to and approved in writing by the local planning authority. The measures to support the Welsh Language and Culture shall be implemented as approved.

17 Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable 44 housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include: i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 4 of housing units; ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)]; iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no development for the Affordable Dwellings identified in Condition 18 above under Schedule 2, Part 1, Classes A to E other than that hereby permitted shall be carried out without the written permission of the Local Planning Authority.

19 Prior to the commencement of development a phasing scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details for the phasing of all housing and infrastructure including (but not limited to) phasing of open market/affordable dwellings, provision of public open space, provision of visitor car parking areas, landscaping/ biodiversity enhancements and associated infrastructure. Development must thereafter be completed in full accordance with the details as approved.

20. Notwithstanding the submitted details, within 10 days from the commencement of the development a detailed suite of highway engineering drawings covering the highway works within the site, including those relating to the new culvert, provision of a revised parking layout, traffic calming measures and appropriate signing, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

21. Notwithstanding the submitted details, within 30 days from the commencement of the development a detailed suite of highway engineering drawings and a completed independent Stage 1 & 2 Safety Audit covering the off-site highway works along the frontage of the A4067 county highway, including the realigned access from the A4067, the active travel link from the A4067 into the site & the Toucan Crossing installation, shall be submitted to and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

22. The gradient of the access from the A4067 shall be constructed so as not to exceed 1 in 30 for the first 15 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

23. The gradient of the internal haul road shall be constructed so as not to exceed 1 in 20 for the first 10 metres measured from edge of the adjoining estate road along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

24. No dwelling hereby approved shall be occupied before the off-site highway works detailed in condition 21 above, have been fully constructed to an adoptable standard to the written satisfaction of the Local Planning Authority. Such works shall include the commissioning of the Toucan Crossing, completion of the realigned access and widened footway links alongside the A4067 and the construction of the active travel footway link



from the A4067.

25. Prior to the occupation of each of the dwellings hereby approved, provision shall be made within the corresponding plot for the parking of vehicles as detailed on the drawing secured by condition 21 above. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence

26. No dwelling hereby approved shall be occupied before the estate road carriageway and footways are constructed to binder course level to an adoptable standard, including the provision of any salt bins, surface water drainage and street lighting in front of that dwelling, and to the junction with the existing county highway.

27. No dwelling hereby approved shall be occupied until the vehicular access is finished in a 40mm bituminous surface course material for a distance of 15 metres from the edge of the adjoining A4067 carriageway. The area will be maintained to this standard for as long as the development remains in existence.

28. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.

29. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.

30. Each private drive shall be surfaced in a suitably bound material, prior to the occupation of each respective dwelling and retained as such for as long as the development remains in existence.

31. Prior to the commencement of development a plan for the provision of a children's play area within the development shall be submitted for approval in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details prior to the first occupation of any dwelling hereby approved.

32. Prior to the commencement of development a plan detailing the future management of the open spaces and the children's play area detailed in condition 31 above shall be submitted and approved in writing by the Local Planning Authority. Those details shall be carried out and adhered to for the duration of the development.

33. Prior to the first beneficial use of the proposed development, electric car-charging points shall be installed and operational for each dwelling.

## Reasons

- 1 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
- 2 Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
- 3 To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
- 4 To safeguard the amenities of the locality in accordance with policy DM13, section 13 of the Powys Local Development Plan.
- 5 To safeguard the amenities of the locality in accordance with policy DM13, section 13 of the Powys Local Development Plan.
- 6 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.
- 7 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.
- 8 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.
- 9 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.
- 10 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.
- 11 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.
- 12 To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), 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, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), 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, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

15 To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

16 In the interests of the Welsh language and culture in accordance with Powys Local Development Plan (2018) policy DM12.

17 In order to control further development which has the potential to have adverse effects on the affordable nature of the dwellings hereby approved in line with policy H5 of the Local Development Plan and Planning Policy Wales.

18 In order to control further development which has the potential to have adverse effects on the affordable nature of the dwellings hereby approved in line with policy H5 of the Local Development Plan and Planning Policy Wales.

19 To safeguard the amenities of the locality in accordance with policy DM13, section 13 of the Powys Local Development Plan.

20. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

21. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

22. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

23. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

24. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

25. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

26. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

27. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

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29. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

30. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

31. To safeguard the amenities of the locality in accordance with policy DM3 of the Powys Local Development Plan.

32. To safeguard the amenities of the locality in accordance with policy DM3 of the Powys Local Development Plan.

33. To safeguard the amenities of the locality in accordance with policy DM3 of the Powys Local Development Plan.

## Informatives

### 1.Dwr Cymru

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition.

Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com). The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

2. During construction (including soil movement and landscaping activities) the contractor shall take all reasonable steps to prevent dust formation from dusty activities and any

dust formed shall be prevented leaving the site by continuous watering down.

3. The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 01597 827645.

#### 4. 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 by phone at 0300 065 3000.

#### 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:

- o intentionally kill, injure or take any wild bird
- o intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- o intentionally take or destroy the egg of any wild bird
- o 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 on 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:

- o Intentionally kill, injure or take any bats.
- o 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:

- o 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).

#### 5. 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.

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.

#### 6. Groundwater

We refer you to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by NRW. In particular, Position Statement G13 (Sustainable drainage systems) which applies to this development.

Advice on environmental considerations and the assessments needed to support your planning application can be found on our external website.

For advice on how to deal with possible land contamination on your development visit:  
<http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/advice-for-developers/land-contamination/?lang=en>

For advice on how to protect groundwater at your development visit:  
<http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/advice-for-developers/protecting-groundwater/?lang=en>

## Pollution Prevention

Responsibility for preventing pollution rests with those in control of the development. Pollution Prevention Guidance should be read by those carrying out the work. All works at the site must be carried out in accordance with the Guidance for Pollution Prevention and of particular importance to this application is GPP5 'Works in, near or over watercourses' which is available at:  
<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-andreplacement-series/guidance-for-pollution-prevention-gpps-full-list/>  
If a pollution incident does arise the site must inform us immediately via our incident hotline.

## 7.Common Land

Please note Powys County Council is not the determining authority, the Planning Inspectorate in Wales is responsible for determining applications on behalf of the Welsh Minister. Application forms and guidance about how to make an application under Section 16 of the Commons Act 2006 are available on the Welsh Government website:

<https://gov.wales/commons-act-2006-apply-under-section-16>

The Registration Authority also recommends the reading of the Welsh Government 'Common Land Consents Guidance' that was published in August 2014. This document is available at the following link:

<https://gov.wales/common-land-consents-guidance>

## Highways

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

Note:

All major off-site highway works shall be subject to an agreement (supported by a road bond) under Section 278 of the Highways Act 1980. The design and detail required as part of a Section 278 Agreement shall be prepared by the applicant and approved by Powys County Council. Implementation of the approved scheme shall be at the expense of the developer. Further information relating to Section 278 requirements can be found in Section 1.5 of the Powys County Council Highway Design Guide.

Note:

Where development results in (or retains the potential to) the creation of a private street (typically development in excess of 5 dwellings) Powys County Council has a statutory duty to issue and enforce an Advance Payment Code Notice (APC) under the provisions of Sections 219/220 of the Highways Act 1980. The Notice requires the applicant to secure a sum or bond with the local highway authority that covers the estimated costs of the identified street works. Applicants/developers may choose to discharge their private street works obligations by entering into a formal road adoption agreement with the local highway authority under Section 38 of the Highways Act 1980. Further information relating to the APC procedure and Section 38 road adoption agreements can be found in Sections 2.1 & 2.2 of the Powys County Council Highway Design Guide.