

Planning, Taxi Licensing and Rights of Way Committee Report

Application Number: 21/2343/FUL
Grid Ref: E: 325436
N: 315011
Community Council: Llandrinio And Arddleen
Valid Date: 13.01.2022

Applicant: Ruth Neville

Location: The Vine, Arddleen, Llanymynech, Powys, SY22 6RU.

Proposal: Formation of hardcore over storage area (retrospective) together with erection of a 2.4 metre high security perimeter fence with gates and the construction of 8No. bollard lights at a maximum height of 800mm and improvements to existing access

Application Type: Full Application

The reason for Committee determination

The application has been called in by the Local Member to be considered by the Planning, Taxi Licensing and Rights of Way Committee due to concerns regarding flooding, impact on amenity of neighbouring residential properties and impact on the Montgomery Canal.

Consultee Responses

Consultee	Received
PCC-(M) Highways	24th Jan 2022

Thank you for consulting the Highway Authority on this application at The Vine Arddleen Llanymynech Powys SY22 6RU. The proposal seeks formation of hardcore over storage area (retrospective) together with erection of a 2.4 metre high security perimeter fence with gates and the construction of 8No 6m high lighting columns and improvements to existing access.

The Highway Authority notes that this application is retrospective as previously consented scheme has commenced without fulfilling pre-commencement conditions as required by 20/0495/FUL application. This application is seeking a regularization of those unauthorised works to date.

Given that the Highway Authority did not object on the previously application wish that the

following conditions to be applied to any consent given.

1. 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 93 metres distant in a south westerly direction & 59m in north easterly 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.
2. Upon formation of the visibility splays as detailed above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
3. 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 12 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.
4. 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 12 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.
5. Prior to the first beneficial use of the development a radius of 10.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.
6. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 12 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.
7. No surface water drainage from the site shall be allowed to discharge onto the county highway.

8. Any vehicular entrance gates installed within the application site shall be set back at least 12 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.

9. The width of the access carriageway, constructed as Condition 2 above, shall be not less than 6 metres for a minimum distance of 10 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.

Hafren Dyfrdwy

19th Jan 2022

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

Environmental Protection

25th Jan 2022

Concerning planning application 21/2343/FUL, the following advice is provided on behalf of Environmental Protection:

1. The application proposal includes the construction of 8No. 6m high lighting columns and is supported by the following information:

- o Gwynfor Humphreys & Co drawing: 'Site Plan: Caravan Storage Area, The Vine, Arddleen' (ref: 4336.02) Dec 2021.
- o Drawing '6M Root Mounted Lamp Column'.
- o NVC Lighting Limited data sheet 'Belfry Mini: Belfry Mini 36W LED Street Lgt Opt X Lens 76-60 Fix NEMA 740'.

The submitted information, referenced above, does not demonstrate that the proposed lighting will not cause a nuisance to local residents or impact the amenity of neighbouring land uses.

As the application site is located adjacent to a number of residential premises, in

accordance with Policy DM7 'Dark Skies and External Lighting' of the Powys CC 'Local Development Plan', a lighting scheme should be submitted in support of the application for planning permission.

The lighting scheme should provide full details of all the lighting components; including details about the various types of lighting to be used, the angles and locations of the lighting, together with a plan of the expected light spill off of the site itself; and should demonstrate that the proposed lighting will not cause a nuisance to local residents or impact the amenity of neighbouring land uses.

In addition, lighting schemes should be produced by competent, qualified and experienced persons in accordance with current industry guidance and best practice.

PCC-Contaminated Land Officer

23rd Feb 2022

The following additional information has been submitted in support of planning application 21/2343/FUL:

o Bell Lighting document: 'Caravan Storage Site - Proposed Lighting' (ref: LD002074) 11.02.2022.

o Bell Lighting document: 'Skyline Slim LED Floodlight'.

Based on the submitted information, the following advice is provided on behalf of Environmental Protection:

1. Under 'Project Description' of the Bell Lighting document 'Caravan Storage Site - Proposed Lighting' (ref: LD002074) it is stated: "Design based on the information provided and aimed to achieve best lighting cover possible for the storage site."

In addition, the submitted documents, referenced above, only provide factual details concerning the proposed lighting scheme elements and the calculated horizontal illuminance of the storage area, including horizontal spillage.

The submitted information does not sufficiently demonstrate that the proposed lighting scheme will not cause a nuisance to local residents or impact the amenity of neighbouring land uses. Policy DM7 'Dark Skies and External Lighting', of the Powys County Council 'Local Development Plan', states:

Excessive lighting can lead to sky glow and light trespass which shuts out the splendour of Powys' dark night skies and lighting apparatus can spoil daytime views. The intrusiveness of lighting in the countryside should be kept to a minimum, whilst each development

proposal will be assessed against the need for lighting. Applicants should consider whether: the development could proceed without lighting; the benefits of lighting outweigh any dis-benefits; and whether there are any alternatives to lighting. Having established that lighting is needed, an appraisal of the specific lighting requirements of the site should be undertaken so that the lighting scheme is designed to integrate with its surroundings. Among the issues that should be examined will be the effects of night lighting on dark landscapes, protected species, the appearance of lighting structures in daytime, potential impacts on the amenity of local residents and effects on the safety of transport users. Lighting can also have a detrimental impact on biodiversity and the historic environment. Thought needs to be given on how external lighting schemes can avoid potential impacts to nocturnal wildlife, particularly protected species, such as bats, otters and badgers.

Dark wildlife movement corridors should be left, e.g. no external lighting of boundary habitat features, wildlife corridors, and watercourses.

3. As advised previously, in support of planning application 21/2343/FUL, it should be demonstrated that the proposed lighting scheme will not cause a nuisance to local residents or impact the amenity of neighbouring land uses.

There are published standards and guidance for the design of lighting schemes, which should be followed to demonstrate that obtrusive light (i.e. sky glow, glare, light spill and light intrusion) from a proposed lighting scheme will be controlled and/or mitigated e.g. the CIE 150:2017 'Guidance on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations' and the ILP Guidance Note 01/20 'Guidance Notes for the Reduction of Obtrusive Light' (2020).

Lighting schemes should be designed by a competent and experienced lighting designer, following the appropriate standards and guidance for the lighting application being considered.

PCC-Rights Of Way Senior Manager

9th Feb 2022

A bridleway 214/188/FUL is contained within the proposed development site and is noted on agents ROW location plan although identified as a public footpath.

The agent has asserted that the public footpaths 'will be safeguarded'. However, previous development has obstructed both the public footpath and the bridleway. In particular, the bridleway is obstructed at roadside by fencing.

On the application itself, the proposal to 'enclose' the bridleway into what would presumably be a secure area is concerning as public rights of way need to be open at all times. Locked or secured gates would be seen as an unlawful obstruction. Equally, as a storage area

there would be a concern that caravans would be parked on the legal line of the bridleway further obstructing it.

Therefore, until such time the agent/applicant is able to come back to the council with a proposal to resolve the problems laid out above we are objecting to the planning application as it stands.

The agent/applicant should note the advice below before responding to the consultation:

LDP Policy SP7 of the Local Development Plan recognises public rights of way as a strategic asset and development must not have an adverse impact on the asset or its operation.

LDP Policy DM13, criterion 9 is concerned that public rights of way or other recreation assets listed in Policy SP7 (3) are enhanced and integrated within the layout of the development proposal; or appropriate mitigation measures are put in place where necessary.

You can access a digital interpretation of the Definitive Map using the link below. Please refer to the accompanying guide for access:

<https://data.gov.uk/data/map-preview?url=https%3A%2F%2Fgeo.powys.gov.uk%2Fgeoserver%2Fopendata%2Fwms%3Frequest%3DGetCapabilities>

In addition to the above, Powys County Council has a duty to 'assert and protect' public rights of way under the Highways Act 1980. Planning permission does not give consent to interfere or obstruct public rights of way unless agreed with the council via the planning process. The developer should take note:

- 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 - Please seek advice before interfering or surfacing a public right of way.

- o Structures on public rights of way - under s146 Highways Act 1980 it is the legal responsibility of the landholder to provide and maintain structures such as gates and stiles on public rights of way. If you are unsure what structure to install, please contact Countryside Services.

o New fencing or boundaries - If intending to create a new boundary across a public footpath or bridleway, advice must be sought. A section 147 Highways Act 1980 license is required for a structure such as a gate to be installed across a public footpath or bridleway.

We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.

o Temporary closures - If the safety of the public cannot be guaranteed at all times during construction, consideration should be given to applying for a temporary closure of the public right of way.

The process can take a couple of months to put into place so early consultation with Countryside Services is recommended if a temporary closure is required. This is a separate procedure for which a fee applies.

o Legal Diversion - If development will directly affect a public right of way and the affected public right of way cannot be appropriately incorporated into the development, the developer will need to seek advice from the council. No development can take place on a public right of way until a legal order is confirmed by the council.

A legal public path order process typically takes at least 6 months. This is a separate procedure for which a fee applies. For more information, please discuss with Countryside Services at the earliest available opportunity.

PCC-Rights Of Way Senior Manager

Additional Comments 11th Apr 2022

Following our original consultation and the subsequent agent response, I would comment further.

A 2m width is provided on the revised plan for the bridleway. If the bridleway is to be fenced in, we would need a 3m corridor for the bridleway. We also note the field gate in the northern boundary of the plan is grown over and unusable. It is a landowners legal responsibility to ensure structures such as gates and stiles are maintained so they are usable. We would need an assurance that the field gate is brought up to standard.

We therefore continue our objection to the planning proposal in its current form.

LDP Policy SP7 of the Local Development Plan recognises public rights of way as a strategic asset and development must not have an adverse impact on the asset or its operation.

LDP Policy DM13, criterion 9 is concerned that public rights of way or other recreation assets listed in Policy SP7 (3) are enhanced and integrated within the layout of the development proposal; or appropriate mitigation measures are put in place where

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- o New fencing or boundaries - If intending to create a boundary across a public footpath or bridleway, advice must be sought. A section 147 Highways Act 1980 license is required for a structure such as a gate to be installed across a public footpath or bridleway.

We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.

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A legal public path order process typically takes at least 6 months. This is a separate procedure for which a fee applies. For more information, please discuss with Countryside Services at the earliest available opportunity.

PCC-Rights of Way Senior Manager

Additional Comments 4th Apr 2023

I have stipulated a 3-metre corridor for the bridleway and that some form of barrier or physical delineation needs to separate the bridleway with the rest of the site. I don't want the bridleway to become part of the storage parking i.e. obstructed at any time. At the entrance to the storage facility, they will leave a gap for the bridleway adjacent to the secure gate they intend to install for the storage area. Not sure whether you can condition any of that?

- Powys County Council has a duty to 'assert and protect' public rights of way under the Highways Act 1980. Planning permission does not give consent to interfere or obstruct public rights of way unless agreed with the council via the planning process.
- 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...
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- Temporary closures – If the safety of the public cannot be guaranteed at all times during construction, consideration should be given to applying for a temporary closure of

the public right of way.

The process can take a couple of months to put into place so early consultation with Countryside Services is recommended if a temporary closure is required. This is a separate procedure for which a fee applies.

- Legal Diversion – If development will directly affect a public right of way and the affected public right of way cannot be appropriately incorporated into the development, the developer will need to seek advice from the council. No development can take place on a public right of way until a legal order is confirmed by the council.

A legal public path order process typically takes at least 6 months. This is a separate procedure for which a fee applies. For more information, please discuss with Countryside Services at the earliest available opportunity.

For advice, please contact Powys County Council Countryside Services with details of the development at:

rights.of.way@powys.gov.uk

01597 827500

Canal & River Trust (Glandwr Cymru In Wales)

3rd Feb 2022

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended)) is that the Trust has no comment to make on the proposal.

Natural Resources Wales (Mid Wales) DPAS

16th Feb 2022

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding Protected Species. If this information is not provided, we would object to this planning application. Further details are provided below.

Protected Species

We have reviewed the following documents:

- o Drawing titled 'Site Plan: Caravan Storage Area, The Vine, Arddleen' (ref: 4336.02)

by Gwynfor Humphreys & Co, dated Dec 2021.

o Drawing titled '6M Root Mounted Lamp Column'.

o Data sheet titled 'Belfry Mini: Belfry Mini 36W LED Street Lgt Opt X Lens 76-60 Fix NEMA 740' by NVC Lighting Limited.

We note that otter records, including the presence of mother and cubs, exist at the Montgomery Canal, which lies circa 160 metres away from the development site. In addition, bat species are likely to use the canal as a foraging site and a commuting route. The above information does not give sufficient confidence that the species are not adversely affected by the installed illumination via light spill onto feeding and commuting habitats.

Otters and bats, as well as their breeding sites and resting places, are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Where these species are present and where a development proposal is considered likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. The proposed works to be authorised satisfy an appropriate derogation purpose, which in the case of development are for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. There is no satisfactory alternative; and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

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

We advise that additional information is sought from the applicant in order to determine the potential impacts of the scheme upon otters and bats.

As stated above, the lighting information provided with this retrospective application does not suffice to indicate that the new luminaires are not adversely affecting otters and bats using the canal for foraging and commuting, or displacing these species from their habitats

due to excessive light spill. We therefore advise that the light spill from the eight luminaires on site is appropriately modelled, and the results of the modelling submitted to the Local Planning Authority in order to demonstrate that no light spillage reaches the canal, and that a buffer zone of minimum 15 metres remains unlit by the new luminaires. If this can be demonstrated, we would have no further comment on these proposals.

We advise that further information on the existing lighting on site is provided for assessment, including:

- o full details of the siting, timing and type of external lighting on site;
- o drawings setting out light spillage in key sensitive areas, in particular the Montgomery Canal, plus a 15-metre buffer before the canal;
- o Submission of an Environmental Lighting Impact Assessment against conservation requirements for protected species.

We have concerns regarding the above application pending the provision of further information regarding protected species. We would be pleased to review our position and provide further advice when consulted on the further information specified above.

Pollution prevention

Due to the proximity of the site to Montgomery Canal, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works and maintenance in or near water' and 'Working at construction and demolition sites' which are available on the following website: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelinesppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

Other Matters

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Llandrinio & Arddleen Community Council have considered the above application at a site meeting held on the 28th January 2022

The Community Council wish to OBJECT to this application.

1. Contrary to Policy DM4 - Landscape

The Community Council supported the change of use from agricultural to storage of Touring caravans under 20/0495/FUL in March 2020 because the Design 7 Access statement clearly stated that the 'site will remain improved grassland' and that 'the site appearance will remain unchanged'. The changes as proposed in this application will create an Industrial area in a rural Village and will not fit in with the landscape.

With this in mind the Community Council feel that any perimeter fence needs to be below the existing hedge and coated green to blend in with the surroundings.

2. Contrary to Policy DM7- Dark skies and external Lighting

The presence of overhead lightings will be detrimental to the area - we have many visitors who use the Montgomery Canal, only a few hundred yards away, and the presence of lighting columns would cause light pollution in a rural setting.

3. Contrary to Policy T1- Travel and Traffic infrastructure

The Community Council is concerned that the development of this large site will increase dramatically the number of vehicular movements along the B4392 both in Arddleen and Guilsfield and would ask that an evaluation of vehicular movements is undertaken. Extra signage will be needed to ensure that motorists do not follow their SAT Nav's and take the quickest route which would be via Dragon's Bridge which is unsuitable for caravans.

4. Contrary to Policy DM6 - Flood Prevention & Land Drainage

The Community Council would like to see whether a Sustainable Drainage Systems analysis has been carried out as the water will run off this site much quicker than a green field site.

County Cllr Lucy Roberts has called the application into the Planning Application and we reserve the right to speak at the Planning Committee meeting.

Community Council

Additional Comments 4th Feb 2022

Further to the letter previously sent by Llandrinio & Arddleen Community Council we have been alerted by resident's that Bridleway 188 runs through the proposed storage area for

caravans.

Could we please ask for the route to be drawn on the site map so we can see that it is not obstructed by the development

Community Council

Additional Comments 23rd Mar 2022

Llandrinio & Arddleen Community Council wish to add further to their letter previously submitted of the 29th January 2022.

Councillors have noted that a new site plan has been submitted showing the position of the bridleway and would like to add that currently the entrance to this bridleway is totally blocked with a hedge growing through it and would ask that this is cleared (photograph attached with the letter)

We also concur with the views of the Countryside Officer in that a minimum width of 3m is needed for clear access.

PCC-Building Control

No comments had been received at the date of writing this report.

Ward Councillor

21st Jan 2022

As the local member for Arddleen, following receipt of this notification and discussion with the Community Council I would like to call this application in to the planning committee. The application involves work outside the village of Arddleen's designated development area. It involves the addition of hardstanding which will increase the speed of run-off in an area where there is already a local flooding issue. In addition the security fencing and lighting are inappropriate in a rural area and will have an impact on users of the adjoining footpath and neighbours alike. The lighting may also have a negative impact on future users of the soon to be opened up Montgomery canal, bringing a more industrial feel to an otherwise rural location.

PCC-Ecologist

1st Mar 2022

Holding objection - further information is required

Policy background:

- o Planning Policy Wales, Edition 11, 2021
- o Technical Advice Note (TAN) 5
- o Powys Local Development Plan 2011 - 2026:

DM2 - The Natural Environment

DM4 - Landscape

DM7 - Dark Skies and External Lighting

- o Powys Supplementary Planning Guidance: Biodiversity and Geodiversity (2018)

Legislative background:

- o The Conservation of Habitats and Species Regulations 2017 (as amended)
- o Environment (Wales) Act 2016

Statutory sites within 500m:

- o Montgomery Canal Site of Special Scientific Interest (SSSI) - approximately 50m from development
- o Montgomery Canal Special Area of Conservation (SAC) - approximately 50m from development

Non-statutory sites within 500m:

- o None

Records of protected and/or priority species identified within 500m? Yes

Comments:

No ecological information has been submitted with the application; the following comments are based on review of the proposed plans and aerial images, as well as records of protected and priority species and designated sites within 500m of the proposed development.

The Montgomery Canal SAC is approximately 50m from the location of the highway visibility splay improvements. It is understood that these have already been carried out under P/2016/1194. Similarly, the application for installation of hardcore within the site boundary approximately 130m away is retrospective. Therefore, minimal excavation works will be required and limited to installation of the lighting and perimeter fencing within the storage area. Given the distance from the Montgomery Canal SAC and lack of hydrological pathways to the SAC, it is considered that impact from pollution from construction works

would not result in a Likely Significant Effect on the designated feature of the SAC.

Hedgerows (priority habitat) form the boundaries of the caravan storage area. It is not clear from the information submitted if it is proposed to remove all or part of the hedgerow system. (It is understood that retention of hedgerows and management to increase height to 3m was part of the previous application.) Replacement of all or part of the hedgerow with fencing would result in loss of priority habitat and potentially impact nesting birds and commuting and foraging bats. If hedgerows are to be retained, impact to the root zone from installation of electrical services for the lighting columns along the western boundary should be considered to ensure that premature death of the hedge is avoided.

Further information is required regarding impact to hedgerow habitat.

The purpose of the lighting is not clear; the lighting columns are very tall (6m), lights are not located to illuminate the site access or any buildings and it appears that the strip along the western boundary will receive the most substantial illumination. It is not clear when the lighting will be in use; the specification demonstrates that PIR motion sensors can be fitted but it is not clear if this will be the case. The submitted lighting specification identifies that LED bulbs of 4000oK will be installed. In accordance with BCT/ILP guidance to avoid impact to bats from external lighting, 'a warm white spectrum (ideally <2700Kelvin) should be adopted to reduce blue light component. Luminaires should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats.'

Further lighting design details have been provided which state the aim is to achieve the best lighting cover possible for the storage site which will result in horizontal illuminance will be 6.2 lux across the site. The horizontal light spillage plots indicate that lower levels will be experienced at ground level with over half of the site receiving levels less than 6 lux. It is not clear which is correct. The horizontal spillage plot shows the site access and area alongside the B4392 will not receive horizontal light at ground level. If correct, it is therefore assumed that no light will reach the Montgomery Canal SAC/SSSI. The northern and western hedgerows will receive potentially disturbing amounts of light on both sides of the hedgerow.

Given the uncertainty regarding retention of hedgerows and high levels of illumination along the western boundary, there is potential to impact bats, European Protected Species, commuting or foraging within the area, which should be avoided or minimised as far as practically possible.

Biodiversity enhancement:

No information has been provided.

Further information required prior to determination:

i. Sufficient detail to demonstrate that lighting design demonstrates compliance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018). Full details can be found at <https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>.

ii. Confirmation that all hedgerows around the perimeter of the site will be retained and how impact to the root zone of the western hedgerow will be avoided/minimised during installation of lighting columns, fencing and electrical services.

PCC-Ecologist

Additional Comments 14th Mar 2023

Recommendation:

No objection - subject to planning conditions and/or planning obligations

Policy background:

- o Planning Policy Wales, Edition 11, 2021
- o Technical Advice Note (TAN) 5
- o Powys Local Development Plan 2011 - 2026:

DM2 - The Natural Environment

DM4 - Landscape

DM7 - Dark Skies and External Lighting

- o Powys Supplementary Planning Guidance: Biodiversity and Geodiversity (2018)

Legislative background:

- o The Conservation of Habitats and Species Regulations 2017 (as amended)
- o Environment (Wales) Act 2016

Comments:

Previous comments provided 28/02/2022.

I've reviewed the amended Site Plan, drawing no. 4336/02, uploaded to PCC Planning 14/02/2023 which confirms that only bollard lighting along the north-eastern boundary will be installed. The height of the bollards will be no greater than 800mm. It's recommended that LED bulbs of a warm-white colour are used (~2,700oK) to minimise impact to nocturnal wildlife using the north-eastern hedgerow. It's considered that the revised lighting scheme significantly minimises impact to wildlife, including bats, compared to the scheme as originally submitted.

It's confirmed that the existing hedgerows will be retained, which is welcome, and the Site Plan confirms that excavation works will not take place within the root zones of the

hedgerows.

Biodiversity enhancement:

No information has been provided to demonstrate that the proposal will provide a net biodiversity gain. All development in Wales is required to demonstrate a net biodiversity benefit. The Chief Planning Officer for Wales has confirmed that 'where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission.' Therefore, details are required regarding incorporation of features to enhance biodiversity and ensure the development provides a net benefit for biodiversity. This could be through enhancement of the existing boundary hedgerows along the south-eastern, north-western and north-eastern boundaries and/or tree planting.

It is therefore recommended that submission of a Biodiversity Enhancement Plan is secured through an appropriately worded planning condition.

Subject to inclusion of the conditions below, would the development result in a significant negative effect on biodiversity? No

Conditions:

Should Development Management be minded to approve this application, inclusion of the following conditions is recommended

1. External lighting of the proposed development shall be restricted to use of bollard lighting not exceeding 1m in height and shall be fitted with LED bulbs emitting light from the warm-white colour spectrum only (<2700oK) with a peak wavelength exceeding 550nm.
2. Prior to commencement of construction (including ground and vegetation clearance), protective root zone areas (PRZ) for the hedgerows shall be determined in accordance with BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations. Heras fencing or a similar barrier shall be erected around the root zones of the hedgerows strictly in accordance with the PRZ and the barriers shall remain in situ until construction works are completed. No materials, equipment, vehicles or plant shall be stored within the protected areas.
3. Prior to commencement of development a detailed Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved no later than three months following first beneficial use of the storage site or the completion of the development (whichever is the sooner)and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM7 and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act

2016.

Representations

Following the display of a site notice on 19th January 2022, 10 No. public representations have been received at the time of writing this report. Comments are summarised as follows:

- Application is retrospective (in part)
- Top soil removed from site and hardcore laid
- Proposed lighting and security fence is inappropriate in this location
- Brownfield site would be more suitable for caravan storage
- Impact on wildlife
- Bridleway is blocked and 2 metre width is inappropriate for a bridleway
- Work has been undertaken in breach of conditions attached to 20/0495/FUL
- Proposed fencing and lighting will detract from character of landscape
- Light pollution and nuisance to local properties
- Development is close to adjoining properties
- Increase danger to flooding
- Noise nuisance
- Increase in traffic and dangerous access
- Impact on landscape
- Impact on local ecology, biodiversity and grassland
- General dislike for proposal
- Out of keeping of character of area and unsympathetic to local community
- Potential lighting impact on Montgomery Canal
- Information missing from application

In addition to the above public comments received, Powys Ramblers have commented:

- Adequate signage for the Public Rights of Way is requested
- Public Rights of Way should not be obstructed by the development

Planning History

App Ref	Description	Decision	Date
21/2200/REM	Section 73 application to vary condition no.2 attached to planning approval 20/0495/FUL to allow an amended plans to include hardcored area (retrospective), erection of security perimeter fence & gates and lighting columns)	Application Returned	

20/0495/FUL Change of use from agricultural land Approve 1st Oct 2020
to touring caravan storage

Principal Planning Constraints

Canals and Waterways - Minor	Notified area EIA and Major Sc
Canals and Waterways - Major Scale	Notified area Minor and Househ
Within 50m of Listed Building	The Vine
Right of Way	214/188/1
Right of Way	214/187/1
Right of Way	214/183/4
Open Countryside	
County Highway: B4392	

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 11, February 2021)		National Policy
NATPLA	Future Wales - The National Plan 2040		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN12	Design		National Policy
TAN13	Tourism		National Policy
TAN18	Transport		National Policy
TAN23	Economic Development		National Policy
TAN24	The Historic Environment		National Policy
DM2	The Natural Environment		Local Development Plan 2011-2026
DM4	Landscape		Local Development Plan 2011-2026
DM5	Development and Flood		Local Development

	Risk	Plan 2011-2026
DM6	Flood Prevention Measures and Land Drainage	Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026
DM15	Waste Within Developments	Local Development Plan 2011-2026
E2	Employment Proposals on Non-Allocated Employment Sites	Local Development Plan 2011-2026
TD1	Tourism Development	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
SP5	Settlement Hierarchy	Local Development Plan 2011-2026
SP6	Distribution of Growth across the Settlement Hierarchy	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
TD3	Montgomery Canal and Associated Development	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
SPGLAN	Landscape SPG	Local Development Plan 2011-2026
SPGHE	Historic Environment SPG (2021)	Local Development Plan 2011-2026

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

Officer Appraisal

Site Location & Description of Development

The application site is located in the open countryside as defined by the Powys Local Development Plan (2011-2026) and located within the community council area for Llandrinio and Arddleen. The application site extends to approximately 0.5 hectare is located approximately 380 metres to the southwest of the Arddleen's development boundary; Arddleen is recognised as a Large Village under policy SP5 of the Powys Local Development Plan (2011-2026).

The application site is to the north of The Vine and the B4392 highway. The application site is surrounded by agricultural land and has an established touring caravan site to the southwest and residential development to the southeast. There is a residential property to the north. The site is accessed by a private driveway off the Council highway B4392.

This application seeks full consent for the laying of hardcore over an existing storage area (retrospective) together with the erection of a 2.4 metre high security perimeter fence with gates and the construction of 8No 6 metre high lighting columns and improvements to existing access. However, since validation of the planning application, amendments have been made to application to remove the 8No. 6m high lighting columns and replace these with 8No. bollard lights at a maximum height of 800mm.

Principle of Development

By way of background to the application site, planning consent 20/0495/FUL was granted for the use of the site for touring caravan storage.

This application therefore seeks to amend that existing site by providing a hardcore and lighting to this existing authorised site.

Design and Landscape Impact

With respect to design, specific reference is made to Policy DM13 of the Powys Local Development Plan (2011-2026). This policy indicates that development proposals must be able to demonstrate a good quality design and shall have regard to the qualities and amenity of the surrounding area, local infrastructure and resources.

Whilst it is noted that the formation of hardcore over the application site has been submitted in retrospect, taking into account the current use of the site and surrounding development, it is not considered that the laying of the hardcore area on an area enclosed by established hedgerow boundaries would have any adverse impact on the character of the landscape.

The site is located within the Guilsfield Rolling Farmlands Visual and Sensory Aspect Area of LANDMAP and is evaluated as high. The other aspect areas are evaluated as follows:

Geological landscape – moderate
Landscape habitats – moderate
Historic Landscape – outstanding

The Visual and Sensory aspect area is summarised as follows:

'An extensive area of rolling hillsides and pasture land with rounded hill tops. Vegetation is predominantly oak/mixed broadleaf woodland patches with well defined small field parcels with a high incidence of overgrown/mature hedgerow trees. Strong sense of place with settled, domestic quality to the setting and displaying a traditional farmed landscape. Traditional farming techniques are evident ie hedge laying and general farming practice is extensive rather than intensive.'

The site is surrounded by a wider landscape of rolling farmland, although the site itself and the land immediately surrounding it are flat. Whilst the site is located in the open countryside, it is located to the south of the settlement of Arddleen and to the west of a cluster of dwellings mainly located across the B4392 highway. In the wider landscape there are scattered dwellings and farmsteads with the canal travelling north/south to the east of the B4392 highway.

Whilst it is acknowledged that the proposed development would represent a visual change to the land, the site is relatively flat and is enclosed by established boundaries. The proposed security fence would be inside of the boundary hedgerows and the agent has confirmed that the boundary hedgerows will be retained. The retention of the boundary hedgerows to a height to exceed the height of the proposed development can be secured by an appropriately worded condition being attached to any grant of planning consent. Indeed, planning consent 20/0495/FUL was granted subject to a condition that the boundary hedgerows would be grown up to and maintained at a height of 3 metres

and, subject to a similarly worded condition would also be attached to any grant of planning consent.

It is noted that no information with regard to the colour of the fencing materials has been submitted as part of the application and it is considered appropriate, therefore, to attach a condition to any permission granted ensuring the fencing is painted forest green in colour to help assimilate the compound into the landscape. Subject to such a condition being attached to any grant of consent, it is considered the proposal would not cause any adverse impact on the character of the area.

As stated, amended plans have been submitted to replace the initially proposed 8No. 6m high lighting columns with 8No. bollard lights at a maximum height of 800mm. Only bollard lighting along the north-eastern boundary inside of the boundary fence and hedge will be installed and the bollard lighting will not be visible from outside of the site, as such and taking into account the recommended condition of the County Ecologist in respect to the luminaries of the bollard lighting, it is considered that the lighting will not have a detrimental effect on the characteristics of the landscape and is acceptable.

A public right of way travels along the western boundary of the application site and therefore the proposed development would be visible from this right of way in close proximity. Whilst it is acknowledged that the users of the right of way would see a change in the character of the land, the use for storage is already existing and therefore there is a fallback position in this instance.

Taking into account the topography of the land, the existing hedgerow boundaries which should be retained together with the LANDMAP information and the character of the site and surrounding landscape, it is concluded on balance that the proposal is not considered to have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape in accordance with LDP Policies DM4 and DM13.

The Community Council comments in respect to compliance to Policy DM4 are noted. Public representation also raised concerns with regards to landscape impact of the proposed development. The principle of touring caravan storage has been established through planning consent 20/0495/FUL and in light of Officer comments in respect to design and integration above, it is Officer opinion that, subject to the inclusion of the suitably worded conditions, the proposed development complies with policy DM4.

Impact upon Neighbouring Privacy & Amenity

In considering the impact upon amenities enjoyed by occupiers of neighbouring properties, consideration has been given to the adopted Residential Design SPG and LDP Policy DM13 (Criterion 11).

Due to the proximity of the neighbouring properties to the northeast and southeast, consideration has therefore been given to whether the proposed development would have any detrimental impact on the amenities enjoyed by occupants or users of these

properties.

The Council's Environmental Protection Officer has been consulted on the proposed development and raised concerns in terms of residential amenity in respect to the proposed column lighting.

Amended plans have been submitted to replace the 8No. 6m high lighting columns with 8No. bollard lights at a maximum height of 800mm. Only bollard lighting along the north-eastern boundary inside of the boundary fence and hedge will be installed and the bollard lighting will not be visible from outside of the site, as such and taking into account the recommended condition of the County Ecologist in respect to the luminaries of the bollard lighting, it is considered that the lighting will not have a detrimental affect on the amenities of neighbouring properties or users of the area.

Public representations have raised concerns in respect to noise from the proposed development. The principle of a touring caravan storage site was established through planning consent 20/0495/FUL and given that the Council's Environmental Protection Team did not raise any concerns in respect to noise, it is considered that that the proposed development will not have any adverse impact in respect to noise.

In light of the above, subject to a suitably worded condition regarding luminaries of the bollard lighting, the development is considered to be acceptable in this regard, and compliant with planning policy.

Highway Safety & Parking

The local Highway Authority have been consulted on the proposed development and whilst they have noted that this application is retrospective and seeking a regularization of those unauthorised works to date, given that the Highway Authority did not object on the previous application, raise no objection subject to a number of conditions being attached to any consent given.

Concerns have been raised by the Community Council and public representations in respect to highway access and safety of the highway network. Given that the Local Highways Authority raise no objection to the proposed development in respect to highway safety, it is considered that the proposed development will not have an adverse impact on highway safety.

Therefore, subject to several suitably worded conditions being attached to any grant of planning consent, the proposed development is considered to fundamentally comply with relevant planning policy.

Biodiversity

- *Protected Sites*

The application site is approximately 130 metres north of the Montgomery Canal Site of Special Scientific Interest and Montgomery Canal Special Area of Conservation. The highway visibility splay improvements are approximately 50 metres north of the Montgomery Canal.

Natural Resources Wales and the County Ecologist has been consulted on the application. The County Ecologist has commented that given the distance from the Montgomery Canal Special Area of Conservation (SAC) and lack of hydrological pathways to the SAC, it is considered that impact from pollution from construction works would not result in a Likely Significant Effect on the designated feature of the SAC.

Noting the nature of the proposed development, the distance to the protected sites and intervening built development with no direct connectivity, it is officer opinion that the proposal would have no impact upon the protected sites in this instance. A suitably worded advisory note in respect to pollution protection should be added to any grant of planning consent.

- *Protected Species*

The application site was an area of previously maintained grassland; maintained grassland is considered to be of low ecological value.

However, external lighting is known to negatively impact bat behaviour and there are several bat species and other mammals known from the area, including light sensitive species. In addition, the Montgomery Canal is located approximately 130 metres south of the site and therefore the County Ecologist and NRW have been consulted on the application.

Whilst the comments of NRW are noted, amended lighting plans have been submitted and subject to several suitably worded conditions being attached to any grant of planning consent, the County Ecologist is satisfied that the proposed development will not have any adverse effect on protected species.

- *Biodiversity Enhancements*

Given that biodiversity enhancement is required by Planning Policy Wales (Ed. 11), LDP Policy DM2, and Part 1 Section 6 of the Environment (Wales) Act 2016, it is considered that biodiversity enhancement will be required to be provided as part of the development. Whilst it is noted that some biodiversity enhancement measures have been proposed as part of the application, it is considered that further details are required. Therefore, details are required regarding incorporation of features to enhance biodiversity and ensure the development provides a net benefit for biodiversity. A suitably worded condition should be attached to any grant of planning consent to require a Biodiversity Enhancement Plan to be submitted to the Local Planning Authority and implemented as approved; such a condition would secure biodiversity enhancement as part of the development, and would help to achieve a biodiversity net gain within the site and its vicinity.

In light of the above, the development is considered to be fundamentally compliant with planning policy in this regard, and acceptable.

Public Rights of Way

A public Bridleway (214/188/1) is routed through the touring caravan storage site and the public footpath (214/187/1) and public bridleway (214/188/1) are within close proximity to the access improvements; there are a number of other public rights of way within the vicinity of the proposed development. Due to the public rights of way within the vicinity regard must be had for LDP Policy SP7.

The Council's Rights of Way team have been consulted on the application. Amended plans submitted demonstrate that a 3 metre corridor will be left between the existing hedge and the application site and the right of way will not be included within the security fencing. Subject to an advisory note to be attached to any grant of planning consent, the Council's Right of Way team raise no objection to the application.

In light of this, Officers are of the opinion that the proposed development is considered to be acceptable in this regard and compliant with relevant planning policy.

Built Heritage

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

It is acknowledged that the grade II listed building The Vine is located approximately 50 metres from the main application site. Having considered the proposal and the distance between the listed building and the application site and the existing screening in the form of trees and hedgerows, it is considered that the proposed development will not harm the setting of this listed building.

It is therefore considered that the proposed development would not detrimentally harm the setting of the listed buildings and is in accordance with relevant planning policy and in particular LDP Policy SP7.

In light of the above, the development is deemed to be compliant with planning policy and is acceptable.

Surface Water Flooding

Policy DM6 of the Powys LDP states development proposals must avoid unnecessary flood risk by assessing the implications of development within areas susceptible to all types of flooding; any development that unacceptably increases risk will be refused.

Powys County Council is responsible for managing local flood risk from other sources of flooding such as ordinary watercourses, surface runoff and groundwater.

It is noted that a small section of the access is located within Flood Zone 2 and 3 of the Surface Water and Small Watercourses as identified within the Flood Map for Planning. It is also noted the area affected by the flood zone is very minor.

The storage area affected by the formation of a hardcore surface (retrospective) is a permeable surface and is not within any identified flood zones. Given the proposed development and the area impacted being an area of hardstanding, it is considered the proposed development is acceptable and will not have an impact on flood risk elsewhere. In addition, the site would require SAB approval and disposal of surface water from the site would be subject to this process.

Whilst the comments raised by the Local Member, Community Council and Public representations are acknowledged, in light of the above it is considered the proposed development fundamentally complies with relevant planning policy.

Public Representations

As forementioned, 10 representations from members of the public and a representation from Powys Rambler has been received at the time of writing this report. A summary of the representations has been included above. Public comments have been taken into account in the consideration of the application.

Concerns raised regarding the impact of the proposal on neighbouring properties amenity in respect to noise, light and landscape have been addressed within the relevant sections above.

Noise nuisance can be controlled through the provisions within the Environmental Protection Act 1990. During operation of the premises, if members of the public are concerned about noise nuisance above that acceptable for the use of the premises, there would be provisions in place for them to raise concerns through the Local Authority's Environmental Health Department.

Concerns have been raised regarding ecology and biodiversity. NRW and The Council's

Ecologist have been consulted and, subject to the inclusion of a number of suitably worded conditions attached to any grant of planning consent, have not raised any objections to the application.

Concerns have been raised regarding highway safety and the site access. Local Authority Highways have been consulted and, subject to the inclusion of a number of suitably worded conditions attached to any grant of planning consent, have not raised any objections to the application.

Concerns have been raised regarding the location of the site for a touring caravan storage site. The principle of the change of use of the site to a touring caravan storage site was approved by virtue of planning consent 20/0495/FUL.

RECOMMENDATION

In light of the above assessment, it is considered that the proposed development complies with relevant planning policy and the recommendation is therefore one of conditional consent.

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 following approved plans and documents: Location Plan Showing ROW (Plan No. 4336.01 Scale: 1:1250 and uploaded 5th January 2022); Site Plan (Plan No. 4336.02 Rev C); Lighting Details Specification (uploaded 14th February 2023); Fence Details Specification (uploaded 5th January 2022).
3. External lighting of the proposed development shall be restricted to use of bollard lighting not exceeding 800mm in height and shall be fitted with LED bulbs emitting light from the warm-white colour spectrum only (<2700oK) with a peak wavelength exceeding 550nm.
4. No further development shall commence on site until a protective root zone areas (PRZ) for the hedgerows has been determined in accordance with BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations. Heras fencing or a similar barrier shall be erected around the root zones of the hedgerows strictly in accordance with the PRZ and the barriers shall remain in situ until construction works are completed. No materials, equipment, vehicles or plant shall be stored within the protected areas.
5. No further development shall commence until a detailed Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as

approved no later than three months following first beneficial use of the storage site or the completion of the development (whichever is the sooner) and maintained thereafter.

6. No additional external lighting shall be installed on the development hereby permitted unless a detailed external lighting design scheme has first been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife in accordance with the recommendations outlined within the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018). The development shall be carried out in accordance with the details once approved.
7. No further 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 93 metres distant in a south westerly direction & 59m in north easterly 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.
8. Upon formation of the visibility splays as detailed above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
9. Within 6 months from the date of this consent 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 12 metres from the edge of the adjoining carriageway.
10. Within 6 months from the date of this consent the access to be used by vehicles is to be finished in a 40mm bituminous surface course material for a distance of 12 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.
11. Within 6 months from the date of consent a radius of 10.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.
12. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 12 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.

13. No surface water drainage from the site shall be allowed to discharge onto the county highway.
14. The compound fences and gates shall be finished in forest green and maintained thereafter for as long as the development remains.
15. The hedgerow boundaries along the edge of the application site as identified by the Location Plan scaled 1:1250 shall be allowed to grow up to 3 metres in height and retained and maintained so long as the development remains in existence.
16. A 3 metre wide corridor to the western boundary of the application site following the route of public bridleway 214/188/1 shall be left unobstructed as identified on Plan No. 4336.02 Rev B.

Reasons

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. To comply with Policies DM2, DM4 and DM13 of the Powys Local Development Plan 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.
4. To comply with Policies DM2, DM4 and DM13 of the Powys Local Development Plan 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.
5. To comply with Policies DM2, DM4 and DM13 of the Powys Local Development Plan 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.
6. To comply with Policies DM2, DM4 and DM13 of the Powys Local Development Plan 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.
7. In the interests of highway safety in accordance with Policies DM13 and T1 of the

- Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
8. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
 9. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
 10. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
 11. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
 12. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
 13. In the interests of highway safety in accordance with Policies DM13 and T1 of the Powys Local Development Plan (2018) and Technical Advice Note (TAN) 18: Transport (2017).
 14. To ensure that the proposed development does not detract from the overall character of the landscape in accordance with Planning Policy Wales (2021, Policies TD1, DM4 and DM13 of the Powys Local Development Plan (2018) and Powys Local Development Plan (2011-2026) Supplementary Planning Guidance Landscape Adopted April 2019.
 15. To ensure that the proposed development does not detract from the overall character of the landscape in accordance with Planning Policy Wales (2021), Policies TD1, DM4 and DM13 of the Powys Local Development Plan (2018) and Powys Local Development Plan (2011-2026) Supplementary Planning Guidance Landscape Adopted April 2019.
 16. To comply with Policies SP7 and DM13 of the Powys Local Development Plan in relation to the public rights of way network and to meet the requirements of Planning Policy Wales (Edition 11, 2021).

Informative Notes

1. Ecology

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 2010 (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

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.

2. Drainage

The SuDS Approval Body (SAB) deem that the construction area is greater than 100m² and therefore this proposed development will require SAB approval.

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-Drainage-Approval-Body-SAB>.

Alternatively, please contact the SAB Team on 01597 826000 or via email sab@powys.gov.uk.

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 unnecessary redesign costs.

3. Pollution Prevention

Due to the proximity of the site to Montgomery Canal, all works at the site must be carried out in accordance with GPP5 and PPG6: 'Works and maintenance in or near water' and 'Working at construction and demolition sites' which are available on the following website: <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelinesppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

4. Public Rights of Way

- Powys County Council has a duty to 'assert and protect' public rights of way under the Highways Act 1980. Planning permission does not give consent to interfere or obstruct public rights of way unless agreed with the council via the planning process.
- 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...
- Landscaping & Surfacing – Please seek advice before interfering or surfacing a public right of way.
- Structures on public rights of way – under s146 Highways Act 1980 it is the legal responsibility of the landholder to provide and maintain structures such as gates and stiles on public rights of way. If you are unsure what structure to install, please contact Countryside Services.

- New fencing or boundaries – If intending to create a boundary across a public footpath or bridleway, advice must be sought. A section 147 Highways Act 1980 license is required for a structure such as a gate to be installed across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- Temporary closures – If the safety of the public cannot be guaranteed at all times during construction, consideration should be given to applying for a temporary closure of the public right of way.

The process can take a couple of months to put into place so early consultation with Countryside Services is recommended if a temporary closure is required. This is a separate procedure for which a fee applies.

- Legal Diversion – If development will directly affect a public right of way and the affected public right of way cannot be appropriately incorporated into the development, the developer will need to seek advice from the council. No development can take place on a public right of way until a legal order is confirmed by the council.

A legal public path order process typically takes at least 6 months. This is a separate procedure for which a fee applies. For more information, please discuss with Countryside Services at the earliest available opportunity.

For advice, please contact Powys County Council Countryside Services with details of the development at:

rights.of.way@powys.gov.uk
01597 827500

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Tel: 01597827371 E-mail: charis.denham@powys.gov.uk