

Pwyllgor Cynllunio, Trwyddedu Tacsis a Hawliau Tramwy

Man Cyfarfod
**Siambwr y Cyngor - Neuadd y Sir,
Llandrindod, Powys**



Dyddiad y Cyfarfod
Dydd Iau, 24 Mai 2018

Neuadd Y Sir
Llandrindod
Powys
LD1 5LG

Amser y Cyfarfod
10.00 am

I gael rhagor o wybodaeth cysylltwch â
Carol Johnson
01597826206
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21/05/18

Mae croeso i'r rhai sy'n cymryd rhan ddefnyddio'r Gymraeg. Os hoffech chi siarad Cymraeg yn y cyfarfod, gofynnwn i chi roi gwybod i ni erbyn hanner dydd ddau ddiwrnod cyn y cyfarfod

AGENDA

1.	YMDDIHEURIADAU
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I dderbyn ymddiheuriadau am absenoldeb.

2.	COFNODION Y CYFARFOD BLAENOROL
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I awdurdodi'r Cadeirydd i lofnodi cofnodion cyfarfodydd blaenorol y Pwyllgor a gynhaliwyd ar 3 a 17 Mai 2018 fel cofnodion cywir.

(I ddilyn)

Hawliau Tramwy

3.	DATGANIADAU O DDIDDORDEB
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I dderbyn datganiadau o ddiddordeb mewn perthynas â'r ddwy eitem nesaf ar yr agenda.

4.	CEISIADAU I GYWIRO'R COFRESTRAU O DIR COMIN A LAWNT Y DREF NEU'R PENTREF – DULL PENDERFYNU AR GEISIADAU.
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I ystyried sut i benderfynu ar geisiadau i gywiro'r Cofrestrau o Dir Comin a Lawnt y Dref neu'r Pentref.

(Tudalennau 1 - 26)

5.	RHOI'R GORAU I ORCHYMYN GWYRO A GWRTHWYNEBU GORCHMYNION GWYRO A DIDDYMU: PENDERFYNIAD LLYWODRAETH CYMRU.
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I ystyried adroddiad ar roi'r gorau i Orchymyn Gwyro a gwrthwynebu Gorchmynion Gwyro a Diddymu: Penderfyniad Llywodraeth Cymru.

(Tudalennau 27 - 52)

Cynllunio

6.	DATGANIADAU O DDIDDORDEB
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(a) Derbyn unrhyw ddatganiadau o ddiddordeb gan aelodau mewn perthynas ag eitemau sydd i'w hystyried ar yr agenda. (b) Derbyn ceisiadau gan aelodau i gofnodi eu haelodaeth ar gynghorau tref neu gymuned lle cafwyd trafodaeth ar faterion sydd i'w trafod gan y Pwyllgor hwn.

(c) Derbyn datganiadau gan Aelodau'r Pwyllgor y byddant yn gweithredu fel 'Cynrychiolydd Lleol' mewn perthynas â chais unigol sy'n cael ei ystyried gan y Pwyllgor.

(d) Nodi manylion aelodau'r Cyngor Sir (sydd ddim yn aelodau'r Pwyllgor) a fydd yn gweithredu fel 'Cynrychiolydd Lleol' o ran cais unigol sy'n cael ei ystyried gan y Pwyllgor.

7.	CEISIADAU CYNLLUNIO I'W HYSTYRIED GAN Y PWYLLGOR.
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I ystyried adroddiadau'r Pennaeth Adfywio a Gwasanaethau Rheoleiddio ac i wneud unrhyw benderfyniadau arnynt.

(Tudalennau 53 - 54)

7.1. Diweddariadau

Bydd unrhyw ddiweddariadau'n cael eu hychwanegu at yr Agenda fel Pecyn Atodol lle'n bosibl, cyn y cyfarfod.

(I ddilyn)

**7.2. P/2017/1437 Tir yn Nol y Garreg, Llanwrthwl, Llandrindod, Powys
LD1 6NW**

(Tudalennau 55 - 88)

7.3. **P/2017/0549 Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX**
(Tudalennau 89 - 126)

7.4. **P/2017/1096 Tir ar Fferm Gornal, Llandysilio, Powys SY22 6RJ**
(Tudalennau 127 - 168)

8.	PENDERFYNIADAU'R PENNAETH ADFYWIO A GWASANAETHAU RHEOLEIDDIO AR GEISIADAU DIRPRWYEDIG.
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I dderbyn er gwybodaeth, rhestr o benderfyniadau a wnaed gan y Pennaeth Adfywio a Gwasanaethau Rheoleiddio dan bwerau dirprwyedig.
(Tudalennau 169 - 178)

9.	PENDERFYNIAD AR YR APÊL
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I dderbyn penderfyniad yr Arolygydd Cynllunio ar apêl.
(Tudalennau 179 - 184)

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

24th May 2018**REPORT BY: HEAD OF LEISURE AND RECREATION****SUBJECT: Applications to correct the Registers of Common Land and Town or Village Greens – method of determining applications**

REPORT FOR: DECISION

Applications to correct the Registers of Common Land and Town or Village Greens, sections 19, 22 and Schedule 2 of the Commons Act 2006 – method of determining applications**Background:**

1. In May 2017, the Welsh Government brought into force provisions that allow for applications to be made to correct the Registers of Common Land and Town or Village Greens. The applications are made under the provisions of sections 19, 22 and Schedule 2 of the Commons Act 2006.
2. 'Corrective applications' can be made where there are alleged errors or omissions in the Registers. Applications must be supported by evidence and determination of cases is a quasi-judicial process. In some instances, applications or proposals must be referred to the Planning Inspectorate for determination; other cases are determined by the Council.
3. On 20th June 2017, the Cabinet formally delegated the responsibility for determining these cases to the Planning, Taxi Licensing and Rights of Way Committee, if they are not referred to the Planning Inspectorate.
4. The Committee is asked to consider how the determination procedure should be carried out, when cases are presented to them.

Legislative requirements:

5. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 set out the steps to be taken when receiving, publicising and determining these applications (see Appendix A).
6. Under the Regulations, the Commons Registration Authority must refer certain applications and proposals to the Planning Inspectorate for determination. These are those made under:
 - a. Section 19(4) of the Commons Act 2006: These relate to correction of a variety of errors. Cases must be referred to the Planning Inspectorate only

if the effect of the application or proposal would be to add land to, or remove it from the Register, or would affect the quantification of rights of common in the Register;

- b. Paragraphs 2 to 9 of Schedule 2 to the Commons Act 2006: These relate to land that is either wrongly registered as common land or Town or Village Green, or that has been omitted from the Registers in error. The effect of all of these applications would be to add land to, or remove it from the Registers.
7. However, these cases can only be referred to the Planning Inspectorate if:
 - a. The Commons Registration Authority has an interest in the outcome of the application or proposal such that there is unlikely to be confidence in the authority's ability to impartially determine it; OR
 - b. A person with a legal interest in the land affected by the application or proposal has made an objection in respect of it.
 8. In the context of these applications, a legal interest does not include members of the public with access rights over the affected land, by virtue of the Countryside and Rights of Way Act 2000.
 9. As such, the Council will be required to determine both opposed and unopposed cases. A flowchart can be found at Appendix B; this shows which cases must be referred to the Planning Inspectorate, and which must be determined by the Council, as the Commons Registration Authority.
 10. When determining applications and proposals, the Council:
 - a. May not refuse it without first offering the applicant an opportunity to make oral representations;
 - b. May not grant or refuse it without first offering opportunity to make oral representations to any third party, if the grant or refusal of the application would affect their civil rights.
 11. The Council is not required to allow opportunity for cross-examination of oral evidence for these cases; it must simply allow for it to be presented and taken into consideration. The Council is entitled to hold a public inquiry in relation to a 'Corrective' application, but is not required to do so.
 12. The Committee is asked to consider when cases might be determined via a public inquiry, and when they might be determined at a Committee meeting based on documents, an officer report and oral evidence. Where a case is determined at Committee meeting, the Committee is asked to consider how opportunity can be provided to present oral representations.

Options:

13. The evidence accompanying the majority of 'Corrective' applications and proposals will be historic documents, including evidence from Tithe Maps, Inclosure Awards, Finance Act 1910 records, photographs, conveyances, deeds and maps. The

content of these records is a matter of fact; any consideration will need to be focussed around interpreting them, in relation to the legal criteria.

14. For some applications and proposals, witnesses may provide evidence of use or non-use of land and this may be key to meeting the legal criteria. To interpret this type of evidence, cross-examination via a public inquiry can be of benefit, especially if the evidence is contested. If witness evidence is not contested, then it may be appropriate to accept it without cross-examination.
15. Applications or proposals may not be opposed at all, but the Committee must still assess the evidence against the legal criteria. Unopposed cases may be refused, if it is considered that the legal criteria has not been met.
16. Given the above, the Committee could decide to do one of the following:
 - a. Decide all cases at a Committee meeting, without a public inquiry. That could place the Council at risk of legal challenge, if witness evidence is key to meeting the legal criteria and there is any level of dispute about the content of the evidence. Following this course of action would still require that opportunity be provided for presentation of oral representations.
 - b. Hold a public inquiry for all applications. That would ensure that there is opportunity for oral representations to be presented and for cross-examination, but would be very resource intensive. This type of determination may not be necessary for cases where no-one wishes to exercise a right to speak, or where cross-examination of witnesses is not needed.
 - c. Refer some cases to a public inquiry, where there are witnesses whose evidence is disputed and that evidence is key to meeting the legal criteria. Where that is not the case, applications could be determined at a Committee meeting, without a public inquiry, based on the documents provided and oral representations.
17. When deciding cases without a public inquiry, the Committee will need to decide how to give opportunity for oral representations to be made. The options are to:
 - a. Hold meeting(s) with the applicant and anyone else who wishes to give oral representations, prior to the date of the Committee meeting when the application or proposal is to be formally determined; or
 - b. To allow opportunity for oral representations to be made at the same time as the Committee meet to determine the case.
18. Holding meeting(s) prior to formal determination could be quite complex, as it may be necessary to hold separate meetings with each person who wishes to speak. The Committee would need a background knowledge of the case, to be able to understand the context of any evidence presented. They would need to document information received at the meeting(s), to be able to make a formal decision about the case at a later date.
19. Alternatively, a process similar to the current protocol for determining planning applications could be followed. An introduction to the case could be presented to

the Committee, then the applicant and other interested parties could be invited to speak and make representations. This would be followed by a presentation of the full officer report, Committee debate and a formal decision. That approach is established, requires only one meeting date and is fully public, which allows for transparency in decision making.

Proposals:

20. These proposals relate only to cases that are not referred to the Planning Inspectorate for determination.

21. It is proposed that the following cases be determined by the Committee, without a public inquiry:

- a. Unopposed cases;
- b. Opposed cases based primarily on documentary evidence, where witness evidence is not key to meeting the legal criteria;
- c. Opposed cases where the content of witness evidence is key to meeting the legal criteria, but no-one wishes to present oral evidence. Witnesses cannot be compelled to attend a public inquiry to present evidence in person; if they are not willing to do so, a decision based on written statements may be the only option.

22. It is proposed that cases be referred to a public inquiry if they are opposed and involve witness evidence that is key to meeting the legal criteria, where cross-examination would be of benefit and witnesses are willing to present evidence in person.

23. When cases are determined without a public inquiry, it is proposed that a determination process similar to the planning protocol be adopted. Those wishing to make oral representations would be invited to do so at the meeting when the Committee determines the case. That would allow the Committee to be presented with, and consider all of the documentary and oral evidence at the same time; it would place all of the evidence in the public domain for transparency.

24. This approach would allow the Council to meet its legal responsibilities to determine these cases, in a way that is transparent to the public and that uses procedures and resources that are appropriate to the nature of the evidence to be considered.

RECOMMENDATION:

That the proposals detailed under points 20, 21(a) to (c), 22 and 23 above be adopted to determine applications and proposals made under sections 19 and 22 and Schedule 2 of the Commons Act 2006, where they are not referred to the Planning Inspectorate.

Appendices:

Appendix A: The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration)(Wales) Regulations 2017

Appendix B: Flowchart, Determination of 'Corrective' applications and proposals

WELSH STATUTORY INSTRUMENTS

2017 No. 566 (W. 135)

COMMONS, WALES

**The Commons Act 2006 (Correction, Non-Registration
or Mistaken Registration) (Wales) Regulations 2017**

<i>Made</i>	- - - -	<i>9 April 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 April 2017</i>
<i>Coming into force</i>	- -	<i>5 May 2017</i>

The Welsh Ministers being the appropriate national authority make the following Regulations in exercise of the powers conferred by sections 3(5), 19(6), 24(1) to (2A), 24(3), 24(6) to (8) and 59(1) of, and paragraphs 2 to 10 of Schedule 2 to, the Commons Act 2006⁽¹⁾.

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of these Regulations is the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017.

(2) These Regulations come into force on 5 May 2017.

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the 1965 Act” (“*Deddf 1965*”) means the Commons Registration Act 1965⁽²⁾;

“the 1966 Regulations” (“*Rheoliadau 1966*”) means the Commons Registration (General) Regulations 1966⁽³⁾;

(1) 2006, c. 26; section 61(1) was amended by Schedule 7, para. 9 of the Planning (Wales) Act 2015, c. 4, and defines “appropriate national authority” as the Welsh Ministers in relation to Wales; and “regulations” as regulations made by the appropriate national authority.

(2) 1965 c. 64.

(3) S.I. 1966/1471.

“the 2006 Act” (“*Deddf 2006*”) means the Commons Act 2006;

“application” (“*cais*”) means an application to a registration authority under section 19 of, or Schedule 2 to, the 2006 Act or under these Regulations to amend its register;

“appointed person” (“*person penodedig*”) means a person or persons appointed in accordance with regulation 4;

“commons council” (“*cyngor tiroedd comin*”) means a body established by Order under section 26 of the 2006 Act;

“the determining authority” (“*yr awdurdod sy’n dyfarnu*”) means—

- (a) the appointed person in relation to an application or proposal which has been referred to such person pursuant to regulation 15(2); or
- (b) in relation to any other application or proposal, the registration authority which is required to determine the application or proposal in accordance with regulation 15(1);

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(4);

“inspector” (“*arolygydd*”), except in regulation 4, means a person appointed by the determining authority to conduct a public inquiry, hearing or site inspection in relation to an application or proposal;

“local authority” (“*awdurdod lleol*”) means—

- (a) a county council;
- (b) a county borough council;
- (c) a community council; or
- (d) a National Park authority;

“notice of application” (“*hysbysiad o gais*”) means a notice containing the details specified in regulation 12(1);

“proposal” (“*cynnig*”) means a proposal by a registration authority to amend a register on its own initiative pursuant to—

- (a) section 19 of the 2006 Act; or
- (b) Schedule 2 to the 2006 Act;

“referring authority” (“*yr awdurdod sy’n cyfeirio*”) means, in relation to an application or proposal which has been referred to an appointed person pursuant to regulation 15(2), the registration authority which referred it;

“register” (“*cofrestr*”) means a register of common land or a register of town or village greens, and “registered” (“*cofrestredig*”) and “registration” (“*cofrestriad*”) are to be interpreted accordingly;

“registered land” (“*tir wedi ei gofrestru*”) means land registered as common land or as a town or village green;

“register unit” (“*uned gofrestr*”) means, in respect of any land registered in a register, the sum of that land’s registration in the land section and the rights section of the register and, if the registration was made under regulations under the 1965 Act, the ownership section of that register;

“registration authority” (“*awdurdod cofrestru*”) means a commons registration authority.

- (2) These Regulations apply in relation to any application or proposal.

(4) 2000 c. 7. The definition of “electronic communication” was amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 158.

Amendment to register

3.—(1) An amendment made to a register pursuant to the determination of an application or proposal must be made in the appropriate section of the register unit relating to that land.

(2) A registration authority must, when amending the register (including the registration or removal of registered land and an amendment to a registration), follow as closely as possible the format of the register, with such variations and adaptations as the circumstances may require.

(3) Following the determination of an application or proposal the registration authority must stamp every sheet forming part of the determination.

Appointment of persons to discharge functions of a registration authority

4.—(1) The Welsh Ministers may appoint—

- (a) persons (“an appointed person”) as eligible to carry out the administration of applications made to, or proposals made by, a registration authority, which are referred by the registration authority to an appointed person in accordance with these Regulations; and
- (b) any person who is employed or otherwise engaged as one of the inspectors of the appointed person, or is employed on its staff, as eligible to—
 - (i) determine an application or proposal which a registration authority has referred to the appointed person in accordance with these Regulations; and
 - (ii) carry out any steps necessary for or incidental to that purpose (for example, conducting a public inquiry, a hearing or a site visit).

(2) An appointment under paragraph (1) must be in writing.

(3) The Welsh Ministers may at any time, by giving notice in writing to an appointed person—

- (a) revoke the appointment generally;
- (b) revoke the appointment insofar as it relates to a particular application or proposal which has not been determined by the appointed person before that time; or
- (c) revoke the authority of the appointed person to exercise a particular function in relation to an application or proposal.

(4) A notice under paragraph (3) will not affect the validity of anything done by the appointed person before the notice is given.

PART 2

Applications and proposals to amend the Registers

Making an application

5.—(1) An application must—

- (a) be made in writing on a form provided by the Welsh Ministers for an application of that type;
- (b) include the information specified in the form; and
- (c) be signed by, or by a representative of, every applicant who is an individual, and by the secretary or some other duly authorised officer of every applicant which is a body corporate or an unincorporated association.

(2) Schedule 1 contains provisions which apply in relation to the specific types of applications listed as to—

- (a) the circumstances in which an application is permitted to be made; and
 - (b) the matters which must be included in or which, subject to paragraph (3), must accompany the application.
- (3) An applicant is not required to include with an application a copy of any document specified in Schedule 1 if—
- (a) the registration authority issued the document, or was a party to the document; or
 - (b) the document has been deposited with the registration authority in accordance with any enactment.

Application Fees

6.—(1) An application must be accompanied by such fee (if any) specified for an application of that type by the registration authority to which it is submitted.

(2) The fee specified by a registration authority as payable in relation to an application must be published on its website.

(3) Where a fee first specified by a registration authority under this regulation is subsequently revised by that authority, and in the case of any further revision, such revised fee must be published on the authority's website not less than 14 days before such fee is to take effect.

(4) No fee may be specified for an application made under, and for the purposes of, a provision listed in Schedule 2 to these Regulations.

(5) Where regulation 15 requires an appointed person to determine an application, the applicant must send to the appointed person the further fee (if any) specified for an application of that type by the appointed person.

(6) A fee may be payable at such times and in such instalments as the registration authority and the appointed person may specify.

(7) Any fee charged by the registration authority or the appointed person must be reasonable for the work performed or to be performed.

(8) Neither a registration authority nor an appointed person need take any steps to deal with an application until the applicant has paid to it the specified fee.

Making a proposal

7.—(1) Before taking any other steps under this Part in relation to a proposal, a registration authority must prepare a statement in writing describing the proposal and explaining the justification for it.

(2) A registration authority may not proceed with a proposal under Schedule 2 to the 2006 Act unless it has complied with paragraph (1), and paragraphs (2) to (5) of regulation 11, on or before 4 May 2032.

Land descriptions

8.—(1) This regulation applies in relation to any requirement to describe land for the purposes of an application or proposal, except where another provision of these Regulations specifies the manner in which land is to be described in a particular case.

(2) The land must be described, except where paragraph (3) applies, by an Ordnance Map accompanying the application or proposal and referred to in it.

(3) Where the land is registered land, and the application relates to the whole of the land in a register unit, the land must be described by a reference to the number of that register unit.

(4) Where part of the land is registered land, that part of the land must be described by a reference to the number of any register unit which includes that part.

(5) In paragraphs (3) and (4) the references to “registered land” include land provisionally registered under the 1965 Act, but which registration was not subsequently confirmed, in which case the requirement under those paragraphs is to be met by describing such land by reference to the number under which it was provisionally registered.

(6) Any Ordnance Map accompanying an application or proposal must show the land to be described by means of distinctive colouring within an accurately identified boundary and must be on a scale of not less than 1:2,500 if available, and in any event not less than 1:10,000.

Management of application

9.—(1) As soon as practicable after receiving an application and (if any) the specified fee, the registration authority must send an acknowledgement of receipt to the applicant, which must include —

- (a) the reference number allocated to the application; and
- (b) a postal address and an email address to which written communications to the registration authority may be sent.

(2) The registration authority may direct the applicant to provide any further information or documents necessary to enable the application to be determined.

(3) The registration authority may specify a time for complying with any direction given under this regulation.

(4) If the applicant fails to comply with any direction given under this regulation or, where applicable, fails to comply within the time specified, the registration authority may treat the application as abandoned.

Registration authority’s duty to publicise application

10.—(1) As soon as reasonably practicable after receiving an application complying with regulations 5 (making an application) and 6 (application fees), the registration authority must—

- (a) publish a notice of the application on its website;
- (b) serve a notice of the application by email on anyone who has previously asked to be informed of all applications, and who has given the registration authority an email address for that purpose; and
- (c) subject to paragraphs (2) and (3), serve a notice of the application on each of the persons specified in Schedule 3 in relation to an application of that kind.

(2) In relation to any application, the registration authority may decide that paragraph 1(c) of Schedule 3 does not apply in respect of the requirement to serve a notice on the persons registered as owners of rights of common in gross, if it considers that those persons are so numerous that it would not be reasonably practicable to serve notice of the application on all of them.

(3) A requirement pursuant to paragraph 2 of Schedule 3 to serve a notice on an owner of land does not apply if it is not reasonably practicable to identify that person.

(4) The requirements in paragraph (5) apply in relation to—

- (a) an application under section 19 of the 2006 Act, for the removal of registered land from, or for the addition of land to, a register; or
- (b) an application under Schedule 2 to the 2006 Act.

(5) As soon as reasonably practicable after receiving such an application, the registration authority must—

- (a) post a notice of the application for not less than 42 days at or near at least one obvious place of entry to (or, if there are no such places, at or near at least one conspicuous place on the boundary of) the land to which the application relates;
- (b) serve a notice of the application on every other local authority for that area; and
- (c) serve a notice of the application on any commons council established for land which includes the land to which the application relates.

(6) Where a notice posted under paragraph (5)(a) is, without any fault or intention of the registration authority, removed, obscured or defaced before the period of 42 days referred to in that paragraph has elapsed, the authority is to be treated as having complied with the requirements of that paragraph.

Registration authority's duty to publicise proposal

11.—(1) A registration authority which has prepared a statement of a proposal in accordance with regulation 7(1) must, before taking any further steps in relation to the proposal, comply with paragraphs (2) to (5).

(2) The registration authority must publish a notice of the proposal on its website.

(3) If the proposal is to register or deregister any land as common land or as a town or village green, the registration authority must post a notice of the proposal for not less than 42 days at or near at least one obvious place of entry to (or, if there are no such places, at or near at least one conspicuous place on the boundary of) the land to which the proposal relates.

(4) The registration authority must serve a notice of the proposal on the following persons—

- (a) subject to paragraph (7), the owner of any land comprising the whole or any part of the register unit to which the proposal relates;
- (b) any person who has made a declaration, duly recorded in the register, of entitlement to a right of common over any land comprising the whole or any part of the register unit to which the proposal relates;
- (c) any commons council established for land which includes the land to which the proposal relates;
- (d) subject to paragraph (8), any owner of a right of common in gross which is exercisable over any land comprising the whole or any part of the register unit to which the proposal relates; and
- (e) every other local authority for that area.

(5) The registration authority must also serve a notice of the proposal by email on any other person who has previously asked to be informed of all proposals, and who has given the registration authority an email address for that purpose.

(6) Where a notice posted under paragraph (3) is, without any fault or intention of the registration authority, removed, obscured or defaced before the period of 42 days referred to in that paragraph has elapsed, the authority is to be treated as having complied with the requirements of that paragraph.

(7) The requirement in paragraph (4)(a) does not apply if it is not reasonably practicable to identify that person.

(8) The registration authority may, in relation to any proposal, decide that paragraph (4)(d) is not to apply, if it considers that the persons registered as owners of rights of common in gross are so numerous that it would not be reasonably practicable for it to serve notice of the proposal on all of them.

Contents of notice of application or proposal

12.—(1) A notice of application or proposal which is required to be published, posted or served under regulation 10 (registration authority’s duty to publicise application) or 11 (registration authority’s duty to publicise proposal) must contain the following details—

- (a) a reference to “the Commons Act 2006”, and the provision of that Act under (or pursuant to which) the application or proposal is made;
- (b) the name of the applicant (in the case of an application);
- (c) the name of the registration authority;
- (d) the name and location of the land to which the application or proposal relates;
- (e) a summary of the effect of the application (if granted) or proposal (if a decision is made to give effect to it);
- (f) both a postal address and an email address for the registration authority to which any representations concerning the application or proposal may be sent;
- (g) a statement that any representations will not be treated as confidential, but will be dealt with in accordance with regulation 14, and that where the application or proposal is referred to an appointed person for determination in accordance with regulation 15, any representations will be sent to the appointed person;
- (h) the date on which the period for making representations expires, which must not be less than 42 days after the date of the publishing, posting or service of the notice; and
- (i) the address of the registration authority at which documents relating to the application or proposal are available for inspection.

Inspection of copies of documents

13.—(1) The registration authority must ensure that copies of the following documents are available for inspection at the address specified for that purpose in any notice of the application or proposal—

- (a) in the case of an application, copies of the application and any accompanying documents; or
- (b) in the case of a proposal, copies of—
 - (i) the statement prepared in accordance with regulation 7(1); and
 - (ii) any documents in the possession of the registration authority which are relevant to the proposal.

(2) The times and dates at which the documents referred to in paragraph (1) are available for inspection must include all normal office hours during a period of not less than 42 days ending with the expiry of the period for making representations.

Representations

14.—(1) Any person may, by the date specified in a notice of an application or proposal, make written representations to the registration authority about the application or proposal.

- (2) Representations under paragraph (1)—
 - (a) must state the name and postal address of the person making them, and the nature of that person’s interest (if any) in any land affected by the application or proposal;
 - (b) may include an email address of the person making them;
 - (c) must be signed by the person making them; and

- (d) must state the grounds on which they are made.
- (3) As soon as reasonably practicable after the expiry of the period allowed for making representations in respect of an application, the registration authority must—
 - (a) notify the applicant that no representations have been made; or
 - (b) serve on the applicant a copy of all the representations it has received.
- (4) The applicant may reply in writing to the registration authority within 21 calendar days of being served with a copy of representations (or within such longer period as the registration authority may specify at the time it serves the copy of representations), setting out the applicant's response to the representations.
- (5) A reply under paragraph (4) must be signed by the person making it.
- (6) Where the applicant makes a reply under paragraph (4), the registration authority must send a copy of it to every person who made a representation under paragraph (1).

Responsibility for determining applications and proposals

- 15.—**(1) Subject to paragraph (2)—
- (a) an application made in accordance with these Regulations must be determined by the registration authority with responsibility for the register in which the land to which the proposal relates is recorded, or a registration authority who has the power to determine applications on such a registration authority's behalf; and
 - (b) a registration authority which has made a proposal in accordance with these Regulations must determine whether or not to amend its registers in accordance with the proposal.
- (2) In the cases specified in paragraph (3), a registration authority must refer to the appointed person for determination by it—
- (a) any application made in accordance with these Regulations; and
 - (b) any proposal made by the registration authority in accordance with these Regulations.
- (3) The cases referred to in paragraph (2) above are where the registration authority has an interest in the outcome of the application or proposal such that there is unlikely to be confidence in the authority's ability impartially to determine it, or where a person having a legal interest in the land the subject of an application or proposal (or someone acting on behalf of such a person) has made (and not subsequently withdrawn) representations amounting to an objection in respect of the application or proposal, and—
- (a) the application or proposal is made under section 19(4) of the 2006 Act, and seeks—
 - (i) to add land to, or to remove land from, a register; or
 - (ii) to correct an error as to the quantification of rights of common in a register; or
 - (b) the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.
- (4) Where the registration authority refers an application or proposal to an appointed person for determination—
- (a) the registration authority must inform the applicant that the application has been referred to an authorised person for determination;
 - (b) the registration authority must send to the appointed person all material in its possession which is relevant to the determination of the application or proposal;
 - (c) in the case of an application, the appointed person may direct the applicant to provide any further information or documents necessary to enable the application to be determined; and

- (d) the appointed person may direct the registration authority to provide any further information or documents necessary to enable the application or proposal to be determined.
- (5) The appointed person may specify a time for complying with any direction given under this regulation.
- (6) If the applicant fails to comply with any direction given under this regulation or, where applicable, fails to comply within the time specified, the appointed person may treat the application as abandoned.

Method of determining applications and proposals

16.—(1) The determining authority must, in determining any application or proposal, take into account—

- (a) the contents of the application or proposal, and any material accompanying it;
- (b) any material provided by the registration authority under regulation 15(4)(b);
- (c) in the case of an application, any further information or evidence provided by the applicant in accordance with a direction under regulation 9(2) or 15(4)(c);
- (d) in the case of a proposal, any further information or evidence provided by the registration authority in accordance with a direction under regulation 15(4)(d);
- (e) any written representations made by any person in accordance with regulation 14, or in accordance with an invitation under paragraph (4);
- (f) any oral representations made by any person in accordance with paragraph (7);
- (g) the findings made at a site inspection, if any; and
- (h) where a public inquiry or a hearing has been held by an inspector—
 - (i) the evidence presented at the inquiry or hearing (if the determination is being made by the inspector who heard the evidence); or
 - (ii) the report and recommendation of the inspector (if the determination is not being made by the inspector).

(2) The determining authority may decide that a public inquiry is to be held in relation to any application or proposal.

(3) Where an appointed person is the determining authority, it may decide that a hearing in accordance with regulation 21 is to be held in relation to any application or proposal.

(4) The determining authority may, if it thinks it necessary to enable an application or proposal to be determined, invite further written representations about any specified matter from—

- (a) the applicant, in the case of an application;
- (b) the registration authority, in the case of a proposal;
- (c) a person who has made representations in accordance with regulation 14; or
- (d) any other person,

and may specify the time within which any such further representations must be made.

(5) Representations made pursuant to an invitation under paragraph (4) must be signed by the person making them.

(6) Paragraph (7) applies in relation to any application or proposal which the determining authority decides to determine without holding a public inquiry or, where an appointed person is the determining authority, a hearing in accordance with regulation 21.

(7) The determining authority—

- (a) may not refuse an application without first offering the applicant an opportunity to make oral representations; and
- (b) may not grant or refuse an application or proposal without first offering any person (other than the applicant) for whom the grant or refusal (as the case may be) would represent a determination of that person's civil rights an opportunity to make oral representations.

Notice of a public inquiry or hearing

17.—(1) If a public inquiry or a hearing is to be held in relation to an application or proposal, the determining authority must ensure that a notice of the inquiry or hearing is—

- (a) published on an appropriate website;
- (b) served on—
 - (i) the referring authority, if an appointed person is the determining authority;
 - (ii) in the case of an application, the applicant;
 - (iii) any person who has made representations in accordance with regulation 14; and
 - (iv) any other person whom the determining authority invited under regulation 16(4)(d) to make written representations; and
- (c) as the determining authority considers necessary, publicised by such other means or served on such other persons as may be appropriate to bring the inquiry to the attention of persons likely to be affected by the application or proposal.

Public inquiries: general provisions

18.—(1) Where it has been decided that a public inquiry is to be held in relation to an application or proposal, the determining authority must appoint an inspector—

- (a) to hold the inquiry; and
- (b) if the inspector is not also to determine the application, to provide a report and recommendation to the determining authority.

(2) Subject to the following provisions of this regulation, and to regulation 20, the procedure at the inquiry is to be determined by the inspector, having regard to all the circumstances of the case.

(3) Where the inspector does not propose to hold a pre-inquiry meeting, the inspector may give such directions in preparation for the inquiry as might have been given at such a meeting, and giving directions under this paragraph does not preclude the subsequent holding of a pre-inquiry meeting, if the inspector considers it desirable, nor does it preclude the inspector giving further directions at such a meeting.

(4) Any person interested in the subject-matter of an inquiry may appear at the inquiry in person or by a representative.

(5) The inspector may, at any stage of an inquiry, prevent any person from—

- (a) giving evidence;
- (b) cross-examining a person giving evidence; or
- (c) presenting any matter,

if the inspector considers it not to be relevant or to be repetitious.

(6) If a person is behaving in a disruptive manner the inspector may—

- (a) require a person to leave an inquiry;
- (b) prevent a person from participating in the inquiry by giving evidence, cross-examining a person giving evidence, or presenting any matter; or

- (c) permit a person to remain at, or participate in, the inquiry only on specified conditions.
- (7) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.
- (8) The inspector may take into account any written representations or evidence or any other document received by the inspector from any person before or during an inquiry, provided that the inspector discloses it at the inquiry.
- (9) The inspector may, if it is considered reasonable in the circumstances—
 - (a) adjourn an inquiry to another date;
 - (b) adjourn an inquiry to the site of any land affected by the application or proposal, and conduct part of the inquiry at that site in conjunction with a site inspection.

Pre-inquiry meeting

19.—(1) Where it has been decided to hold a public inquiry, the inspector may, if the inspector considers it desirable, hold a pre-inquiry meeting to determine the matters to be addressed and the procedure to be followed at the inquiry.

(2) If the inspector decides to hold a pre-inquiry meeting, not less than 14 calendar days notice in writing must be given to—

- (a) the applicant, in the case of an application;
- (b) the registration authority;
- (c) any person who has made written representations about the application or proposal; and
- (d) any other person whose presence at the pre-inquiry meeting the inspector considers desirable.

(3) Paragraphs (2) and (4) to (7) of regulation 18 (so far as relevant) apply to pre-inquiry meetings as they apply to inquiries.

(4) The inspector may, at a pre-inquiry meeting—

- (a) give directions about things to be done in preparation for the inquiry to—
 - (i) the applicant, in the case of an application;
 - (ii) the registration authority; and
 - (iii) any other person wishing to appear at the inquiry; and
- (b) specify a date or dates by which any such directions must be complied with.

(5) In particular, the inspector may direct any person wishing to give evidence to serve a written statement of that evidence on—

- (a) the inspector; and
- (b) such other persons as the inspector may specify.

Procedure at inquiries

20.—(1) At the start of an inquiry, the inspector must—

- (a) identify the main issues to be considered at the inquiry;
- (b) identify any matters on which further explanation from any person appearing at the inquiry is required; and
- (c) explain the procedure to be followed at the inquiry.

(2) Paragraph (1)(a) does not preclude other issues from being considered at the inquiry, or (subject to the inspector's powers under regulation 18(5)) raised by persons appearing at the inquiry.

(3) If a person giving evidence at the inquiry has provided a written statement of evidence in accordance with a direction under regulation 18(3) or 19(5), the inspector may direct that—

- (a) the written statement is to be treated as the person's evidence, or as part of the person's evidence; and
- (b) other parties at the inquiry may cross-examine the person on the written statement.

Hearings

21.—(1) Where the appointed person decides that a hearing is to be held in relation to an application or proposal for which it is the determining authority, it must appoint an inspector to hold the hearing.

(2) A hearing is to take the form of a discussion led by the inspector.

(3) Paragraphs (2) and (4) to (9) of regulation 18 apply to a hearing as they apply to a public inquiry.

(4) Subject to regulation 18(5) to (7)—

- (a) in the case of an application, the applicant is entitled to give, or to call another person to give, oral evidence; and
- (b) any other person may give oral evidence with the permission of the inspector.

(5) Cross-examination is not permitted unless the inspector decides that it is necessary to ensure a sufficient examination of the issues.

Site inspections

22.—(1) Where an inspector is appointed to hold a public inquiry, the inspector must (unless any permission necessary to do so is refused) inspect the land affected by the application or proposal before determining the application or proposal or producing a report to the determining authority.

(2) In any other case, before an application or proposal is determined, the determining authority may conduct an inspection of the land affected by the application or proposal.

(3) Before a site inspection is made under paragraph (1) or (2) in relation to an application, the inspector or determining authority must ask the applicant whether the applicant wishes to be present or represented.

(4) If the applicant expresses a wish to be present or be represented, the inspector or determining authority must give the applicant reasonable notice of the date and time of the inspection, and give the applicant or their representative the opportunity to be present.

(5) The inspection does not need to be postponed if the applicant or their representative is not present at the appointed time.

Changes of procedure

23.—(1) This regulation applies where notice has been given under regulation 17 that a public inquiry or, where the appointed person is the determining authority, a hearing is to be held in relation to the application or proposal.

(2) Where a registration authority is the determining authority and considers it reasonable in the circumstances it may, subject to paragraph (3), decide at any time before the start of a public inquiry to cancel the inquiry and determine the application without holding an inquiry.

(3) The registration authority must consult the applicant before deciding to cancel a public inquiry in relation to an application.

(4) Where an appointed person is the determining authority and considers it reasonable in the circumstances it may, subject to paragraph (5), decide at any time before the start of a public inquiry or hearing—

- (a) to cancel the inquiry or hearing and determine the application without holding an inquiry or hearing; or
 - (b) to hold a hearing instead of an inquiry, or vice versa.
- (5) The appointed person must consult—
- (a) the applicant, before deciding to change the procedure for determining an application; or
 - (b) the referring authority, before deciding to change the procedure for determining a proposal.

Action to be taken following determination of application or proposal

24.—(1) Where an application is granted or a decision is made to give effect to a proposal, in whole or in part, the registration authority must give effect to the determination in the appropriate register by addition, deletion, correction or otherwise as may be appropriate.

- (2) The registration authority must give written notice of the determination to—
- (a) the applicant, if the determination was made upon an application;
 - (b) every person who made representations concerning the application or proposal; and
 - (c) every person (other than persons mentioned in sub-paragraph (b)) who gave evidence at a public inquiry or hearing, where the name and contact details of the person are known.
- (3) Such notice must include—
- (a) reasons for the decision; and
 - (b) details of any changes made to the register to give effect to the decision.

(4) The registration authority must publish the decision in relation to any application or proposal, and the reasons for it, on its website.

Award of costs in relation to certain applications

25.—(1) This regulation applies in relation to an application under Schedule 2 to the 2006 Act where—

- (a) the application is referred to an appointed person; and
- (b) a public inquiry is held in relation to the application.

(2) The inspector conducting the public inquiry may make an order for costs against any of the persons specified in paragraph (3) who, in the opinion of the inspector, has acted unreasonably, requiring payment to such person mentioned in paragraph (4) as may be specified in the order in respect of costs reasonably incurred by the latter person pursuant to the unreasonable action of the former person.

- (3) The persons who may be ordered to pay costs are—
- (a) the applicant;
 - (b) any person taking part in the public inquiry; or
 - (c) any registration authority taking part in the public inquiry.
- (4) The persons in whose favour an order for costs may be made are—
- (a) the applicant;
 - (b) any person taking part in the public inquiry; or
 - (c) any registration authority taking part in the public inquiry.

PART 3

Supplemental

Electronic communications

26.—(1) Any requirement by or under these Regulations for a person to send a document to another person may be met by means of an electronic communication if—

- (a) it results in the information contained in that document being available to the other person in a form similar to the form in which it would appear in a document sent in printed form; and
- (b) except where the other person is the determining authority, the other person consents to the notice or document being sent by those means.

(2) A person who has provided an email address is to be treated as consenting to a document being sent by email.

(3) A written representation pursuant to regulation 14 or 16 or reply under regulation 14 may be sent by means of an electronic communication.

(4) Any requirement in these Regulations for a document to be signed does not apply in the case of a document sent by means of an electronic communication.

(5) Paragraphs (1) and (4) do not apply in relation to the appointment of persons to discharge functions of a registration authority and any subsequent revocation of such appointment (regulation 4) or the submission of an application form to a registration authority (regulation 5).

(6) For the purposes of this paragraph “document” includes a notice, document, information or evidence.

Service of documents

27. Any requirement in these Regulations to serve a document on another person is satisfied, if that person cannot be found, by—

- (a) leaving the document at that person’s last known address; or
- (b) sending the document by registered post to that address.

Inspection and copying of documents

28.—(1) Any request to inspect or make copies of any document referred to in section 20(1) (b) or (c) of the 2006 Act must be treated by the registration authority as a request for information under the relevant legislation.

(2) Where the relevant legislation does not require the information contained in the document to be communicated or made available, the registration authority may refuse to permit inspection, or copies to be taken, of that document.

(3) In this regulation and in regulation 29, “relevant legislation” means the Environmental Information Regulations 2004⁽⁵⁾ or the Freedom of Information Act 2000⁽⁶⁾.

Official copies

29.—(1) Any person may request a registration authority to provide an official copy of, or of any part of, any register or document referred to in section 21(1) of the 2006 Act.

⁽⁵⁾ S.I. 2004/3391.

⁽⁶⁾ 2000 c. 36.

(2) A registration authority may charge a fee for providing an official copy, not exceeding its costs in providing official copies.

(3) Subject to paragraph (4), upon receiving a request for an official copy, and payment of any fee, a registration authority must provide an extract from the register or a copy of the document, certified on behalf of the registration authority as a true extract or copy as at the date of issue.

(4) A registration authority may refuse a request to provide an official copy of, or of any part of, a document referred to in section 20(1)(b) or (c) of the 2006 Act where the relevant legislation does not require the information contained in the document to be communicated or made available.

Official stamp of registration authority

30.—(1) Every registration authority must have an official stamp for the purposes of the 2006 Act, an impression of which bears the following information—

COMMONS ACT 2006

[Name of registration authority]

COMMONS REGISTRATION AUTHORITY

[Date].

(2) A requirement for a registration authority to stamp any document is a requirement to cause an impression of the official stamp to be affixed to it, bearing the date mentioned in the requirement or (where no date is mentioned in the requirement) the date when the stamp is affixed.

Revocations and savings

31.—(1) The following provisions of the 1966 Regulations are revoked—

- (a) regulation 26 (new addresses);
- (b) regulation 33 (certified copies and extracts);
- (c) regulation 34 (fees for searches, etc.); and
- (d) regulation 36 (errors and omissions).

(2) Paragraph (3) applies where—

- (a) an application for the amendment of a register has been made to a registration authority before 5 May 2017, pursuant to regulation 26 of the 1966 Regulations; and
- (b) the registration authority has not determined the application before that date.

(3) The registration authority shall continue to deal with the application on and after 5 May 2017 as if regulation 26 of the 1966 Regulations had not been repealed.

(4) Paragraph (5) applies where—

- (a) an error or omission is discovered, before 5 May 2017, pursuant to regulation 36 of the 1966 Regulations; and
- (b) the registration authority has not corrected the register before that date.

(5) The registration authority shall continue to deal with any necessary correction on and after 5 May 2017 as if regulation 36 of the 1966 Regulations had not been repealed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9 April 2017

Lesley Griffiths
Cabinet Secretary for Environment and Rural
Affairs, one of the Welsh Ministers

SCHEDULE 1

Regulation 5(2)

Making an application

Applications under section 19(4)(b): amendment of a register of common land or town or village greens

- 1.—(1) An application made under section 19(4)(b) of the 2006 Act must include—
- (a) a statement of the purpose (being one of those described in section 19(2) of the 2006 Act) for which the application is made;
 - (b) the number of the register unit and, in so far as is relevant to the mistake or other matter in the register in respect of which the application seeks correction, the number of the rights section entry, in the register to which the application relates;
 - (c) evidence of the mistake or other matter in the register in respect of which the application seeks correction; and
 - (d) a description of the amendment sought in the register.

Applications under Schedule 2: non-registration or mistaken registration

2.—(1) An application made under Schedule 2 to the 2006 Act, for the purpose of remedying non-registration or mistaken registration under the 1965 Act, must be made on or before 4 May 2032.

(2) An application made under Schedule 2 to the 2006 Act must include a description of the land to which the application relates.

(3) In an application made under paragraph 2 or 3 of Schedule 2 to the 2006 Act, the land to which the application relates may not include land that is covered by a building or which is within the curtilage of a building if all of the necessary building consents have been obtained (and evidence of such consent is provided) and the owner of that land does not consent to its registration.

- (4) An application made under paragraph 2 of Schedule 2 to the 2006 Act must include—
- (a) evidence of the application of that paragraph, as described in paragraph 2(2) of that Schedule, to the land to which the application relates;
 - (b) a copy of any enactment or scheme referred to in paragraph 2(2)(b) of that Schedule, by which the land to which the application relates is regulated, recognised or designated, or to which it is subject;
 - (c) evidence, if applicable, that any consent referred to under sub-paragraph (3) has been given.

- (5) An application made under paragraph 3 of Schedule 2 to the 2006 Act must include—
- (a) evidence of the application of that paragraph, as described in paragraph 3(2) of that Schedule, to the land to which the application relates;
 - (b) a copy of any enactment by or under which the land was (and continues to be) allotted, including any award; and
 - (c) evidence, if applicable, that any consent referred to under sub-paragraph (3) has been given.

(6) An application made under paragraph 4, 5, 6, 7, 8 or 9 of Schedule 2 to the 2006 Act must include evidence of the application of the appropriate paragraph, as described in paragraph 4(2), 5(2), 6(2), 7(2), 8(2) or 9(2) of that Schedule, to the land to which the application relates.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 2

Regulation 6(4)

Application of a type and purpose for which no fee may be specified

<i>Provision of the 2006 Act under which, or for the purposes of which, the application is made</i>	<i>Purpose of application</i>
section 19	correction, for the purpose of section 19(2)(a) (of a mistake made by the registration authority)
section 19	correction, for a purpose described in section 19(2)(c)
Schedule 2, paragraph 2 or 3	non-registration of common land or town or village green
Schedule 2, paragraph 4	waste land of a manor not registered as common land
Schedule 2, paragraph 5	town or village green wrongly registered as common land

SCHEDULE 3

Regulation 10(1)(c)

Persons on whom registration authority must serve notice of an application

1. In all cases—

- (a) any person who has made a declaration, duly recorded in the register, of entitlement to a right of common over any land comprising the whole or part of the register unit to which the application relates;
- (b) any commons council established for land which includes the land to which the application relates; and
- (c) unless the registration authority decides otherwise pursuant to regulation 10(2), any person who is registered as the owner of a right of common in gross which is exercisable over all or part of the land to which the application relates.

2. Additionally, in the case of an application of a type specified in the first column of the following table, all the persons (other than where that person is the applicant) specified in the corresponding entry in the second column.

Additional persons on whom the registration authority must serve notice of the application

<i>Type of application</i>	<i>Persons on whom notice of application must be served</i>
Application under section 19 of the 2006 Act, to correct a register	<ol style="list-style-type: none"> 1. The owner of any land affected by the application. 2. In relation to an application for the purpose of updating any name or address referred to in an entry, any person to whom that entry refers.

<i>Type of application</i>	<i>Persons on whom notice of application must be served</i>
Application under Schedule 2 to the 2006 Act, to register land not registered, or to deregister land mistakenly registered, under the 1965 Act	<ol style="list-style-type: none">1. The owner of the land to which the application relates.2. Any occupier or lessee of that land.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Wales, prescribe the procedure for applications and proposals under sections 19 of, and Schedule 2 to, the Commons Act 2006.

They include provisions about:

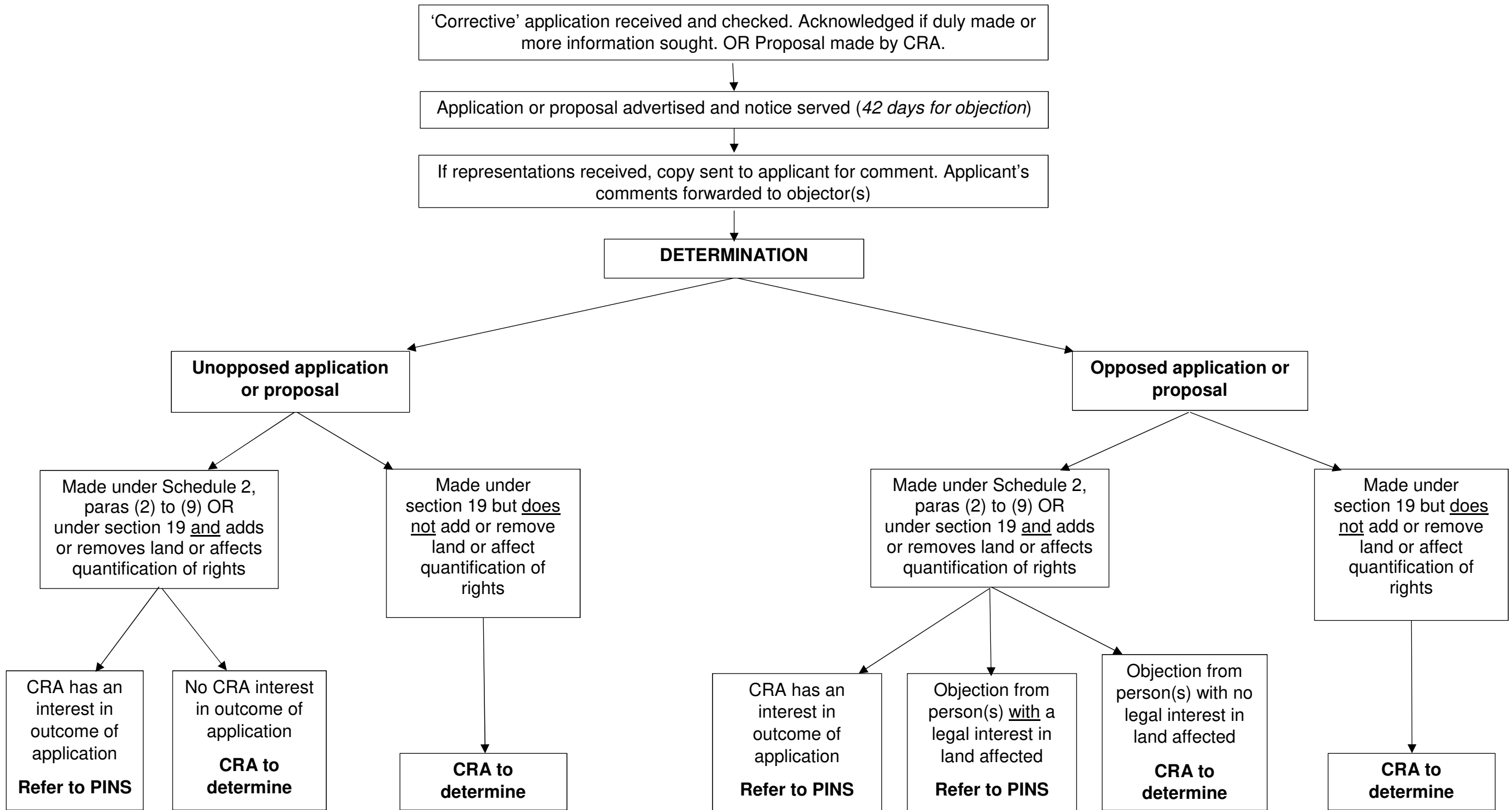
- (a) the making, management and determination of applications and proposals to amend the registers (regulations 5, 7, 8, 9, 14, 15 and 16);
- (b) fees that may be charged in relation to an application (regulation 6);
- (c) the registration authority's duties in connection with the publication of applications and proposals (regulations 10, 11, 12 and 13);
- (d) the holding of public inquiries and hearings and the cases where applications and proposals must be referred to an appointed person for determination (these include cases where the registration authority has an interest in the outcome of the application or proposal) (regulations 17, 18, 19, 20, 21, 22 and 23); and
- (e) the award of costs in relation to certain applications (regulation 25).

They enable the Welsh Ministers to appoint persons as eligible to administer and determine applications made to, or proposals made by, a commons registration authority for the amendment of its registers (regulation 4).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.uk.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Flowchart – determination of ‘Corrective’ applications and proposals under Commons Act 2006, sections 19, 22 and Schedule 2



Tudalen 25

CRA = Commons Registration Authority
PINS = Planning Inspectorate (acting on behalf of Welsh Ministers)

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE
24th May 2018**REPORT BY: HEAD OF LEISURE & RECREATION****SUBJECT: Abandonment of diversion Order and Opposed
diversion & extinguishment Orders: Determination by
Welsh Government**

REPORT FOR: APPROVAL

**Diversion Order 2016 – Part of bridleway GD1457;
Diversion Order 2017- Part of bridleways GD1457 & GD1461;
Extinguishment Order 2017 – Part of Footpath GD1441 at Mill Cottage
and Llan-y-felin, Gladestry (Community of Gladestry.)****Background:**

Bridleway GD1457 passes through the grounds of Mill Cottage and Llan-y-Felin farm, crossing Gladestry Brook. It connects with bridleway GD1461, which ends on Hergest Ridge. Footpath GD1441 also passes through the grounds of Mill Cottage, crossing the brook via a footbridge. The topography of existing Bridleway GD1457 makes it unsuitable for equestrian use, as the definitive line passes down and up very steep slopes.

Following pre-Order consultation, a diversion Order, as at appendix A was made and advertised in 2016 for bridleway GD1457. However, following the advertising of the Order (which was not opposed), the landowners of Mill Cottage and Llan-y-felin put forward alternative proposals. These were considered worth exploring, as there are benefits for the public.

Given that, Countryside Services sought the view of consultees about making and advertising a new diversion Order, to divert Bridleway GD1457 onto a new route and extinguish part of the existing footpath GD1441. These proposals seek to address privacy and security concerns by the Landowner, as well as future maintenance issues in relation to the steep slope and stream crossing.

At the same time as resolving the above issues, it was proposed to divert part of Bridleway GD1461. Whilst this was proposed in the interests of the landowner, it does have public benefits. Part of the existing path ascends a steep, narrow sunken lane, whilst the proposed route makes use of open terrain and takes a more direct route up the hillside than the existing path.

Consultation:

In 2017, a consultation for the revised proposals, as shown on the plan at appendix B, was undertaken. Responses to the proposals were received from:

- The Ramblers' Association, who commented that generally this appeared to be an improved solution to the situation on the ground;
- The Open Spaces Society, who made comments on signposting, clearance of overgrowth and obstructions between points A and B but did not object;
- The Byways and Bridleways Trust who had no comments to make;
- BT Openreach and Dwr Cymru Welsh Water, who have no objection;
- County Councillor E Michael Jones, local member for the area who was happy to support the proposals;
- Gladestry Community Council whose minutes of their meeting dated 13th March 2017 stated there was no objection to the proposed changes; and
- The affected landowners (S R Jones; R S Terry & J M Crawshaw and M R Hughes & C A Hughes) who have given their written consent to the proposals.

As no objections were received, on 26th October 2017, the current diversion Order and extinguishment Order (as at appendix C & D) were made.

Objection:

One objection was received to the current Orders, from Mr Alan Kind. His objection relates to both the diversion Order and the extinguishment Order. In the course of correspondence with the objector, Countryside Services have agreed that if the Committee gives approval, the diversion Order can be submitted to the Welsh Government to request some amendments. The proposed amendments are as follows:

- a) Reduction of the extent of the line of the bridleway GD1457 as drawn on the Order plan by 0.5mm, to ensure it meets the public highway and does not run over it at OS grid reference SO 2410, 5481 (Point J) on the Order plan.
- b) In relation to the new bridge that would be installed, delete the word 'proposed' and insert the wording 'not less than a width of 1.5 metres within the 3 metre width of the highway'. The following sentence found within Part 2 of the Order would then read: 'It then turns to travel in a north-easterly direction along the property boundary for 50 metres before deviating inwardly for 5 metres to traverse Gladestry Brook via a bridge not less than a width of 1.5 metres within the 3 metre width of the highway at OS Grid Reference SO 2406, 5474 (point H)'

The objector has stated in writing that subject to these changes being made, he withdraws his objections. Mr Kind's original letter of objection, Countryside Services' response and Mr Kind's final letter dated 19 December 2017 are at appendices E, F and G.

Works required:

As part of the works to make the proposed new paths ready for use a bridge will be installed at point H. Countryside Services currently has responsibility

for both a stream crossing for bridleway GD1457 and a footbridge on the existing route of footpath GD1441. If these Orders can be confirmed, there would instead be a single bridge serving both the footpath and the bridleway, thus reducing the Council's maintenance responsibilities.

RECOMMENDATIONS:

- 1) That the file be sent, along with an officer's report in support of the Orders, to the Welsh Government, so that the diversion Order made in 2017 (as at appendix C) may be modified by the Planning Inspectorate on their behalf.
- 2) That the diversion Order made in 2016 for bridleway GD1457 (part), as shown in appendix A be formally abandoned and not confirmed.

Appendices:

Appendix A: Diversion Order 2016, bridleway GD1457 (pt.)

Appendix B: 2017 Consultation Plan

Appendix C: Diversion Order dated 26th October 2017

Appendix D: Extinguishment Order dated 26th October 2017

Appendix E: Letter from Mr A Kind, dated 17th November 2017

Appendix F: Countryside Services' response letter dated 24th November

Appendix G: Final letter from Mr Kind, dated 19th December 2017

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

PUBLIC PATH DIVERSION ORDER UNDER THE HIGHWAYS ACT 1980

POWYS COUNTY COUNCIL

**THE POWYS COUNTY COUNCIL (DIVERSION OF PART OF PUBLIC
BRIDLEWAY GD1457 IN THE COMMUNITY OF GLADESTRY)
PUBLIC PATH DIVERSION ORDER 2016**

This Order is made by Powys County Council ("the Authority") under Section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that in the interests of the public it is expedient that the line of the path should be diverted.

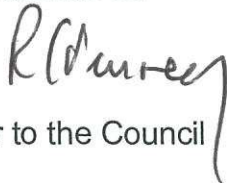
Powys County Council has agreed to defray any compensation which becomes payable in consequence of the coming into force of this Order and any expenses which are incurred in bringing the new site of the pathway into a fit condition for use by the public.

Gladestry Community Council have been consulted.

BY THIS ORDER:

1. The public right of way over the land situated at Mill Cottage, Gladestry and shown by a bold continuous black line on the plan contained in this Order and described in Part 1 of the Schedule to this Order shall be stopped up after 28 days from the date on which Powys County Council certifies that the works have been completed to bring the highway into a fit condition for use by the public.
2. Notwithstanding this Order any statutory undertaker having apparatus affected by this Order shall have the following rights over the land referred to in paragraph 1 namely access at all reasonable times to maintain or repair statutory apparatus.
3. There shall be after the 28 days referred to in paragraph 1 be a public bridleway over the land situated at Mill Cottage described in Part 2 of the Schedule and shown by a bold broken black line on the plan contained in this Order.
4. The rights conferred on the public under this Order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

THE COMMON SEAL of)
POWYS COUNTY COUNCIL)
was hereunto affixed this 13th day)
of JUNE 2016)
in the presence of:-)


Solicitor to the Council



NO. IN SEAL
REGISTER
10482

SCHEDULE

PART 1

Description of site of existing path or way

<u>Section of highway as indicated on plan</u>	<u>Position</u>	<u>Width</u>
Points A-B	The section of public bridleway GD1457 to be diverted, shown by a bold black line on the attached plan, commences at OS Grid Reference SO 2394, 5459 (point A). It follows a generally north-north-westerly direction through the field boundaries descending the steep wooded slope and through Gladestry Brook before ascending the bank towards the public highway C1346 at OS Grid Reference SO 2397, 5485 (point B). The total distance is approximately 266 metres.	Undefined in the statement

PART 2

Description of site of new path or way

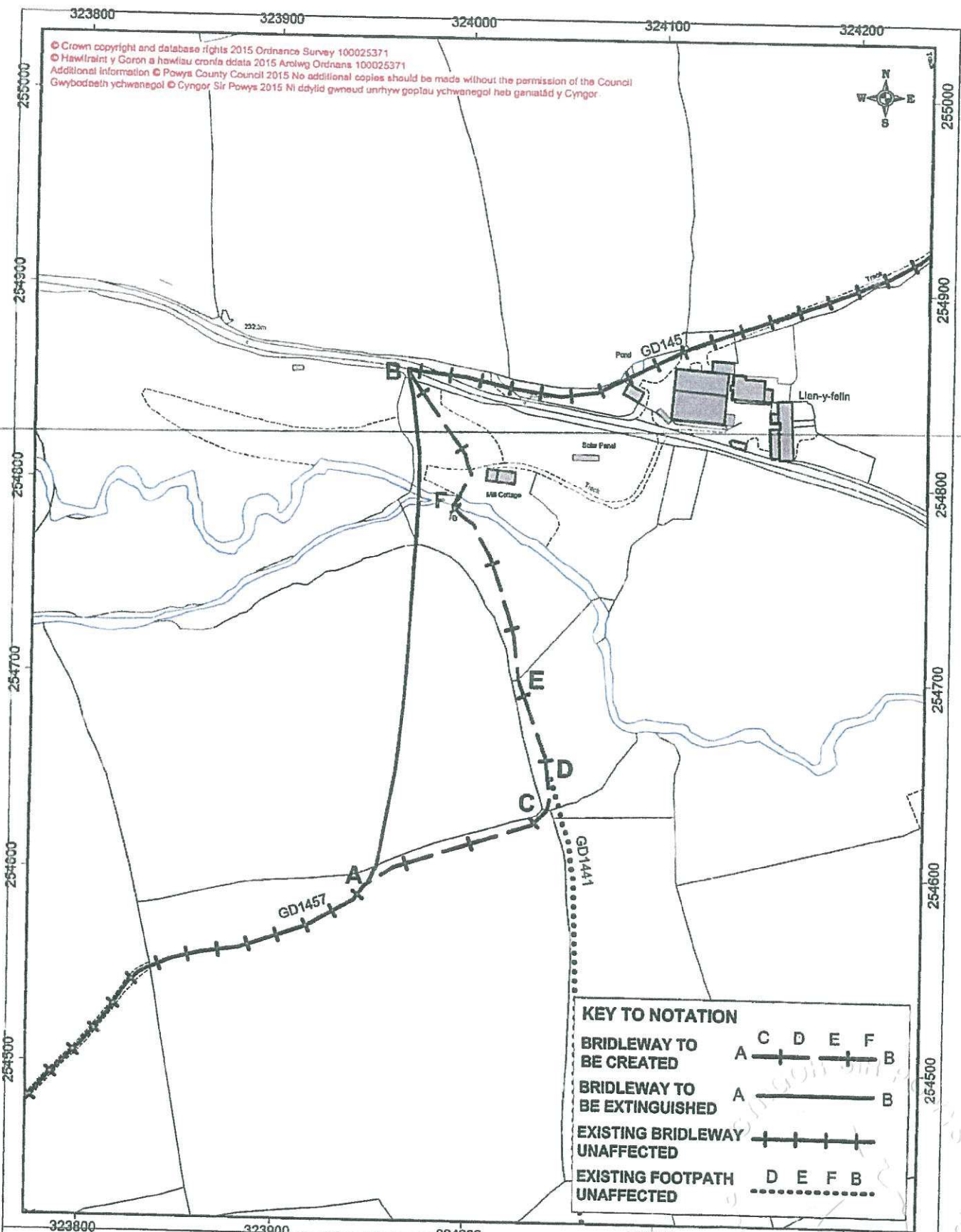
<u>Section of highway as indicated on plan</u>	<u>Position</u>	<u>Width</u>
Points A-C-D-E-F-B	The proposed new route of bridleway GD1457, shown by a broken black line on the attached plan, commences at OS Grid Reference SO 2394, 5459 (point A). It follows a generally east-north-easterly direction, parallel with the field boundary, for approximately 100 metres to the field gate in the boundary at OS Grid Reference SO 2403, 5463 (point C). The route then turns to follow a more north-north-easterly direction for approximately 18 metres to join the line of footpath GD1441 at OS Grid Reference SO 2404, 5464 (point D). The route continues along the line of footpath GD1441 in a generally north-north westerly direction for approximately 53 metres along a path within a wooded area to a field gate at OS Grid Reference SO 2402, 5469 (point E). It then further continues in a generally north-north-westerly direction for approximately 98 metres descending the grassed slope to OS Grid Reference SO 2399, 5478 (point F). The route then turns to traverse Gladestry Brook via the bridge in a generally north-easterly direction for approximately 20 metres before turning to ascend the slope in a north-westerly direction for approximately 60 metres to the	3 metres

boundary at OS Grid Reference SO 2397, 5485 (point B). The total distance is approximately 350 metres.

PART 3
Conditions and Limitations

<u>Position of path or way to which conditions and limitations apply</u>	<u>Limitations and conditions</u>
OS Grid Reference SO 2397, 5485 (point B)	Bridle gate meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2403, 5463 (point C)	Field gate, with high reach handle meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2402, 5469 (point E)	Field gate, with high reach handle meeting current British Standard (BS5709:2006)

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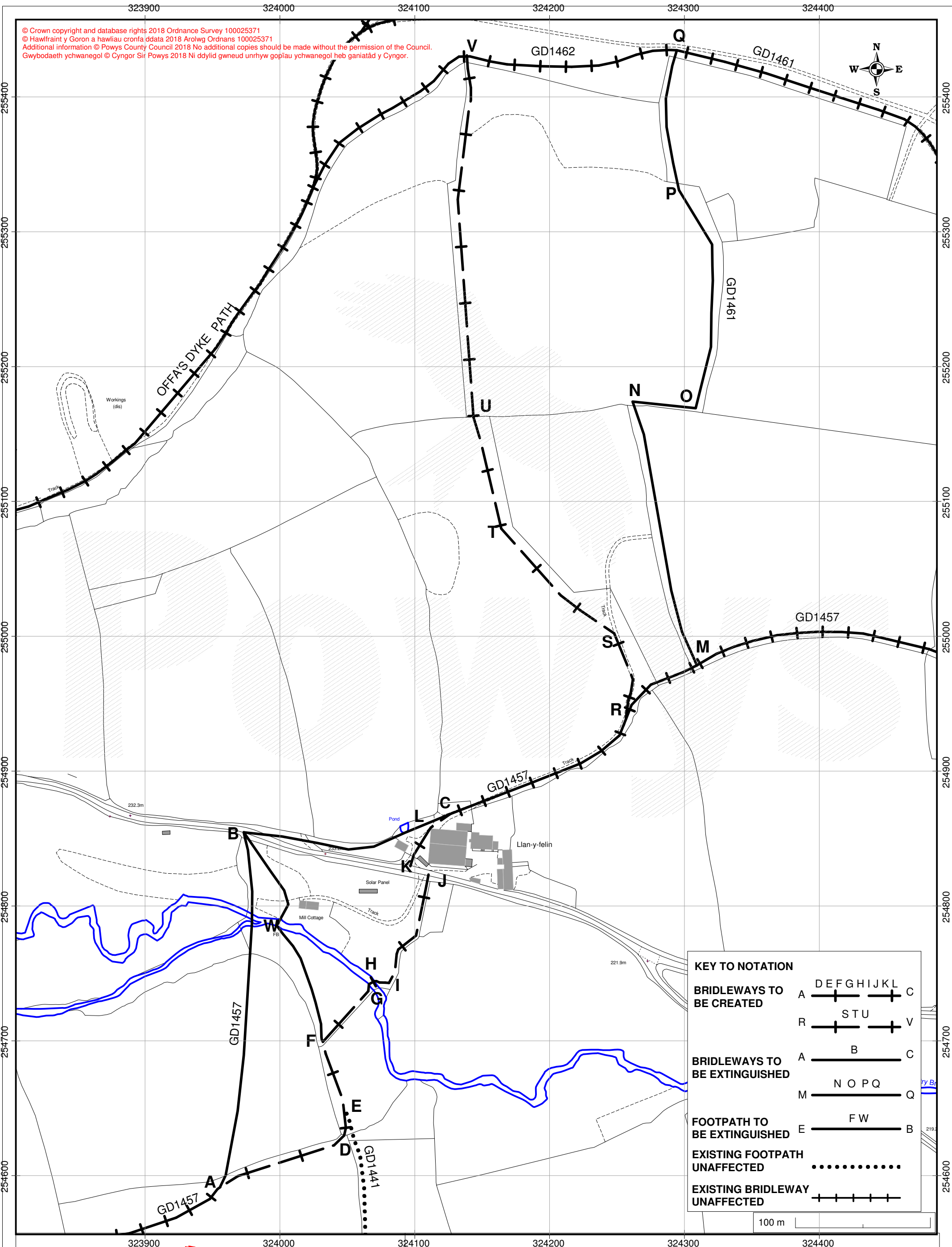
Cyngor Sir **Powys** County Council

**Public path diversion Order:
 Public bridleway GD1457
 Community of Gladestry
 Scale 1:2500 OSGR SO 239,547**

Printed by: clairer Date 11/12/2015

R.D. Owen

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KEY TO NOTATION	
BRIDLEWAYS TO BE CREATED	A —+— DEF GHIJKL —+— C
	R —+— STU —+— V
BRIDLEWAYS TO BE EXTINGUISHED	A — B — C
	M — N O P Q —
FOOTPATH TO BE EXTINGUISHED	E — FW — B
EXISTING FOOTPATH UNAFFECTED
EXISTING BRIDLEWAY UNAFFECTED	—+—

100 m

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

PUBLIC PATH DIVERSION ORDER UNDER THE HIGHWAYS ACT 1980

POWYS COUNTY COUNCIL

**THE POWYS COUNTY COUNCIL (DIVERSION OF PART OF PUBLIC BRIDLEWAYS GD1457 & GD1461 IN THE COMMUNITY OF GLADESTRY)
PUBLIC PATH DIVERSION ORDER 2017**

This Order is made by Powys County Council ("the Authority") under Section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that in the interests of the public it is expedient that the lines of the paths should be diverted.

Powys County Council has agreed to defray any compensation which becomes payable in consequence of the coming into force of this Order and any expenses which are incurred in bringing the new site of the pathways into a fit condition for use by the public.

Gladestry Community Council have been consulted as required by section 120(2) of the 1980 Act.

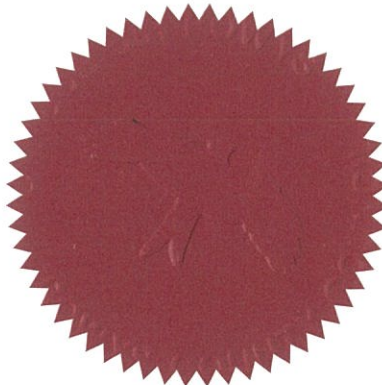
BY THIS ORDER:

1. The public rights of way over the land situated at Mill Cottage and Llan-y-felin, Gladestry and shown by bold continuous black lines on the plan attached to this Order and described in Part 1 of the Schedule to this Order shall be stopped up after 28 days from the date on which Powys County Council certifies that the works have been completed to bring the highway into a fit condition for use by the public.
2. Notwithstanding this Order any statutory undertaker having apparatus affected by this Order shall have the following rights over the land referred to in paragraph 1 namely access at all reasonable times to maintain or repair statutory apparatus.
3. There shall be after the 28 days referred to in paragraph 1 be public bridleways over the land situated at Mill Cottage and Llan-y-felin described in Part 2 of the Schedule and shown by bold broken black lines on the plan contained in this Order.
4. The rights conferred on the public under this Order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

THE COMMON SEAL of)
POWYS COUNTY COUNCIL)
was hereunto affixed this 26th day)
of October 2017)
in the presence of:-)



Solicitor to the Council



SCHEDULE

PART 1

Description of site of existing path or way

<u>Section of highway as indicated on plan</u>	<u>Position</u>	<u>Width</u>
Bridleway GD1457 Points A-B-C	<p>The section of public bridleway GD1457 to be diverted shown by a bold continuous black line on the attached plan commences at OS Grid Reference SO 2394, 5459 (point A). It follows in a generally north-north-westerly direction for approximately 265 metres through the field boundaries descending the steep wooded slope and through Gladestry Brook before ascending the bank towards the public highway C1346 at OS Grid Reference SO 2397, 5485 (point B). It continues by ascending the grassed bank in a generally easterly direction for approximately 80 metres, then turns to an east-north-easterly direction for approximately 80 metres to the outer yard at Llan-y-felin OS Grid Reference SO 2412, 5486 (point C). The total distance is approximately 425 metres.</p>	Undefined in the statement
Bridleway GD1461 Points M-N-O-P-Q	<p>The section of bridleway GD1461 to be diverted commences at the junction with bridleway GD1457 at OS Grid Reference SO 2430, 5497 (point M). It ascends the grassed bank in a generally north-north-westerly direction and follows alongside the field boundary for approximately 200 metres to a bridle gate at OS Grid Reference SO 2465, 5516 (point N). The path turns to a generally easterly direction and follows alongside the field boundary for approximately 50 metres to SO 2431, 5516 (point O) before turning to follow a north-north-easterly direction and then a north-north-westerly direction around the field boundary for approximately 175 metres and through the bridle gate at OS Grid Reference SO 2429, 5533 (point P). It continues to follow along the field boundary in a generally northerly direction for approximately 100 metres through a bridle gate to meet bridleway GD1462 at OS Grid Reference SO 2430, 5543 (point Q). The total distance is approximately 525 metres.</p>	

PART 2
Description of site of new path or way

<u>Section of highway as indicated on plan</u>	<u>Position</u>	<u>Width</u>
Bridleway GD1457 Points A-D-E-F-G-H-I- J-K-L-C	<p>The proposed new route of bridleway GD1457 shown by a bold broken black line on the attached plan commences at OS Grid Reference SO 2394, 5459 (point A). It follows a generally east-north-easterly direction, parallel with the field boundary, for approximately 100 metres to the field gate in the boundary at OS Grid Reference SO 2403, 5463 (point D). The route then turns to follow a more north-north-easterly direction for approximately 18 metres to join the line of existing footpath GD1441 at OS Grid Reference SO 2404, 5464 (point E). The path continues in a generally north-north westerly direction for approximately 53 metres along a path within a wooded area and through a field gate at OS Grid Reference SO 2402, 5469 (point F). It then turns to travel in a north-easterly direction along the property boundary for 50 metres before deviating inwardly for 5 metres to traverse Gladestry Brook via a proposed bridge at OS Grid Reference SO 2406, 5474 (point H). The path then turns to travel in an east-north easterly direction for approximately 10 metres to OS Grid Reference SO 2407, 5474 (point I) to follow alongside the boundary fence for approximately 85 metres and through a bridle gate adjacent to the existing cattle grid at OS Grid Reference SO 2410, 5481 (point J) to meet the public highway C1346. The northern section of the bridleway <i>starts</i> 15 metres to the west at OS Grid Reference SO 2409, 5484 (point K) and travels in a generally north-north-easterly direction for 32 metres through a field gate and then to a further field gate at OS Grid Reference SO 2410, 5485 (point L). It travels for approximately another 15 metres to join the existing bridleway at OS Grid Reference SO 2412, 5486 (point C). The</p>	3 metres

total distance is approximately 383 metres.

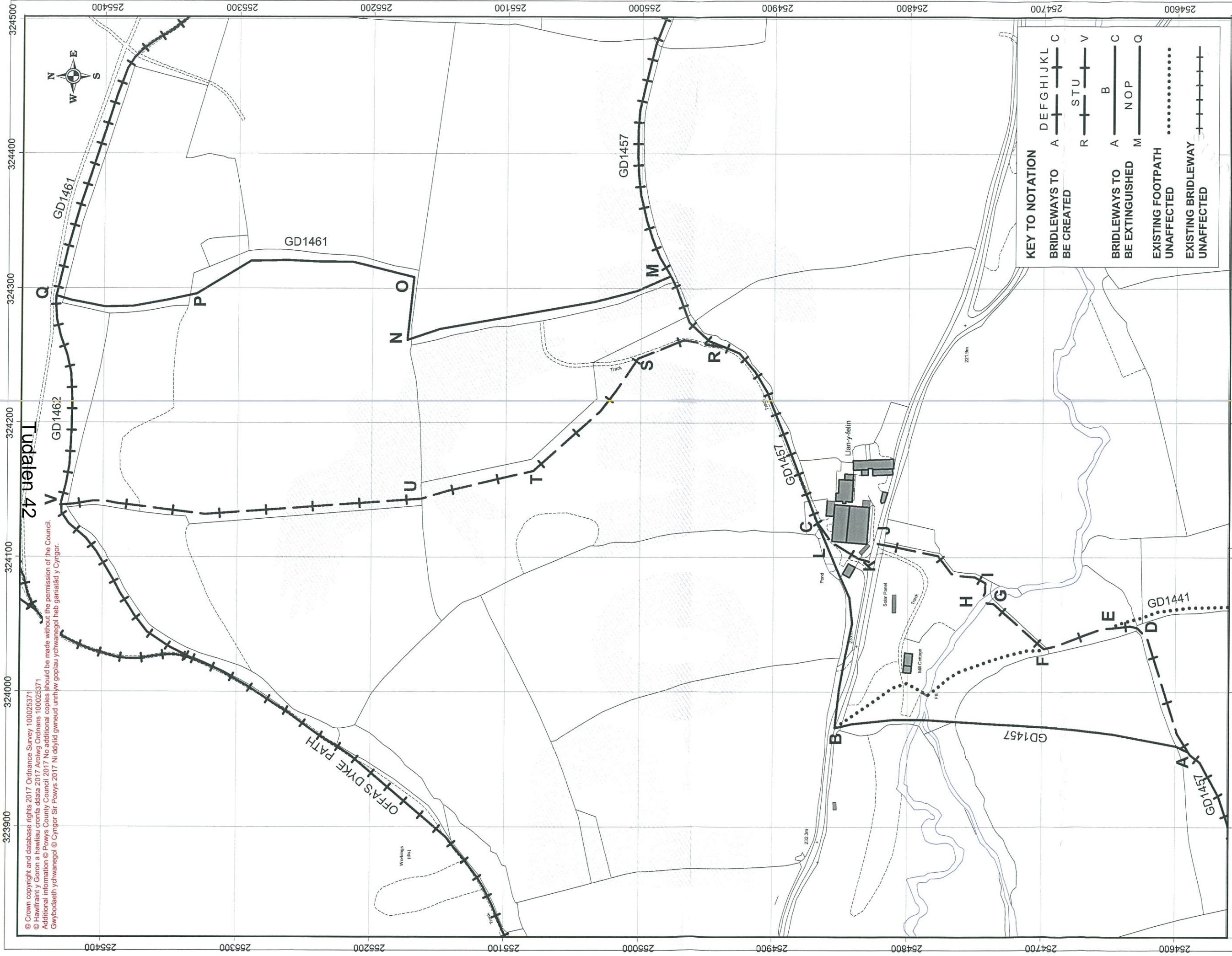
Bridleway GD1461 Points R-S-T-U-V	The proposed new route of the bridleway commences at a junction with bridleway GD1457 on an existing stoned track at OS Grid Reference SO 2425, 5493 (point R). It continues to follow along the track in a generally northerly direction for approximately 65 metres to OS Grid Reference SO 2424, 5500 (point S) where it deviates from the stoned track to travel in a north westerly direction for approximately 112 metres along a grassed track to OS Grid Reference SO 2416, 5507 (point T). It then travels in a more northerly direction for approximately 85 metres and through a field gate at OS Grid Reference SO 2414, 5516 (point U). The route continues in a northerly direction along the field boundary for approximately 265 metres and through a field gate in the common land boundary to meet existing bridleway GD1462 at OS Grid Reference SO2414, 5543 (point V). The total distance to be created is approximately 527 metres.	3 metres
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PART 3 **Conditions and Limitations**

<u>Position of path or way to which conditions and limitations apply</u>	<u>Limitations and conditions</u>
OS Grid Reference SO 2403, 5463 (point D)	Field gate, meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2402, 5469 (point F)	Field gate, meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2410, 5481 (point J)	Bridle gate meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2409, 5484 (point K).	Field gate, meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2410, 5485 (point L)	Field gate, meeting current British Standard (BS5709:2006)
OS Grid Reference SO 2414, 5516 (point U)	Field gate, meeting current British Standard (BS5709:2006)

OS Grid Reference SO2414,
5543 (point V)

Field gate, meeting current British Standard
(BS5709:2006)



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KEY TO NOTATION	
BRIDLEWAYS TO BE CREATED	DEF GHIJKL A ——— C
BRIDLEWAYS TO BE EXTINGUISHED	R ——— V A ——— C M ——— Q
EXISTING FOOTPATH UNAFFECTED
EXISTING BRIDLEWAY UNAFFECTED	—+—+—+—

Rdduway

PUBLIC PATH EXTINGUISHMENT ORDER UNDER THE HIGHWAYS ACT 1980

POWYS COUNTY COUNCIL

**THE POWYS COUNTY COUNCIL (EXTINGUISHMENT OF PART OF PUBLIC FOOTPATH GD1441 IN THE COMMUNITY OF GLADESTRY)
PUBLIC PATH EXTINGUISHMENT ORDER 2017**

This Order is made by Powys County Council ("the Authority") under Section 118 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that the footpath described in paragraph 1 of this Order is not needed for public use.

Gladestry Community Council have been consulted as required by section 120(2) of the 1980 Act.

BY THIS ORDER:

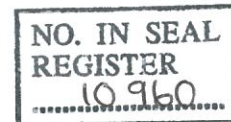
1. The public right of way over the land situated at Mill Cottage and shown by a bold continuous black line on the plan attached to this Order and described in the Schedule to this Order shall be extinguished after 28 days from the date of confirmation of this Order.

2. Notwithstanding this Order any statutory undertaker having apparatus affected by this Order shall have the following rights over the land referred to in paragraph 1 namely access at all reasonable times to maintain or repair statutory apparatus.

THE COMMON SEAL of)
POWYS COUNTY COUNCIL)
was hereunto affixed this 26th day)
of October 2017)
in the presence of:-)

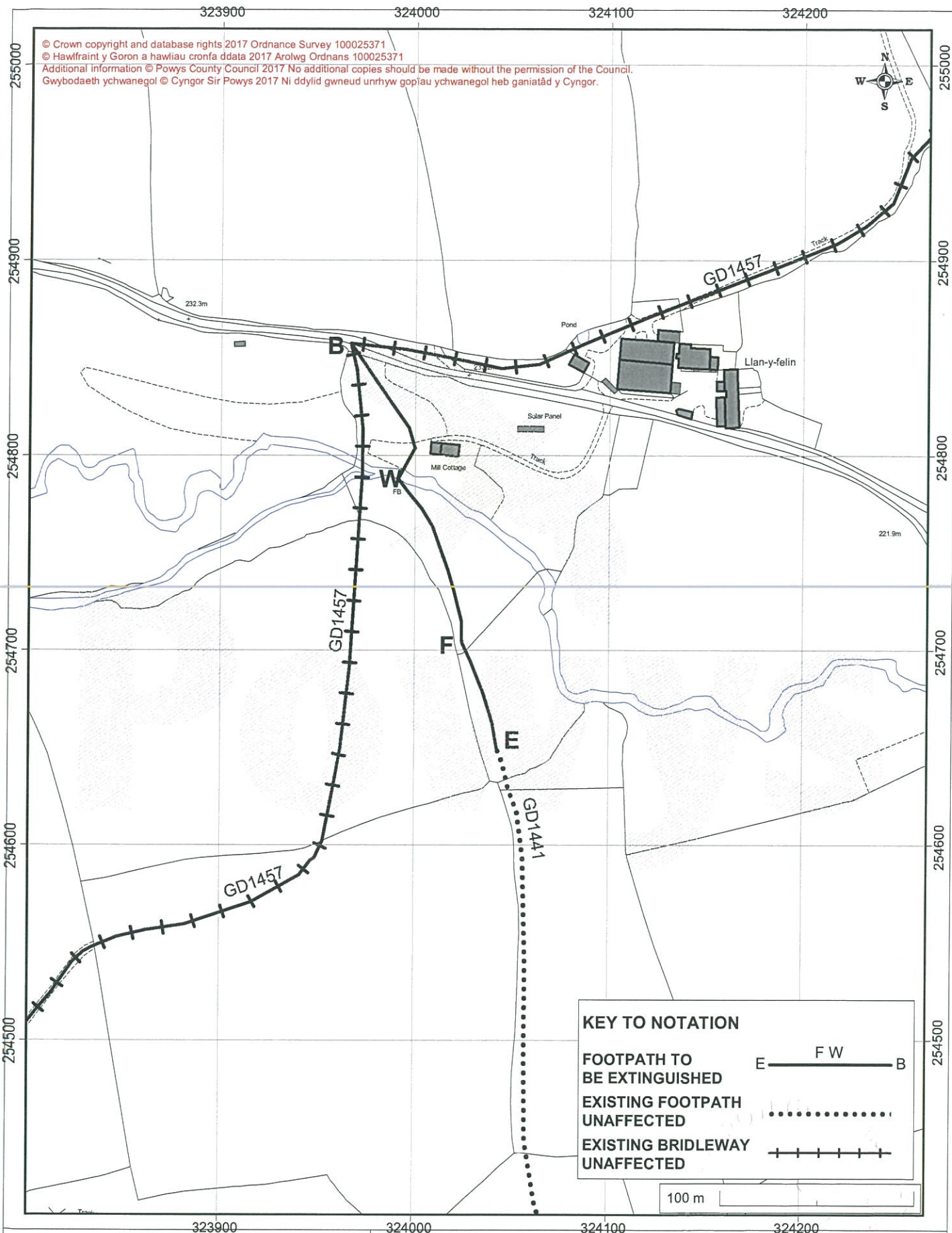



Solicitor to the Council



SCHEDULE

<u>Section of highway as indicated on plan</u>	<u>Position</u>	<u>Width</u>
E-F-W-B	<p>The section of footpath GD1441 to be extinguished as shown by a bold continuous black line on the attached plan commences at OS Grid Reference SO 2404, 5464 (point E) and continues in a generally north-north westerly direction for approximately 53 metres along a path within a wooded area and through a field gate at OS Grid Reference SO 2402, 5469 (point F). It then continues in a generally north-north-westerly direction for approximately 98 metres descending the grassed slope to OS Grid Reference SO 2399, 5478 (point W). The route then turns to traverse Gladestry Brook via the footbridge in a generally north-easterly direction for approximately 20 metres before turning to ascend the slope in a north-westerly direction for approximately 60 metres to terminate at the public highway C1346 at OS Grid Reference SO 2397, 5485 (point B). The total distance is approximately 231 metres.</p>	Undefined in the Statement



R. Duvey

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



from Alan Kind
45 The Fairway
Gosforth
Newcastle upon Tyne
NE3 5AQ

e-mail |

Powys County Council
The Solicitor to the Council
County Hall
Llandrindod Wells
LD1 5LG

17 November 2017

fao: Mrs V Julian, Principal Legal Assistant.

Dear Sir,

Re: Public path order. Diversion of part of public bridleways GDI457 & GDI461, Community of Gladestry. 26 October 2017.

I object to this order on the following grounds.

- The bridleways proposed to be created are described in the order and plan as terminating in the middle of the public road at points J & K, at Llan-y-felin. You cannot lay a new public bridleway over an existing public road.
- The proposed new bridleway ADEFGHJ is broken by a stream at point H. There is no means of crossing shown in the order. You are actually proposing to create two dead-end bridleways to replace a through-bridleway.

Re: Public path order. Extinguishment of part of public footpath GDI441 Community of Gladestry. 26 October 2017.

I object to this order because there is no good reason why the footpath AFWB is not needed for public use.

Yours faith

Alan Kind

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



Paul Griffiths
Strategic Director – Place
Cyfarwyddwr Strategol – Lle

Stuart Mackintosh
Head of Leisure and Recreation
Pennaeth Hamdden

Mr A Kind
45 The Fairway
Gosforth
Newcastle upon Tyne
NE3 5AQ

Cyngor Sir Powys County Council
Y Gwalia/The Gwalia
Heol Ithon /Ithon Road
Llandrindod Wells
Powys LD1 6AA

Os yn galw gofynnwch am /If calling please ask for:

Mrs Claire Lewis

Ffôn /Tel : 01597 827625

Ffacs /Fax : 01597 829062

Ffon symudol /Mobile : 07787152745

Ebost/ Email: claire.lewis@powys.gov.uk

Eich cyf /Your ref :

Eich cyf /Our ref : LR/ROW/CEL/R118/1461&1457

Dyddiad Date: 24 November 2017

Dear Mr Kind

Re: Public Path Orders in the Community of Gladestry, Powys

I am in receipt of your letter dated 17th November addressed to Mrs V Julian and write to respond to your objections raised.

Public Path Diversion Order of part of public Bridleways GD1457 & GD1461

In relation to your concerns over the proposed diversion of bridleway GD1457, I would respectively like to draw your attention to part 2 of the Schedule in the Order. This states that the proposed new route meets the public highway at point J. The northern section of the bridleway then starts 15 metres to the West at point K. Similarly, in response to your second point, the Order states that the path will traverse Gladestry Brook via a proposed bridge at point H. The covering letter also highlights the proposed installation of a bridge. It is worth noting that the diversion of GD1457 has been made in the public interest since the topography of part of the existing route makes it unsuitable for equestrian use.

Public Path Extinguishment Order of part of public footpath GD1441

Countryside Services suggest that the needs of the public will be adequately met by the proposed new route of bridleway GD1457. The existing access point onto the public highway C1346 (point) is approximately 136 metres West of the access point to proposed bridleway. It is the Council's intention to only confirm the extinguishment order should the diversion order come into effect.

Given all the above could I please ask you to reconsider your objections? I would also be pleased if you could clarify whether you are objecting in a personal capacity or on behalf of an organisation. I look forward to hearing from you.

Yours sincerely

Claire Lewis
Swyddog Cynorthwyol Cofrestru Tir Comin a Mapiau Diffiniol
Assistant Commons Registration and Definitive Map Officer

Yn agored a blaengar - Open and enterprising

Tudalen 49
www.powys.gov.uk

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

from Alan Kind
45 The Fairway
Gosforth
Newcastle upon Tyne
NE3 5AQ

e-mail 

Powys County Council
The Solicitor to the Council
County Hall
Llandrindod Wells
LD1 5LG

19 December 2017

fao: Claire Lewis.

Dear Ms Lewis,

Thank you for your letter of 19 December, via email. If I may take your points in turn?

Re: Public path order. Diversion of part of public bridleways GDI457 & GDI461, Community of Gladestry. 26 October 2017.

As regards the 'proposed bridge' at point H, I would be happy with the order modified thus:

- Delete 'proposed' from the schedule, because the replacement bridleway will have a bridge as a component of the diversion. The bridleway as diverted will cross the bridge and cannot exist without the bridge. **Agreed.**
- Put a width in the schedule for the bridge. As drafted the bridge must be 3 metres wide, and I doubt if it will be. **Your point taken. Say 'not less than ...' not 'minimum? Then agreed.**
- Give a specification for the bridge, either your own 'adopted general specification', or a British Standard. **Sorry. I meant the BHS specification. Your specification will do for me so long as it has sufficient ramps, parapets, decks, etc. A marvellous TCPA diversion bridge has just gone in local to me, but horses slide on it. Now an uphill slog to get it sorted. Agreed on your assurance.**

If you are happy to ask the Welsh Ministers to modify thus, then I am willing to withdraw my objection at that point. I would wish to be kept 'in the loop' as regards the decision by Cardiff. **If you will agree to keep me informed all through, I think we have agreement?**

I would also then withdraw my objection to the footpath closure, without prejudice to the merits of that matter.

Yours sincerely,

Alan Kind

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Planning, Taxi Licensing and Rights of Way Committee
24th May 2018

For the purpose of the Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

Applications for consideration by Committee:

Application No:	Nature of Development:
Community:	Location of Development:
O.S. Grid Reference:	Applicant:
Date Received:	Recommendation of Head of Planning:

<p>P/2017/1437</p> <p>Llanwrthwl</p> <p>296020.15 265782.38</p> <p>08.12.2017</p>	<p>Full: Erection of a pullet rearing unit, feed silos and all associated works</p> <p>Land at Dol y Garreg, Llanwrthwl, Llandrindod Wells, Powys LD1 6NW</p> <p>Mrs N Wozencraft, N Wozencraft And Son, Swyn y Glyn, Rhayader, Powys LD6 5AW</p> <p>Recommendation:</p> <p>Conditional Consent</p>
<p>P/2017/0549</p> <p>Trefeglwys</p> <p>296106.95 288790.36</p> <p>15.05.2017</p>	<p>Full: Erection of a free range poultry unit (extension to existing unit), including feed silos and all associated works</p> <p>Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX</p> <p>Mrs Fiona Jerman, CL & FE Jerman, Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX.</p> <p>Recommendation:</p> <p>Conditional Consent</p>

<p>P/2017/1096</p> <p>Llandysili</p> <p>327180.5 318311.55</p> <p>02.10.2017</p>	<p>Outline: Residential Deveopment of up to 20 dwellings, formation of vehicular access and all associated works.</p> <p>Land at Gornal Farm, Four Crosses, Powys SY22 6JR</p> <p>Mr P Davies P & S Davies Gornal Farm Four Crosses Powys SY22 6RJ</p> <p>Recommendation:</p> <p>Refuse</p>
---	--

7.2

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/1437	Grid Ref:	296020.15 265782.38
Community Council:	Llanwrthwl	Valid Date:	Officer: 08/12/2017 Karen Probert
Applicant:	Mrs N Wozencraft, N Wozencraft And Son, Swn y Glyn, Rhayader, Powys LD6 5AW		
Location:	Land at Dol y Garreg, Llanwrthwl, Llandrindod Wells, Powys LD1 6NW		
Proposal:	Full : Erection of a pullet rearing unit, feed silos and all associated works		
Application Type:	Application for Full Planning Permission		

The reason for Committee determination

The applicant is a close relative of Powys County Council who has dealings with Development Management.

Site Location and Description

This site is located approximately 2.5 kilometres south west of Rhayader and is accessed via the County Class III Highway, C0010 which runs between Llanwrthwl and the highway that serves Elan Valley and Rhayader (the B4518). The site is located directly south of the C0010 highway on a parcel of land that rises gently in a southerly direction.

The proposed site occupies an area of land which is currently used as agricultural for the purposes of grazing. The site is located directly adjacent to an existing agricultural access to the east and the structure of a former agricultural building; grazing land exists to the south. To the west lies an access track that leads to the complex known as Dolifor.

Consent is sought in full for the erection of a pullet rearing unit, feed silos and all associated works. The proposed unit is to accommodate 12,000 birds. The proposed building is to measure 40 metres in length, 15 metres in width, 3.78 metres in height to the eaves and 6.0 metres in height to the ridge. The proposed building will have a floor area of approximately 600 metres square. The application also includes the erection of two feed silos to the south east of the proposed building to measure approximately 7.5 metres in height. The application includes the creation of a new area of hardstanding and parking area to the east of the proposed building to be used as a service area and parking. A 2.0 metre high bund with planting of native species is proposed along the northern and western boundary of the site.

The proposed building will be clad externally with polyester coated steel cladding to the walls and roof (coloured juniper green). The feed silos will be coloured to match the cladding to the proposed building. The east elevation is to have three door openings for access.

Consultee Response

Llanwrthwl Community Council

Recognise importance of the poultry and eggs industry to the local economy. Also the need for farms to diversify in order to be sustainable.

However – there appears to be questions about the suitability of the site due to ecological and environmental impact. We would urge the planning committee to pay close attention to expert advice in these areas.

For example, nitrogen deposition should be clarified (19.46 kg v/ha/yr) which seems to be above the critical load of (10.0 kg v/ha/yr).

We feel that adequate passing places should be made available on the lane running from Dolfallen bridge to the site.

This was a special meeting convened by Llanwrthwl community council held on 17 January 2018 at Llanwrthwl village hall to discuss the application ref: P/2017/1437 with members of the public present and were given the opportunity to voice the opinion for / against.

After further discussion the community council agreed to support this application.

PCC Highways

First Response received 12th January 2018

I have just been out to site to have a look at this application. Please could you request a revised plan from the agent to include the following:

- The access to be included within the red line area
- Visibility at the access of 34m
- The gates are currently sited at 10m from the highway, this will need to be increased to 20m
- The width of the access

Once the revised plans have been received a final Highways response will be given, please could the decision be deferred in the meantime.

Second response received 5th March, 2018

The County Council as Highway Authority for the County Class III Highway, C0010

Wish the following recommendations/Observations be applied

Recommendations/Observations

HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 20 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 The centre line of the first 20 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 34 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway.

Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 6 metres for a minimum distance of 20 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC21 Prior to the first beneficial use of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

HC8 Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than 2 cars and 2 heavy goods vehicles together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher

run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

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

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

HC37. Prior to any works being commenced on the development site the applicant shall construct 2 passing bays, in locations to be agreed in writing by the Local Planning Authority. The passing bays shall be constructed up to adoptable standard prior to any works being commenced on the development site.

Building Control

No response received at the time of writing the report.

Wales & West Utilities

Received 12th December, 2017

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

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

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Welsh Water

Received 27th December, 2017

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

SEWERAGE

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 we request the applicant contacts us on 0800 917 2652 to establish the location and

status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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

If you have any queries please contact the undersigned on 0800 917 2652 or via email at developer.services@dwrcymru.com

Environmental Health

First response received 11th January, 2018

In its current form Environmental Protection would have to recommend refusal on the grounds of insufficient information being supplied with the application.

In order to fully consult on the application we would require the following to be addressed.

Plant noise

Environmental Protection would require the applicant to undertake a noise impact assessment for all fixed plant. The assessment should identify all noise sources, assess the noise impact at noise sensitive receptors, and include details of proposed noise mitigation measures.

Deliveries to the site

Environmental Protection would require the applicant to provide details of all deliveries to the site and, depending on the proposed timing of deliveries, may require a noise impact assessment to be undertaken

Dust Management Plan

A dust management plan to be supplied addressing all properties within 250 metres of the proposed site.

2nd response received 20th March 2018

Recommendations

It has been demonstrated that at the nearest dwellings the aggregate (extract fans and feed silo motor) Rating Level will be sign below the typical background during the day, evening and night. On the basis that BS4142:2014 states that for a Rating Level of parity with the typical background the Specific Level will have a low impact they conclude that at highest the noise impact of the assessed noise sources will be very low.

However, I would recommend the use of the following conditions.

Conditions

(a) Noise Conditions

For the use of fixed plant/machinery, etc.

The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as $L_{A90 [1hour]}$ (day time 07:00-23:00 hours) and/or (b) $L_{A90 [5 mins]}$ during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.

Reason: To protect the local amenities of the local residents by reason of noise.

(a1) Transport Noise

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

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

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

(i) General Odour condition

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

Reason: To protect the local amenities of the local residents from the excess of mal-odorous emissions.

(ii) The Site for the Storage of manure

No storage of manure shall be sited next to dwellings, place of work, and popular leisure areas and all stored manure shall be stored on level ground.

No manure shall be stored over field drains or within 10 metres of a watercourse.

Reason: To avoid runoff and prevent deterioration of the local amenities.

Manure transportation

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

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

Manure storage.

All stored manure that needs to be covered shall be covered by the end of the day. The covering shall be tightly with polythene in such a manner as to leave no gaps and the edges of the polythene shall be tightly secured. All poultry manure that needs to be covered shall remain covered for a minimum period of 10 days before it is used.

Reason: To ensure that any flies or fly larvae are killed, prevent sudden increase of fly and other insect infestations and minimise smells and contamination of water.

(c) Artificial lighting condition.

Any artificial lighting incorporated to these units in connection to this application shall not increase the pre-existing illuminance at the light sensitive locations when the light is in operation.

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

Third response received 14th May 2018

Further to our conversation on Friday, Kevin Bray and myself have reviewed our comments in respect of this application.

We therefore wish to remove condition a and b(i) from our comments dated 14th May 2018. In relation to the noise condition the applicants noise assessment has demonstrated that noise from the fans and feed silo's onsite will not exceed WHO guidelines for sleep disturbance and therefore we would not object in respect of noise, also as the predictions show this by some margin then a condition is not required.

In relation to the odour condition and upon reflection we do not believe that this meets the tests in the planning circular. Odour from the units themselves does not usually cause an issue, odour problems generally result from manure management and other conditions have been set to control this. Therefore subject to the other conditions suggested we have no objection to this application.

PCC Contaminated land officer

Received 21st December, 2017

In relation to planning application P/2017/1437, there would be no requirements in respect of land contamination.

PCC Ecologist

Received 6th April 2018

Thank you for consulting me with regards to planning application P/2017/1437 which concerns an application for the erection of a pullet rearing unit, feed silos and all associated works at Land at Dol y Garreg, Llanwrthwl, Llandrindod Wells, Powys.

The information submitted to inform the planning application has been assessed against the NRW Quick Guide 9 Poultry Units: planning permission and environmental assessment Guidance for applicants, local planning authorities and NRW staff and the EA and DEFRA Guidance - Intensive farming risk assessment for your environmental permit.

The following European Sites are present within 5km of the proposed development:

- River Wye Special Area of Conservation approximately 244m from proposed development
- Elenydd-Mallaen Special Protection Area (SPA) approximately 478m from proposed development
- Elan Valley Woodlands SAC approximately 499m from proposed development
- Elenydd SAC approximately 3701m from proposed development

The following Nationally Designated Sites are present within 5km of the proposed development:

- Upper Wye (Tributaries) Site of Special Scientific Interest (SSSI) approximately 244m from proposed development
- Carn Gafallt SSSI approximately 478m from proposed development
- River Wye (Upper Wye) SSSI approximately 539m from proposed development
- Coed Y Cefn SSSI approximately 1645m from proposed development
- New House Meadow SSSI approximately 1760m from proposed development
- Elenydd SSSI approximately 2100m from proposed development
- Rhosydd Llanwrthwl SSSI approximately 2474m from proposed development
- Rhos Rhyd-Y-Ceir SSSI approximately 2665m from proposed development
- Cwm Gwynllyn SSSI approximately 2935m from proposed development
- Caeau Cnwch a Ty'n-Y-Graig approximately 2951m from proposed development
- Cae Cwm-Bach SSSI approximately 4257m from proposed development
- Marcheini Uplands, Gilfach Farm & Gamallt SSSI approximately 4445m from proposed development
- Upper Nantserth Pasture SSSI approximately 4677m from proposed development
- Coedydd Glannau a Cwm Coel SSSI approximately 4769m from proposed development
- Gweunydd Ty'n-Y-Llidiart SSSI approximately 4921m from proposed development

The following non-statutory designated sites are present within 2km of the proposed development:

- Carn Gafallt RSPB Reserve approximately 484m from proposed development
- Fron-dorddu RVNR approximately 1078m from proposed development
- Rhayader Tunnel Wildlife Trust Reserve approximately 1285m from proposed development
- Tan-yr-Allt SINC approximately 1391m from proposed development
- 80 parcels of Ancient Woodland – closest parcel approximately 96m from proposed development

A Pre-Application Consultation as undertaken with NRW, a copy of the pre-application advice dated 27/04/2017 ref:SN96/GB/CAS-32211-G4X2. In this advice NRW identify that as the SCAIL results submitted to inform the pre-app predict that process contributions of ammonia and nitrogen from the proposed development would exceed the thresholds that they apply in their assessment of potential impacts to SACs and SSSIs, further detailed modelling would be required to support an application.

A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Pullet Rearing House by AS Modelling & Data Ltd. Dated 8th October 2016 has been produced and submitted with the application.

In addition to the detailed modelling requested for statutory designated sites the Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Pullet Rearing House by AS Modelling & Data Ltd. Dated 8th October 2016 has also considered the potential impacts of the proposed development to Ancient Woodland sites within 2km of the proposed development, I have reviewed the information provided to determine the likely significance of predicted emissions from the proposed development and the need for further information to assess potential impacts.

Preliminary modelling was undertaken to identify the predicted maximum annual mean ammonia concentration at the identified receptors. For ammonia concentration in air, the Critical Level for higher plants is 3.0 µg-NH₃/m³ as an annual mean. For sites where there are sensitive lichens and bryophytes present, or where lichens and bryophytes are an integral part of the ecosystem, the Critical Level is 1.0 µg-NH₃/m³ as an annual mean. For the purposes of modelling and in the absence of survey information to demonstrate that the Ancient Woodlands do not support sensitive lichens or bryophytes the lower critical level is applied.

Current guidance with regards to Ancient Woodland identifies that an emission is insignificant where Process Contribution (PC) is <50% ancient woodland and where modelling predicts a process contribution >100% at an ancient woodland the proposal may not be considered acceptable.

The report identifies that at all of the Ancient Woodlands considered, the preliminary modelling predicted that the process contribution to the annual ammonia concentration and the nitrogen deposition rate would be below the recognised lower threshold percentage (100% for a non-statutory wildlife site) of the precautionary Critical Level of 1.0 µg-NH₃/m³.

It is therefore considered that the potential impacts of the proposed development to Ancient Woodland is within the levels considered to be acceptable by recognised current guidelines.

NRW have considered the potential of the proposed development to impact Internationally and Nationally Designated Sites (SSSIs and SAC). They have confirmed in their response dated 27th March 2018 that they are satisfied that the process contributions of ammonia and nitrogen deposition from the proposed development are below the thresholds applied in their assessment of potential impacts to these sites. They do note that although the farm contributions are within the old guidelines, they are at the upper end of those guidelines for some of the protected sites listed in the report.

In addition NRW have reviewed the following documents submitted to inform the application:

-Manure Management Plan Revision A for Mrs N Wozencraft and Son, Dolgarreg Farm, Llanwrthwl Powys', undated
-Pollution Prevention Plan Revision A for Mrs N Wozencraft and Son, Dolgarreg Farm, Llanwrthwl Powys', undated
-Drainage Plan - Proposed Site Plan drawing no. 4723/1 produced by Gareth Price Chartered Building Surveyor dated October 2017

NRW have confirmed that they consider the information and measures identified to be appropriate and subject to adherence to these Plans there would be no negative impacts from the proposed development. NRW have recommended that a suitably worded planning condition is included to secure adherence to these plan, I agree with the need for a condition to be included to this effect.

I have undertaken Habitats Regulations Assessment Screening of the proposed development for the River Wye SAC the Screening found that the proposed development would not result in Likely Significant Effects to the SAC in light of proposed mitigation measures. I have attached a copy of the Screening Assessment for your records.

No information has been submitted with regards to external or perimeter lighting. Whilst it is recognised that at this time there may be no intention to install exterior lighting, in the future it may be deemed necessary to install external lighting e.g. for safety reasons, to ensure that the lighting would not have a negative impact on local wildlife I recommend inclusion of a condition requiring any future external lighting identified as required at the site is approved by the LPA prior to installation.

I note from the submitted proposed site plan that as part of the application a 2.0m high bund will be installed along the north-east and northwest sides of the proposed chicken rearing shed. The plans indicate that the bunds will be planted with native species on top, the species identified as being planted are hawthorn, hazel and blackthorn. The provision of additional planting through the development is welcomed and is considered to provide biodiversity enhancements. In order to ensure the planting is undertaken in a manner to ensure effective establishment and long-term success it is recommended that a planning condition is included to secure a detailed landscaping scheme.

Therefore should you be minded to approve the application in addition to the condition recommended by NRW regarding adherence to manure management, pollution prevention and drainage plans I recommend inclusion of the following conditions:

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV4, ENV5 and ENV7 / LDP Policies DM2 and DM7 in relation to The Natural Environment and External Lighting and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6/ LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.

PCC Land Drainage Officer

Received 12th April 2018

In refer to your consultation enquiry regarding the above mentioned application. Apologies for the delay in responding.

The Lead Local Flood Authority would make the following observations/comments/recommendation.

Surface Water Run-off

Observation: Item 13 - *Assessment of Flood Risk* on the application form indicates that the development proposal is to dispose surface water via sustainable drainage system and soakaway.

Drwg No.4723/1 - 'Proposed Site Plan' prepared by Gareth Price Chartered Building Surveyor dated 10/17, shows the surface water run-off draining to soakaway.

The general soil type for the site location is described as being 'freely draining', so it is likely a SUDS and or soakaway solution can be achieved in this locality.

Comments: The site is classed as Greenfield, therefore proposed surface water flows should be equivalent existing Greenfield run-off in accordance with good practice requirements. The use of soakaways or other best practice management sustainable drainage systems should be investigated in the first instance for surface water disposal. The design of such systems shall cater for a 1 in 100 year return storm event plus an allowance of 20% for climate change. Porosity test should be undertaken in accordance with BRE365 – *Soakaway Design*.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site shall be equivalent to a 1 in 1yr Greenfield run-off rate. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year plus an allowance for climate

change and will not cause flooding on or off the site. There must be no discharge to a surface water body that results from the first 5mm of any rainfall event.

No surface water run-off from the development site shall drain onto the public highway. If non permeable surfacing is used on the new entrance driveway and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Recommendation: No development shall commence until a detailed scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the building comes into use.

Reason: To ensure that the proposed surface water drainage system for the site follows best practice designs and is fully compliant with regulations and is of robust design.

NRW

First response received 16th January, 2018

I am dealing with this planning application for a pullet rearing unit. The majority of the plans are acceptable, however the Manure Management Plan needs to be amended to include a manure contingency plan.

Would you be willing for me to discuss amending the document directly with the applicant? I have discussed the proposal extensively with them at pre-application stage, and thought it would speed up the process of NRW responding to you.

Alternatively, I could send an official letter requesting the document to be amended.

Received 16th January 2018

Thank you for referring the above application, which we received on 21/12/2017. We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirement. We would object if the scheme does not meet these requirements.
Requirement 1 – Amendment of Manure Management Plan to include a Manure Contingency Plan

Manure Management

The Manure Management Plan states that the manure will be taken to an Anaerobic Digester or sold.

Requirement 1 – Amendment of Manure Management Plan to include a Manure Contingency Plan

The Manure Management Plan must be amended to demonstrate that there is a contingency plan for storing all manure, slurry and dirty water produced throughout the year when the normal method of manure disposal may not be possible.

The contingency plan should also include contingency for the storage of wash water during and after disease outbreak, as this is classified as hazardous waste and depending on the severity and type of outbreak, may need to be stored for longer than normal and separate from other manures and slurry.

Drainage Plan

The plan showing the proposed site layout ('Proposed Site Plan', drawing number 4723/1, dated 10/17 by Gareth Price Chartered Building Surveyor) shows the proposed site drainage plans. The dirty and clean water will be drained separately. The plan states the dirty water tank will be built to SSAFO standards. The clean water will be disposed of by means of a soakaway.

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

We are likely to request a condition which includes the implementation of this plan.

Pollution Prevention Plan

A Pollution Prevention Plan has been submitted in support of the proposal.

Provided the works on site are undertaken in accordance with this plan, the proposal is unlikely to adversely impact the surrounding environment.

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

We are likely to request a condition which includes the implementation of this plan.

Protected Sites and Aerial Emissions

Intensive agricultural units have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition).

We have reviewed the information provided in the report ('A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Pullet Rearing House at Sŵn y Glyn, near Rhayader in Powys' by AS Modelling & Data Ltd, dated 8th October 2016) and considered the potential impacts based on the pre-April 2017 guidance. The farm contribution to both ammonia concentrations and nitrogen deposition fall within those pre-April 2017 guidelines at the designated sites assessed.

It should be noted that although the farm contributions are within the old guidelines, they are at the upper end of those guidelines for some of the protected sites listed in the report.

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

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other

matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Third response received 28th March 2018

Thank you for referring the above application, which we received on 21/12/2017.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if you attach the condition listed below. We would object if the consent does not include this condition.

Condition 1 - Pollution Prevention: To prevent pollution to watercourses during the construction and operational phases of the proposal, the development shall be carried out in accordance with the:

- i) Pollution Prevention Plan ('Pollution Prevention Plan – Proposed Pullet Rearing Unit at Dol y Garreg, Llanwrthwl', undated)
- ii) Manure Management Plan ('Manure Management Plan Revision A For Mrs N Wozencraft and Son Dolgarreg Farm Llanwrthwl Powys', undated)
- iii) Drainage Plan ('Proposed Site Plan', drawing number 4723/1, dated 10/17 by Gareth Price Chartered Building Surveyor)

Manure Management

We have assessed Manure Management Plan ('Manure Management Plan Revision A For Mrs N Wozencraft and Son Dolgarreg Farm Llanwrthwl Powys', undated). The Manure Management Plan states that the manure will be taken to an Anaerobic Digester (AD plant) or sold.

The Plan includes a contingency plan for the storage of manure when export of manure to an AD plant, and for containing contaminated dirty water during and after disease outbreak. We confirm Requirement 1 of our previous letter has been satisfied.

Drainage Plan

The plan showing the proposed site layout ('Proposed Site Plan', drawing number 4723/1, dated 10/17 by Gareth Price Chartered Building Surveyor) shows the proposed site drainage plans. The dirty and clean and water will be drained separately. The plan states the dirty water tank will be built to SSAFO standards. The clean water will be disposed of by means of a soakaway.

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

Pollution Prevention Plan

A Pollution Prevention Plan ('Pollution Prevention Plan – Proposed Pullet Rearing Unit at Dol y Garreg, Llanwrthwl', undated) has been submitted in support of the proposal.

Provided the works on site are undertaken in accordance with this plan, the proposal is unlikely to adversely impact the surrounding environment.

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

Protected Sites and Aerial Emissions

Intensive agricultural units have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition).

We have reviewed the information provided in the report ('A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Proposed Pullet Rearing House at Sŵn y Glyn, near Rhayader in Powys' by AS Modelling & Data Ltd, dated 8th October 2016) and considered the potential impacts based on the pre-April 2017 guidance.

The background ammonia concentration (annual mean) in the area around Swn y Glyn is 0.91µg/m³, and the background nitrogen deposition is 27.16 kgN/ha/yr to woodland, and 18.2kgN/ha/yr to short vegetation.

The farm contribution to both ammonia concentrations and nitrogen deposition fall within the pre-April 2017 guidelines at the designated sites assessed.

It should be noted that although the farm contributions are within the old guidelines, they are at the upper end of those guidelines for some of the protected sites listed in the report.

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

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be www.naturalresourceswales.gov.uk advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Representations

A public site notice was erected at the site for a period of 21 days. In response, 22 objection letters have been received and 13 letters of support received.

The key points raised in the objection letters are summarised below:

- Impact to local tourism
- Smell
- Traffic issues – road network unsuitable

- Noise
- Light pollution
- Adverse visual impact
- Concerns regarding air pollution
- surface water quality
- Public amenity
- Affect to private water supply
- Impact of anomia pollution to woodland biodiversity
- Affect to wildlife habitats
- Contamination risks to river
- Affect to local businesses
- Impact to Wye SSSI and SAC and Elenydd SSSI
- Site is wet
- Water supply issues
- Waste disposal
- Flood Risk issues

The key points raised in the letters of support are summarised below:

- Enterprises such as this are crucial for farms to remain sustainable.
- Will service free range poultry houses in Powys with pullets.
- Very few pullet rearing units in Powys – sustainable development.
- Supports the local economy.
- Much needed farm diversification.
- Increasing demand for eggs and poultry.
- Will secure a future for a young farmer to stay in agriculture.
- Supports the local farming industry

Planning History

P/2008/1044 – Outline – Agricultural Dwelling – Refused 28/10/2008

P/2008/1749 – Full: Erection of general purpose agricultural shed (cattle building) CC 20/2/2009

P/2009/0191 – Full: Erection of a general purpose agricultural building CC 15/4/2009

P/2009/1111 – Change of use of land for the siting of 2 self-contained holiday lets, installation of a private treatment plant and highway improvements to C0009/C0010 junction. CC 14/1/2010

P/2010/1063 – Full: Erection of a general purpose agricultural building. CC 3/11/2010

P/2010/0468 – Full: Erection of a general purpose agricultlaur building. CC 16/2/2010

Principal Planning Constraints

Flood Zone – Zone ALV
Minerals Safeguarding

Ancient Woodland
Public Right of Way

Principal Planning Policies

National planning policy

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
Technical Advice Note 11 – Noise (1997)
Technical Advice Note 12 – Design (2016)
Technical Advice Note 15 - Development and Flood Risk (2004)
Technical Advice Note 18 – Transport (2007)
Technical Advice Note 23 – Economic Development (2014)
Technical Advice Note 24 - The Historic Environment (2017)

Welsh Office Circular 11/99 – Environmental Impact Assessment

Local planning policies

Powys County Council Local Development Plan 2018

SP7 - Safeguarding of Strategic Resources and Assets
DM2 – The Natural Environment
DM4 – Landscape
DM6 – Flood Prevention and Land Drainage
DM7 – Dark Skies and External Lighting
DM13 – Design and Resources
DM14 – Air Quality Management
E6 – Farm Diversification
T1 – Travel, Traffic and Transport Infrastructure

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

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

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

Environmental Impact Assessment Regulations 2017

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

The development falls within the description of development at paragraph 1 c. of schedule 2 (“the schedule”) to the 2017 Regulations and meets the applicable criteria in column 2 of the table in the Schedule. The development is therefore comprised “Schedule 2” development within the meaning of the 2017 Regulations.

Following screening the local planning authority determined the application as EIA development and a subsequent EIA screening direction was made to Welsh Government by the applicant on the 30th January 2018. The Welsh Government response dated 22 March 2018 directed that the proposed development is not EIA development within the meaning of the 2017 Regulations.

Principle of Development

Policy E6 of the Powys Local Development Plan accepts the principle of appropriate farm diversification developments within the open countryside where the schemes are of an appropriate intensity, does not have a detrimental impact upon the vitality and viability of adjacent land uses, has adequate parking facilities and is located within or immediately adjacent to the existing farm complex. In light of the above, and having considered all statutory consultee responses, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

Farm Diversification

The existing farm business at Dol-Garreg is an existing mixed enterprise farm of cattle and sheep extending to 80 acres of owner occupied land and rented land.

The farm business is proposing to diversify into a pullet rearing enterprise which will supplement the existing farm profits. Reasons provided (within the Design and Access Statement) indicate that there have been a number of free range egg laying units approved in Powys in recent years and there is currently a demand for hens to stock these sheds. The number of pullet rearing sheds is sited as being currently low in Powys and franchises are

looking for local suppliers which will cut down the transportation of hens from outside the region.

Planning policy acknowledges that rural enterprises play a vital role in promoting healthy economic activity within rural areas. Planning Policy Wales (2016) and Technical Advice Note 23 (2014) emphasises the need to support diversification and sustainability in such areas, recognising that new businesses are key to this objective and essential to sustain rural communities therefore encouraging Local Authorities to facilitate appropriate rural development.

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

Landscape and Visual Impact

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

This application site lies within the lower Elan Valley as characterised by LANDMAP and is located in an open / wooded mosaic upland valley. The visual and sensory assessment and landscape habitat assessment being considered to be moderate.

The proposed unit is to accommodate 12,000 birds and the building itself is to be located directly north of an existing site of an agricultural shed which was approved under P/2010/1063. It is noted that ground works have started to implement this permission.

The proposed building would be accessed via the existing access off the County Class III Highway, C0010 and a hardstanding area is proposed directly east of the proposed building.

The site itself is bound by the highway to the north, an existing access to the east, agricultural land to the south and an existing access track to the west.

The topography of the agricultural land to the south is gently rising with the proposed building located on the lower area of land adjoining the highway.

The topography of the surrounding agricultural land means that the proposed building would be significantly screened in the wider landscape to the south and woodland to the east would screen the site in an easterly direction. The site would be partially screened from a north and north easterly direction by existing landscaping including hedgerows and trees.

Policy DM13 of the Powys Local Development Plan seeks to ensure that development is designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing and design detail. Developments should not have an unacceptable detrimental impact upon the amenities enjoyed by the occupants or users of nearby properties by means of noise, dust, air pollution, litter, odour, hours of operation, overlooking or any other planning matter.

The proposed unit is sited within a parcel of land where former planning approvals for agricultural buildings and tourism accommodation have been granted and as such the principle of development is therefore established in this location. The scale of the building being 40 metres in length, 15 metres in width, 3.78 metres in height to the eaves and 6.0 metres in height to the ridge is considered an acceptable scale and the design and appearance is very much of standard agricultural appearance. The proposed development will be positioned on a parcel of land with existing planning permission for an agricultural building. It is recognised that the buildings will be visible from the adjoining highway and in particular whilst the proposed landscaping scheme is established. (A 2.0 metre high bund with planting of native species is proposed along the northern and western boundary of the site which will aid assimilation into the landscape in this location).

Given the proposed siting of the unit and topography of the surrounding agricultural land and scale of the proposed development, officers consider the siting to be acceptable. Officers consider that the proposal is capable of being accommodated without causing unacceptable harm to existing character and appearance of the surrounding area and landscape. It is noted that conditions regarding future landscaping are to be imposed to ensure that prior to commencement of any building works a landscaping scheme is submitted to the local planning authority for approval.

In light of the above observations and notwithstanding the scale of the proposed development, it is considered that the proposal is in accordance with planning policy and in particular policies SP7, DM2, DM4, DM7, DM13 and E6 of the Powys Local Development Plan.

Highways Safety and Movement

Policy T1 of the Powys Local Development Plan 2018 states that development proposals should incorporate safe and efficient means of access to and from the site for all transport users, manage any impact upon the network and mitigate adverse impacts.

This application is supported by a Design & Access Statement which outlines that the pullet rearing unit will require bulk food delivered by six or eight wheeler HGV's. The Design and Access Statement submitted with the application states that feed will be delivered 2/3 times a month and stored in hoppers on site. There is estimated to be 2.3 cycles per year – which will require deliveries and collections of birds for 4 days of the calendar year. It is noted that the main labour will be family members of the applicant and all traffic will be accessed via the B4518 (Rhayader to Elan Valley highway).

The site itself will include an area for parking, turning and service area directly west of the existing access.

The Highway Authority have been consulted and initially commented that they would require further details regarding the access to be included within the red development line boundary, visibility was to be shown at the access of 34 metres, the proposed gates were to be set back 20 metres from the highway and the width of the access was to be shown on plan.

Revised highway details were submitted on the 28th February 2018 and the Highway Authority re-consulted.

In response to the revised details the Highway Authority has no objections to the proposal subject to the inclusion of appropriately worded conditions.

In light of the Highway Officers comments and suggested conditions, Officers consider that subject to the conditions suggested, the proposed development is in accordance with planning policy, particularly policy T1 of the LDP, Technical Advice Note 18 and Planning Policy Wales.

Biodiversity and Ecology

SAC's, SSSI's and Ancient Woodland

Policy DM2 of the Powys Local Development Plan seeks to maintain biodiversity and safeguard protected important sites. Policy DM2 states that proposed development should not unacceptably adversely affect any designated site, habitat of species including locally important site designations.

It is considered that the key impacts associated with the proposed development include the potential impacts upon nearby watercourses and woodlands as a result of the contribution of the process on the existing ammonia levels in the area. An ammonia modelling report has been submitted in support of the application. (A Report on the modelling of the dispersion and deposition of Ammonia from the Proposed Pullet Rearing House at Swm Y Glyn, Rhayader – by AS Modelling and Data Ltd – 8th October 2016). The report identifies a number of environmentally important sites over a domain covering the site of the proposed unit and nearby River Wye SAC, Elan Valley Woodlands SAC and Elenydd – Mallaen SPA and computer modelling used to assess the impact of ammonia emissions from the proposed pullet rearing unit

Natural Resources Wales and the County Ecologist have been consulted as part of this application process.

The County Ecologist notes that preliminary modelling was undertaken to identify the predicted maximum annual mean ammonia concentration at the identified receptors. For ammonia concentration in air, the Critical Level for higher plants is 3.0 µg-NH₃/m³ as an annual mean. For sites where there are sensitive lichens and bryophytes present, or where lichens and bryophytes are an integral part of the ecosystem, the Critical Level is 1.0 µg-NH₃/m³ as an annual mean. For the purposes of modelling and in the absence of survey information to demonstrate that the Ancient Woodlands do not support sensitive lichens or bryophytes the lower critical level is applied.

Current guidance with regards to Ancient Woodland identifies that an emission is insignificant where Process Contribution (PC) is <50% ancient woodland and where modelling predicts a

process contribution >100% at an ancient woodland the proposal may not be considered acceptable.

The report identifies that at all of the Ancient Woodlands considered, the preliminary modelling predicted that the process contribution to the annual ammonia concentration and the nitrogen deposition rate would be below the recognised lower threshold percentage (100% for a non-statutory wildlife site) of the precautionary Critical Level of 1.0 µg-NH₃/m³.

The County Ecologist therefore considers that the potential impacts of the proposed development to Ancient Woodland are within the levels considered to be acceptable by recognised current guidelines.

NRW have also considered the potential of the proposed development to impact Internationally and Nationally Designated Sites (SSSIs and SAC). They have confirmed in their response dated 27th March 2018 that they are satisfied that the process contributions of ammonia and nitrogen deposition from the proposed development are below the thresholds applied in their assessment of potential impacts to these sites. They do note that although the farm contributions are within the old guidelines, they are at the upper end of those guidelines for some of the protected sites listed in the report.

In addition NRW have reviewed the following documents submitted to inform the application:

- Manure Management Plan Revision A for Mrs N Wozencraft and Son, Dolgarreg Farm, Llanwrthwl Powys', undated
- Pollution Prevention Plan Revision A for Mrs N Wozencraft and Son, Dolgarreg Farm, Llanwrthwl Powys', undated
- Drainage Plan - Proposed Site Plan drawing no. 4723/1 produced by Gareth Price Chartered Building Surveyor dated October 2017

NRW have confirmed that they consider the information and measures identified to be appropriate and subject to adherence to these Plans there would be no negative impacts from the proposed development. NRW have recommended that a suitably worded condition is included to secure adherence to these plans – the County Ecologist is in agreement to the need to include a condition to this effect.

As part of this application process the County Ecologist has been consulted who has not requested any further information as part of this application process. A Habitats Regulations Assessment Screening of the proposed development for the River Wye SAC found that the proposed development would not result in Likely Significant Effects to the SAC in light of proposed mitigation measures.

In summary, as part of this application process both the County Ecologist and NRW have been consulted who have not raised any concerns or objections regards to potential impacts on any SSSI, SAC or areas of ancient woodland within close proximity to the site. Both NRW and the ecologist have raised no objections to the scheme subject to the suggested conditions being included upon any grant of consent.

In light of the above and subject to the imposition of conditions suggested by both NRW and the County Ecologist, it is considered that the proposed development is in accordance with

policy DM2 of the Powys Local Development Plan, Technical Advice Note 5 and Planning Policy Wales.

Protected Species

Policy DM2 of the Powys Local Development Plan, TAN5 and PPW seek to safeguard protected species and their habitats. Policy DM2 states that proposed development should not unacceptably adversely affect any habitat or protected species.

As part of this application process the County Ecologist has been consulted who has not requested any further information regarding protected species and has offered no objection subject to the imposition of conditions requiring the submission of lighting details and a landscaping scheme..

In light of the above and subject to the recommendations, it is considered that the proposed development is in accordance with policy DM2 of the Powys Local Development Plan, Technical Advice Note 5 and Planning Policy Wales.

Residential Amenity

Intensive livestock units have the potential to impact on the living conditions of residents living nearby through a number of factors, in particular emissions of noise and odour. The nearest residential dwellings to the proposed site are located approximately 180 metres distant from the proposed development site namely Dolgam to the north and Dolifor to the south west.

Environmental Health has been consulted as part of the application and initially recommended refusal on the grounds of insufficient information regarding plant noise, deliveries to the site and dust management plan.

Noise:

LDP policy DM13 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Officers acknowledge that intensive livestock units have potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

In a second response dated 20th March 2018, Environmental Health confirm that following the submission of a Plant Noise Assessment (Plant Noise Assessment – Acoustics Report M1806/RO1a) a noise survey was conducted to determine the typical background noise levels at the nearest dwellings to the proposed pullet rearing unit.

The extract fan and feed silo motor noise emissions as a result of the development were assessed in accordance with BS4142:2014. The noise assessment concludes that at the nearest dwellings the aggregate rating level will be significantly below the typical background during the day, evening and night. It is therefore concluded that at highest the noise impact of the assessed noise sources will be very low.

On the basis of the submitted information and comments received, officers consider that sufficient information has been submitted in support of the application to demonstrate that the proposed poultry development will not have an unacceptable adverse impact on the amenities enjoyed by the occupants of the neighbouring properties by reasons of noise. As such, the proposed development is considered to fundamentally comply with LDP policies DM13, Technical Advice Note 11 and Planning Policy Wales.

Odour:

A manure management plan has been submitted in support of this application. The plan indicates that all of the land currently owned at Dol-Garreg by the applicant will not be used for the spreading of any manure from this proposal. The plan indicates that all solid manure produced within the pullet rearing unit will be removed after every cycle approx. twice a year. The manure will be loaded into lorries and transported off site to an Anaerobic Digester plant. (it is noted that other holdings from time to time will be able to purchase the manure).

The manure management plan also includes a contingency plan for when removal of the manure off site may not be possible. In this case, storage in temporary field heaps sited in accordance with regulatory controls and Code of Good Agricultural Practice or stored in a covered area within existing buildings will be facilitated.

As part of this application process NRW, the County Ecologist and Environmental Health officers have been consulted who have raised no objection to the proposed manure management plan and that the proposed development would not have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reason of odour.

Following consultation, it is noted that no concerns have been raised by the Environmental Health Department in this respect subject to the inclusion of appropriately worded conditions

In light of the above, it is considered that the proposed development will not have an unacceptable adverse impact on the amenities enjoyed by occupants of nearby properties by reasons of odour. Therefore, Development Management considers the proposal to be in accordance with planning policy, in particular LDP policy DM13 and DM14.

Tourism

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

The application site sits in the heart of rural Powys, an area that has a strong tourism industry in a variety of guises although it is noted that many tourists are drawn to the area for its scenic quality and to enjoy the nearby Elan Valley area. Elan Village is located approximately 2.5 kilometres distant in a south westerly direction.

Several representations have been received raising concerns that the proposed development will be of detriment to local tourism and their livelihoods.

Letters have been received that make particular comment on the impact of the proposed development on tourism in the Elan Valley area and also the nearby bed and breakfast establishment that is located approximately 190 metres distant from the development site in a south westerly direction.

Whilst objectors make reference to potential impact of odour emissions on the nearby tourism accommodation considerations should also be given to the technical professional reports submitted with the application and the comments submitted by the Environmental Health Officer who offers no objection to the proposed development.

Whilst the concerns raised by objectors are noted, the evidence submitted and reviewed details odour emissions and potential noise impacts that are in line with relevant guidelines

Surface and Dirty Water Drainage

This application submission (Proposed site layout plan) shows a dirty water tank to SSAFO regulations and is proposed that dirty water will be kept separate from surface water drainage. The pollution prevention plan (received 4th December 2017) notes that the drainage system will ensure that the foul water and clean water are kept separate and therefore no clean water will be contaminated. The proposed drainage system will allow all clean surface water to be discharged into a nearby soakaway adjacent to the building and is diverted away from any watercourse.

As part of this application process NRW have been consulted and they have raised no objection to the proposed means of surface and dirty water disposal. It is proposed that a condition be placed on an approval to ensure that no development commences until a detailed scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority.

In light of the above, it is considered that the proposed surface and dirty water drainage systems proposed fundamentally comply with policy DM6 of the Powys Local Development Plan.

Conclusion

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

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

Decision – 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 plans stamped as approved on **XXXXX** (drawing no's: 4723/2A – Site Location, 4723/3 Proposed floor plan, 4723/4 Proposed Elevations, 4723/1A – Proposed Site Plan, Dust Management Plan (received 12th March 2018), Manure Management Plan Revision A for Mrs N Wozencraft and Son, Dolgarreg Farm, Llanwrthwl Powys, Pollution Prevention Plan Revision A (received 4th December 2017), Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed Pullet Rearing House at Swn Y Glyn, Nr Rhayader, Powys – AS Modelling and Data Ltd – 8th October 2016, Design and Access Statement by Gareth Price Building Surveyor – received 4th December 2017 and Plant Noise Assessment Acoustics Report – dated 27th February 2018 by Matrix Acoustic Design Consultants.
3. Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
4. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 20 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
5. The centre line of the first 20 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
6. Before any other development commences the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 34 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway.
7. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
8. Before any other development commences the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
9. The width of the access carriageway, constructed as Condition 6 above, shall be not less than 6 metres for a minimum distance of 20 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

10. 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 for a distance of 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

11. Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than 2 cars and 2 heavy goods vehicles together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

12. Before any other development commences provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

13. Prior to the occupation 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.

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

15. Prior to any works being commenced on the development site the applicant shall construct 2 passing bays, in locations to be agreed in writing by the Local Planning Authority. The passing bays shall be constructed up to adoptable standard prior to any works being commenced on the development site.

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

17. No storage of manure shall be sited next to dwellings, place of work, and popular leisure areas and all stored manure shall be stored on level ground. No manure shall be stored over field drains or within 10 metres of a watercourse.

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

19. All stored manure that needs to be covered shall be covered by the end of the day. The covering shall be tightly with polythene in such a manner as to leave no gaps and the edges of the polythene shall be tightly secured. All poultry manure that needs to be covered shall remain covered for a minimum period of 10 days before it is used.

20. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

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

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

23. No development shall commence until a detailed scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the building comes into use.

24. Prior to the commencement of any building works (works relating specifically to the application building), scaled drawings detailing the landscaping scheme for the application site shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include scaled drawings and a written specification clearly detailing: species, sizes (in metric form), densities and planting numbers of new trees and/or hedgerow planting.

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

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

Reasons:

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

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

3 – 15. In the interests of highway safety and in accordance with the provisions of Powys LDP Policy DM13 and T1.

16. To protect the local amenities of the local residents from noise.

17. To avoid runoff and prevent deterioration of the local amenities.

18. To prevent spillage of manure and minimise odour dispersion and prevent population increase of insects.
19. To ensure that any flies or fly larvae are killed, prevent sudden increase of fly and other insect infestations and minimise smells and contamination of water.
20. To protect the local amenities of the local residents from the excess of illuminance.
21. To comply with Powys County Council's LDP Policies DM2, DM7 and DM13 in relation to The Natural Environment, External Lighting and residential amenity and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
22. To comply with Powys County Council's LDP Policies DM2, DM4 & DM13 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Planning Policy Wales (Edition 9, November 2016), and Part 1 Section 6 of the Environment (Wales) Act 2016.
23. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to Policy DM13 of the Powys Local Development Plan and Planning Policy Wales (2016).
24. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to Policy DM13 of the Powys Local Development Plan and Planning Policy Wales (2016).
25. To ensure that the proposed surface water drainage system for the site follows best practice designs and is fully compliant with regulations and is of robust design.
26. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment and visual amenity and privacy in accordance with policies DM2, DM4 and DM13 of the Powys Local Development Plan (2018).
28. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies DM2, DM4 and DM13 of the Powys Local Development Plan (2018).
29. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with policies DM2, DM4 and DM13 of the Powys Local Development Plan (2018).

Informative Notes

The Design and Access Statement (November 2017), submitted in support of this proposal states the development will house 12,000 birds. Please note that should the number of birds subsequently increase within the holding to over 40,000 birds an Environmental Permit under the Environmental Permitting Regulations 2016 would be required from Natural Resources Wales.

Should an Environmental Permit be required we recommend that both planning and permit applications are twin tracked.

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

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

Abstractions

If it is intended to supply new units with water from ground or surface waters, you are advised to check the abstraction limits and apply for a permit to abstract if required.

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

Discharges

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

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

Water Resources Act (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil) (Wales) Regulations 2010

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

Manure Storage

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

Manure Spreading

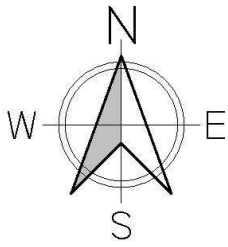
Manures should be spread in accordance with the Welsh Government's Code of Good Agricultural Practice.

Waste

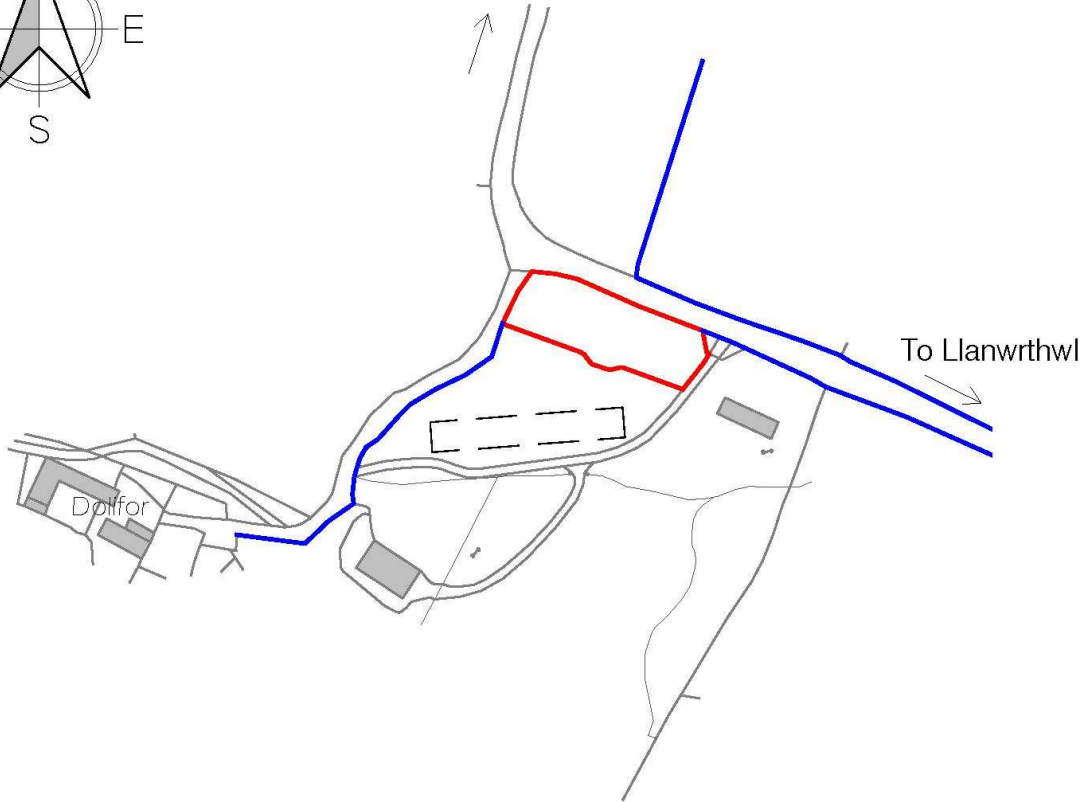
The activity of importing waste into the site for use as, for example hardcore, must be registered by the Natural Resources Wales as an exempt activity under Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity for an exemption permit for any material imported to and exported from the site.

Case Officer: Karen Probert- Planning Officer
Tel: 01597827372 E-mail:karen.probert1@powys.gov.uk

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

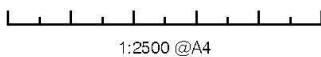


To Elan Valley
and Rhayader



Rev.	Des.	Date.

GARETH PRICE
CHARTERED BUILDING SURVEYOR
 Garner Southall Group Practice
 Ashby House, Middleton Street,
 Llandrindod Wells, Powys LD1 5ET
 Tel: 01597 822412
 Email: gareth.llandod@garnersouthall.co.uk



1:2500 @A4

Project:
 PROPOSED PULLET REARING UNIT,
 DOL-Y-GARREG, LLANWRTHWL

Subject:
 SITE LOCATION

Drm. SAB Scale: 1:2500@A4

Date: 11/17 Dwg No: 4723/2

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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

7.3

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/0549	Grid Ref:	296106.95 288790.36
Community Council:	Trefeglwys	Valid Date:	Officer: 15/05/2017 Dunya Fourie
Applicant:	Mrs Fiona Jerman, CL & FE Jerman, Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX.		
Location:	Glangwden, Trefeglwys, Caersws, Powys, SY17 5PX.		
Proposal:	Full: Erection of a free range poultry unit (extension to existing unit), including feed silos and all associated works		
Application Type:	Application for Full Planning Permission		

The reason for Committee determination

This application is accompanied by and Environmental Impact Assessment.

Site location and Description

Glangwden farm is located to the west of Trefeglwys as you head towards Llanidloes, the farm is accessed directly off the B4569, via a private concrete access drive. The immediate location of the proposed building is to the west of the farmhouse and would form part of the existing holding.

This application seeks full planning consent for the erection of a free range egg production unit, housing a maximum of 32,000 birds. The development proposed is as follows:

- Building (134m in length, 20m in width, 3.1m in height), constructed using steel box profile sheeting in a dark grey/blue colour and with a total footprint of 2680m.
- Two external feed bins, finished in dark grey.

There is an existing poultry unit on the site and as such the combined number of birds within this holding would be 64,000.

Consultation responses

Trefeglwys Community Council-

No comments received at the time of writing this report.

Environmental Health Authority-

E mail of 15 June 2017

Thank you for your consultation in respect of this application. No assessment of the impact of noise from the development has been made within the application and therefore I would recommend that we refuse on the grounds of insufficient information.

No assessment of extractor fan noise has been made and worryingly some incorrect statements with regard to the effectiveness of vegetation on reducing noise levels have been made in respect of mitigation.

We do not have a cumulative noise impact assessment in respect of fan noise from this installation and therefore Environmental Protection object to this application

E mail of 23rd April 2018

I am unclear as to what noise data is being presented by the applicant in support of their application. Given that there are existing units onsite the applicant should include the impact of all fans.

The applicant first provides an impact assessment for 16 fans (which is the new unit only) using data from a fan which they are not intending to use.

Data is then provided for a single fan which they are intending to use and a distance attenuation calculation is provided for a single fan.

There is a barrier attenuation allowance for hedgerows and trees, neither of which provide barrier attenuation.

I am therefore not in a position to comment upon noise

E mail of 23rd April 2018

Further to the agent's for the project clarify the cumulative noise impact at the nearest neighbour, I have no objection to this application.

Natural Resources Wales

Letter of 22 June 2017

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if the scheme can meet the following requirements. We would object if the scheme does not meet these requirements.

Requirement 1 – A site plan identifying any sensitive receptors in the area

Requirement 2 – Site Drainage Plan

Requirement 3 – Manure Management Plan to be revised to include further information

Requirement 4 – Manure Contingency Plan

Requirement 5 – Pollution Prevention Plan revised to include the operational phase of the poultry unit.

Requirement 6 –Ranging Area Plan

Identification of sensitive receptors

We advise that applications need to identify and take into account surrounding sensitive receptors, including:

- Protected sites (including SAC, SPA, Ramsar sites and SSSIs), protected species and ancient woodlands
- The location of controlled water (e.g. watercourses, wet and dry ditches, groundwater and ponds).

Requirement 1 – A site plan identifying any sensitive receptors in the area

A site plan is required which includes the location of any sensitive receptors in or near the application boundary.

This information is essential to inform pollution prevention measures, including buffers for livestock range areas and locations of soakaways and other drainage features based on distance and connectivity.

Site Drainage Plan

The proposal will need to be accompanied by a Site Drainage Plan, to detail the proposed site drainage methods and to detail the design features of preventing pollution occurring.

Requirement 2 - Site Drainage Plan

Clean, uncontaminated surface waters should be disposed of by means of sustainable drainage principles. Any soakaways should be directed away from existing surface waters. The development must be drained by a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul water.

Runoff water from the ranging area should not be allowed to flow directly into surface water drains or watercourses as this can contain polluting nutrients and sediments.

Applications need to include a plan of the proposed site that indicates all the new and existing features that will control pollution from the development, including:

- Clean and foul drains (with direction of flow)
- Effluent containment (including capacity)
- Provision for decontamination and collection of disinfectant in event of disease control
- Any constructed soakaway
- French drains and
- New or existing sustainable drainage building including swales, reed beds or ponds.

Any relevant management controls should also be indicated.

Manure Management Plan

We welcome the submission of the Manure Management Plan. However, the MMP needs to be revised to include and clarify the following:

Requirement 3 – Manure Management Plan to be revised to include further information

- Will the conveyor belt take the muck out to a covered trailer? If not, will any run off go into the dirty water system?
- The dirty water tank must be SSAFO compliant.
- Although the submission confirms that there is enough land for 250kg/ha of N, we note that the only crop grown is silage, which is not a nutrient hungry crop, particularly for P. We therefore, advise that frequent soil testing should take place to inform land spreading. No spreading of manure should take place in flood zones.

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

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

Manure Contingency Plan

NRW require a Manure Contingency Plan to demonstrate that there is contingency for storing any manure, slurry and dirty water produced at times where the usual method of manure disposal is not possible.

Requirement 4 – Manure Contingency Plan

It is noted on the Manure Management Plan that manure will be exported from the site every 4 days and spread "if the conditions are suitable". In order to confer agricultural benefit and not treat the muck as waste the applicant will need to demonstrate that they have sufficient and suitable storage facilities. Details should include the capacity of the manure store.

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

The contingency plan can be included into the Manure Management Plan.

Pollution Prevention Plan – Construction and Management

The proposal should incorporate appropriate pollution control measures to ensure that the water environment (both groundwater and surface water) is not polluted.

Requirement 5 – Pollution Prevention Plan revised to include the operational phase of the poultry unit.

NRW notes that the Pollution Prevention Plan is mainly relevant to the construction phase, NRW require the plan to include pollution control measures during the operational phase to. Runoff water from the ranging area should not be allowed to flow directly into surface water drains or watercourses as this can contain polluting nutrients and sediments.

The Pollution Prevention Plan should include NRW's incident response telephone number. Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on 03000 65 3000.

Range Area Plan

Requirement 6 – Ranging Area Plan

NRW require the details of the livestock range area in order to assess the risk of runoff polluting nearby watercourses.

Maps showing the range should include (as appropriate):

- Boundaries of the ranging area (including total area in hectares)
- Direction of slope
- Soil types
- All sensitive receptors (wells, springs, boreholes – within 50m of site boundary, watercourses, hedgerows and any known protected sites or species) within 50 metres of the boundary
- Location of existing or proposed mitigation measures to control runoff
- Proposed management of soil and crop cover to prevent waterlogging and runoff. With particular reference to areas around livestock access points – pop holes or verandas.

Protected Sites and aerial emissions

Intensive agricultural units have the potential to impact protected sites through aerial emissions (ammonia and nitrogen deposition). The pre-application consultation was received by NRW before the 1st of April 2017 therefore this application has been assessed using screening criteria that was current at that time. Please note that from the 1st April 2017 NRW has put in place new screening criteria.

We have reviewed the Report on the Modelling of the Dispersion and Deposition of Ammonia (AS Modelling & Data Ltd. 11/10/2016) submitted in support of this proposal.

Table 5, on p25 of the Ammonia report presents the ammonia screening results for designated sites using variations of met data.

For Coedydd Llaur y Glyn SAC/SSSI the highest ammonia concentration regardless of met data indicates that the farm ammonia contribution will be below 4% of the lower 1µg/m³ critical level.

In conclusion, we are satisfied that the process contributions of ammonia and nitrogen deposition from this proposed unit are below the thresholds we apply in our assessment of potential impacts on protected sites.

Protected Species

Poultry units have the potential to impact protected species. The Local Planning Authority will screen the proposal to assess if there is a reasonable likelihood that any protected species will be impacted and the need for surveys in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2).

In the meantime, we cannot confirm whether the proposal will be detrimental to the maintenance of a population of any local protected species at a favourable conservation status in their natural range.

Environmental Permitting

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

- Intensive Farming

We note that this proposal is for the extension of 32,000 - total of 64,000 on site. We confirm that a permit has been issued for this poultry unit.

- Abstractions

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

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

- Discharges

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

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

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

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Powys Ecology

E mail of 13th November 2018

Thank you for consulting me with regards to planning application P/2017/0549 which concerns an application for the Erection of a free range poultry unit (extension to existing unit), including feed silos and all associated works at Glangwden, Trefeglwys, Caersws, Powys.

The information submitted to inform the planning application has been assessed against the NRW Quick Guide 9 Poultry Units: planning permission and environmental assessment Guidance for applicants, local planning authorities and NRW staff. This guidance note sets out the information required to be submitted to enable the LPA to assess the potential impacts of poultry unit developments in relation to the Environment.

The following European Sites are present within 5km of the proposed development:

- Coedydd Llawr-Y-Glyn Special Area of Conservation (SAC) approximately 2633m from proposed development

The following Nationally Designated Sites are present within 5km of the proposed development:

- Coedydd Llawr-Y-Glyn Site of Special Scientific Interest (SSSI) approximately 2633m from proposed development

The following non-statutory designated sites are present within 2km of the proposed development:

- 46 parcels of Ancient Woodland – closest parcel approximately 207m from proposed development

As of the 1st April 2017 NRW introduced revised thresholds of insignificance in relation to Ammonia and Nitrogen, however correspondence received from NRW on the 23rd June 2017 has identified that as they received a consultation regarding this application prior to implementation of the new thresholds the ammonia and nitrogen thresholds applied by NRW to proposals before the end of March 2017 have been used to assess the scheme.

A Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated 11th October 2016 has been produced and submitted with application. NRW have reviewed the detailed Ammonia and Nitrogen deposition data provided with regards to statutory designated sites – SAC and SSSI. They have identified that the predicted deposition from the proposed development are within the acceptable levels of insignificance – the application has also been assessed through the Environmental Permitting (England and Wales) (Amendment) Regulations 2016 and an EPR permit was granted on 2nd June 2017.

The Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated 11th Oct 2016 has considered the potential impacts of the proposed development to Ancient Woodland sites within 2km of the proposed development. Detailed modelling was undertaken for Ancient Woodland sites where the preliminary modelling undertaken indicated that annual mean ammonia concentrations could exceed the lower threshold percentage of the relevant Critical Level/Load. The detailed modelling has identified a predicted exceedance of 100% of the

precautionary Critical Level of 1.0 µg-NH₃/m³ over approximately 0.75ha of the area of Ancient Woodland to the south-west of the poultry houses.

No mitigation has been proposed to compensate for the potential impact of the proposed development to this area of ancient woodland and no assessment of the ancient woodland habitat has been undertaken to determine the

Therefore it is considered that further information regarding proposed compensation for potential impacts to Ancient woodland is required demonstrating the provision of new native woodland planting for a minimum area of 0.75ha.

In addition in order to ensure the effectiveness of the proposed compensation it is recommended that a detailed Native Woodland Creation and Management Plan is required this could be secured through an appropriately worded condition, however as additional information has been requested the applicant may wish to consider the submission of this information prior to determination to avoid the need for a pre-commencement condition requiring this information.

No ecological Survey has been submitted with the application, Chapter 10 of the Environmental Statement considers potential impacts of the proposed development to Ecological features.

Consideration has been given to the potential for the site of the proposed development to support protected species, assessment of the habitats and features present concluded that the proposed development would be unlikely to impact great crested newts, otters due to absence of suitable habitat.

Bats were considered unlikely to be using the site for roosting purposes due to lack of suitable roosting sites, however it is identified that the habitats surrounding the proposed development do represent suitable foraging habitat for bats and the site has been assessed as important at a local level for bats. Inappropriate external lighting at the site has potential to negatively impact foraging and commuting bats, the ES identifies that lighting design should incorporate the needs of bats, however no details regarding external lighting have been provided, it is recommended that a condition regarding external lighting is including to ensure that if external lighting is required in the future that it is designed appropriately to minimise impacts to wildlife, however as additional information has been requested the applicant may wish to consider the submission of this information prior to determination to avoid the need for a pre-commencement condition requiring this information.

The site has been assessed as having potential to be used by badgers for foraging purposes and the site has been assessed as important at a local level for badgers.

It has been identified that there is potential for nesting birds to be impacted as a result of the proposed development due to disturbance, the ES provides conflicting information regarding loss of potential bird nesting habitat - Section 10.6.3. of the Environmental Statement states that all hedgerows and trees will be retained, however it also states in Section 10.7.2 that a small section of hedgerow will be removed. Having reviewed the proposed location of the new building with aerial photographs it appears that the proposed development would require the removal of sections of hedgerows and trees to accommodate the footprint of the building.

Clarification is required as to whether there will be any hedgerow or tree removal, It is important to note that hedgerows are listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi. Hedgerows and linear tree features are also included in the Powys LBAP under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Powys UDP Policy ENV2 states that 'Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows'

Should the proposals require the removal of any hedgerows or trees to accommodate the proposed development then appropriate compensation in line with the requirements of UDP Policies ENV2 and ENV6 will need to be provided.

Where impacts to hedgerows or trees are identified an appropriate compensation strategy will be required, where possible translocation of existing hedgerows should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

Details regarding Surface Water Management have been provided within section 9 of the Design and Access Statement, it has been identified that surface water from the proposed building will be captured within a rainwater harvesting facility together with existing soakaways. A clean water storage tank has been installed for the existing unit.

Details regarding Foul Water Drainage have been provided within section 12 of the Environmental Statement and within Section 6 of the Method Statement Pollution Prevention Report produced by Roger Parry & Partners Report, it has been identified that foul water from the proposed development will discharge to an appropriately sized dirty water tank. A diverter valve will be connected to the drainage system for the hardstanding area which will divert the yard water either to the Sustainable Drainage System or the dirty water holding tanks. During wash down the outfall drain from the hardstanding will be diverted to the dirty water collection tanks. The dirty water will then be collected and taken off site by a sealed tanker and disposed of whenever it is full.

The drainage system proposed will ensure that foul water and clean water are kept separate and therefore no clean water will be contaminated.

It is considered that the identified measures for the management of foul, dirty and surface water are appropriate to avoid negative impacts to biodiversity. It is recommended that a planning condition is included to secure adherence and implementation of the identified measures regarding site drainage.

A revised Manure Management Plan dated February 2017 (uploaded to PCC Planning Portal on the 4th August 2017). The manure management plan considers the manure that would be produced by all existing livestock numbers at the farm as well as the additional 32,000 chickens covered by the proposed development. Details have been provided to demonstrate that sufficient and appropriate land holding capacity to enable the spreading of manure at

below the CoGAP guidance of 250kg/N per hectare. The measures identified within the document are considered to be in line with current guidelines regarding pollution prevention and it is recommended that the adherence to and implementation of the identified measures is secured through an appropriately worded condition.

A Method Statement Pollution Prevention Report produced by Roger Parry & Partners has been submitted to inform the application. The Pollution Prevention identifies the measure that will be implemented during construction and operation of the proposed development with regards to Environment Management Systems and Pollution Prevention Measures. The measures identified within the document are considered to be in line with current guidelines regarding pollution prevention and it is recommended that the adherence to and implementation of the identified measures is secured through an appropriately worded condition.

Therefore further information is required prior to determination of the application to ensure compliance with relevant National and Local planning policies as identified above. In addition I note that NRW have identified in their response dated 29/09/2017 that Sensitive receptors are required to be identified on the range plan for the proposed development.

E mail of 27th February 2018

Thank you for consulting me with regards to planning application P/2017/0549 which concerns an application for the Erection of a free range poultry unit (extension to existing unit), including feed silos and all associated works at Glangwden, Trefeglwys, Caersws, Powys.

The information submitted to inform the planning application has been assessed against the NRW Quick Guide 9 Poultry Units: planning permission and environmental assessment Guidance for applicants, local planning authorities and NRW staff. This guidance note sets out the information required to be submitted to enable the LPA to assess the potential impacts of poultry unit developments in relation to the Environment.

The following European Sites are present within 5km of the proposed development:

- Coedydd Llawr-Y-Glyn Special Area of Conservation (SAC) approximately 2633m from proposed development

The following Nationally Designated Sites are present within 5km of the proposed development:

- Coedydd Llawr-Y-Glyn Site of Special Scientific Interest (SSSI) approximately 2633m from proposed development

The following non-statutory designated sites are present within 2km of the proposed development:

- 46 parcels of Ancient Woodland – closest parcel approximately 207m from proposed development

As of the 1st April 2017 NRW introduced revised thresholds of insignificance in relation to Ammonia and Nitrogen, however correspondence received from NRW on the 23rd June 2017 has identified that as they received a consultation regarding this application prior to implementation of the new thresholds the ammonia and nitrogen thresholds applied by NRW to proposals before the end of March 2017 have been used to assess the scheme.

A Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated 11th October 2016 has been produced and submitted with application. NRW have reviewed the detailed Ammonia and Nitrogen deposition data provided with regards to statutory designated sites – SAC and SSSI. They have identified that the predicted deposition from the proposed development are within the acceptable levels of insignificance – the application has also been assessed through the Environmental Permitting (England and Wales) (Amendment) Regulations 2016 and an EPR permit was granted on 2nd June 2017.

The Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated 11th Oct 2016 has considered the potential impacts of the proposed development to Ancient Woodland sites within 2km of the proposed development. Detailed modelling was undertaken for Ancient Woodland sites where the preliminary modelling undertaken indicated that annual mean ammonia concentrations could exceed the lower threshold percentage of the relevant Critical Level/Load. The detailed modelling has identified a predicted exceedance of 100% of the precautionary Critical Level of 1.0 $\mu\text{g-NH}_3/\text{m}^3$ over approximately 0.75ha of the area of Ancient Woodland to the south-west of the poultry houses.

I understand that NRW considered the potential impact of the proposed poultry unit to Ancient Woodland as part of the Permit Application process, whilst NRW may have considered the impact to be acceptable with regards to permitting and it is understood that no mitigation was required through this process, NRW will not have applied National and Local planning policies when considering whether the potential impact of the proposed development would be acceptable.

Following previous correspondence regarding concerns over the identified exceedance of ammonia deposition to Ancient Woodland from the proposed development a mitigation scheme - drawing title 'Proposed Planting Scheme' - has been submitted to compensate for the potential impact of the proposed development to this area of ancient woodland, however having reviewed the proposed scheme I have the following comments to make:

- The area of Ancient Woodland identified as receiving an exceedance of ammonia deposition is approximately 0.75ha in size, the proposed mitigation planting is approximately 0.43ha in size – given the nature of Ancient Woodland habitat and the fact that it is considered that these habitats are of high biodiversity value which should be protected from development that would result in significant damage (PPW, Ed 9 2016) it is considered that the proposed mitigation is inadequate and does not reflect the importance of the habitat affected.
- In addition no details have been provided regarding the biodiversity value of the area of the proposed tree planting or it's potential to support protected or priority species – the habitat present in the area of proposed planting may be a habitat of importance in its own right and therefore it may not be suitable to plant trees at this location.

- Available aerial photographs also appear to show that this area is already partially wooded – although it is acknowledged that these images may be out of date.

Therefore it is considered that the proposed mitigation to address the identified exceedance of ammonia deposition is insufficient to provide compensation for potential impacts to Ancient woodland and therefore does not comply with the requirements of Planning Policy Wales and Powys UDP policies SP3, ENV3 and ENV6 as well as the requirements of Part 1 Section 6 of the Environment (Wales) Act 2016.

No ecological Survey has been submitted with the application, Chapter 10 of the Environmental Statement considers potential impacts of the proposed development to Ecological features.

Consideration has been given to the potential for the site of the proposed development to support protected species, assessment of the habitats and features present concluded that the proposed development would be unlikely to impact great crested newts, otters due to absence of suitable habitat.

Bats were considered unlikely to be using the site for roosting purposes due to lack of suitable roosting sites, however it is identified that the habitats surrounding the proposed development do represent suitable foraging habitat for bats and the site has been assessed as important at a local level for bats. Inappropriate external lighting at the site has potential to negatively impact foraging and commuting bats, the ES identifies that lighting design should incorporate the needs of bats, however no details regarding external lighting have been provided.

The site has been assessed as having potential to be used by badgers for foraging purposes and the site has been assessed as important at a local level for badgers.

It has been identified that there is potential for nesting birds to be impacted as a result of the proposed development due to disturbance, the ES provides conflicting information regarding loss of potential bird nesting habitat - Section 10.6.3. of the Environmental Statement states that all hedgerows and trees will be retained, however it also states in Section 10.7.2 that a small section of hedgerow will be removed. Having reviewed the proposed location of the new building with aerial photographs it appears that the proposed development would require the removal of sections of hedgerows and trees to accommodate the footprint of the building.

Clarification is required as to whether there will be any hedgerow or tree removal, It is important to note that hedgerows are listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi. Hedgerows and linear tree features are also included in the Powys LBAP under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Powys UDP Policy ENV2 states that 'Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows'

Should the proposals require the removal of any hedgerows or trees to accommodate the proposed development then appropriate compensation in line with the requirements of Powys UDP Policies ENV2 and ENV6 will need to be provided.

Where impacts to hedgerows or trees are identified an appropriate compensation strategy will be required, where possible translocation of existing hedgerows should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

Details regarding Surface Water Management have been provided within section 9 of the Design and Access Statement, it has been identified that surface water from the proposed building will be captured within a rainwater harvesting facility together with existing soakaways. A clean water storage tank has been installed for the existing unit.

Details regarding Foul Water Drainage have been provided within section 12 of the Environmental Statement and within Section 6 of the Method Statement Pollution Prevention Report produced by Roger Parry & Partners Report, it has been identified that foul water from the proposed development will discharge to an appropriately sized dirty water tank. A diverter valve will be connected to the drainage system for the hardstanding area which will divert the yard water either to the Sustainable Drainage System or the dirty water holding tanks. During wash down the outfall drain from the hardstanding will be diverted to the dirty water collection tanks. The dirty water will then be collected and taken off site by a sealed tanker and disposed of whenever it is full.

The drainage system proposed will ensure that foul water and clean water are kept separate and therefore no clean water will be contaminated.

It is considered that the identified measures for the management of foul, dirty and surface water are appropriate to avoid negative impacts to biodiversity.

A revised Manure Management Plan dated February 2017 (uploaded to PCC Planning Portal on the 4th August 2017) The manure management plan considers the manure that would be produced by all existing livestock numbers at the farm as well as the additional 32,000 chickens covered by the proposed development. Details have been provided to demonstrate that sufficient and appropriate land holding capacity to enable the spreading of manure at below the CoGAP guidance of 250kg/N per hectare. The measures identified within the document are considered to be in line with current guidelines regarding pollution prevention.

A Method Statement Pollution Prevention Report produced by Roger Parry & Partners has been submitted to inform the application. The Pollution Prevention identifies the measure that will be implemented during construction and operation of the proposed development with regards to Environment Management Systems and Pollution Prevention Measures. The measures identified within the document are considered to be in line with current guidelines regarding pollution prevention.

Therefore in summary I am currently unable to support the application due to identified potential impacts to Ancient Woodland and inappropriate mitigation/compensation measures being identified, the application is therefore contrary to the requirements of Planning Policy

Wales (Edition 9, November 2016) and Powys UDP policies SP3, ENV3 and ENV6 as well as the requirements of Part 1 Section 6 of the Environment (Wales) Act 2016.

E mail of 17th March 2018

The additional information concerns an Extended Phase 1 Habitat Survey submitted to address concerns raised in my previous consultation responses regarding this application.

I have reviewed the Extended Phase One Habitat Survey produced by Arbor Vitae Environment Ltd, a site visit was undertaken on the 19th February 2018. The survey found that the land affected by the proposed development including the site of the new building and majority of the ranging area consists of improved grassland which was considered to be of minimal ecological value. The site is bounded and intersected by hedgerows – 30m of which will need to be removed – the hedgerows were found to be mainly in poor structural condition due to grazing pressure and lack of management, however the ecological value of these features was recognised as high.

An assessment of the site for its potential to support protected species including badgers, bats, breeding birds, brown hare, great crested newts, hedgehogs and otters. The survey concluded that no habitat of potential value to badgers, brown hare, great crested newts, hedgehogs and otters would be lost through the proposed development. The loss of the 30m section of hedgerow has potential to impact nesting birds and exterior lighting could impact foraging/commuting behaviour of local bat populations.

The Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated 11th Oct 2016 has considered the potential impacts of the proposed development to Ancient Woodland sites within 2km of the proposed development. Detailed modelling was undertaken for Ancient Woodland sites where the preliminary modelling undertaken indicated that annual mean ammonia concentrations could exceed the lower threshold percentage of the relevant Critical Level/Load. The detailed modelling has identified a predicted exceedance of 100% of the precautionary Critical Level of 1.0 µg-NH₃/m³ over approximately 0.75ha of the area of Ancient Woodland to the south-west of the poultry houses.

As identified in my previous consultation response I understand that NRW considered the potential impact of the proposed poultry unit to Ancient Woodland as part of the Permit Application process, whilst NRW may have considered the impact to be acceptable with regards to permitting and it is understood that no mitigation was required through this process, NRW will not have applied National and Local planning policies when considering whether the potential impact of the proposed development would be acceptable. In my previous correspondence dated 27th February 2018 I considered details of a proposed Ancient Woodland mitigation plan which identified mitigation planting of an area approximately 0.43ha in size. Having reviewed the proposed plans I raised concerns regarding the appropriateness of the mitigation planting – the area of the planting proposed and the appropriateness of the location of the proposed planting.

The Extended Phase 1 Survey undertaken by Arbor Vitae Environment Ltd included an assessment of the area of woodland affected by the predicted exceedance, the woodland was identified as a PAWS (Plantations on Ancient Woodland Site), with large area of mature larch and a smaller area of mature oak, a disused quarry and trackways. The quarry area is

partially used for muck storage. The report concludes that the conifer plantation, quarry, tracks and muck storage has reduced the ecological value of the woodland and that the increased ammonia levels would not result in a significant negative impact. The report identifies that the area of the proposed mitigation planting considered in my previous response comprises an area of wet grassland, whilst not botanically diverse it is considered that this habitat is of more ecological value as grassland habitat. Therefore it has been proposed that stock fencing and management to restore approximately 2.3 hectares of Coed Glangwden, an ancient woodland is a more appropriate mitigation strategy to address the predicted ammonia deposition resulting from the proposed development.

The loss of 30m of hedgerow will be mitigated through the planting of at least 100m of mixed native hedgerow elsewhere. It has also been identified that double fencing of hedgerows to protect from grazing pressure from the ranging area would result in significant ecological gain.

The report states that artificial external lighting associated with the proposed development should be largely unnecessary but, if needed, should be designed to minimise illumination of the adjacent habitats which may be used by bats for foraging.

In order to ensure compliance with associated legislation, hedgerow removal will be undertaken outside of the bird nesting season.

Section 6.4 of the report identifies a number of ecological enhancements to be provided through the development, these measures are welcomed and considered to be in line with the requirements of Part 1 Section 6 of the Environment (Wales) Act 2016 which requires Local Authorities to seek to maintain and enhance biodiversity through its actions, including the planning process.

Having reviewed the submitted information and taking into account the proposed mitigation and enhancements as well as the decision made by NRW with regards to the permit application for this development I consider that subject to appropriate conditions being included that sufficient information has been submitted to demonstrate the proposed development would not result in loss of biodiversity.

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

Prior to first beneficial use of the development, a detailed Native Woodland Management and Restoration Plan including details of timetable for implementation, initial aftercare and long-term maintenance to benefit biodiversity for the area of approximately 2.3 hectares of Coed Glangwden identified in the Extended Phase One Habitat Survey produced by Arbor Vitae Environment Ltd shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

The mitigation and enhancement measures identified in Section 6 of the Extended Phase One Habitat Survey produced by Arbor Vitae Environment Ltd shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV4, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a Hedgerow Protection Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

Prior to the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following informative:

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.

Built Heritage

E mail of 13 July 2017

Thank you for consulting me on the above application.

I can confirm that Glangwden Farmhouse is a listed building Cadw ID 7593 included on the statutory list on 10 March 1953.

I note that the proposed poultry unit is to be located to the north west of Glangwden and a large range of barns are currently located between the proposed building and the listed farmhouse.

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building.

However, I would also refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9th edition 2016 which states, "Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

The adopted document Conservation Principles prepared by Cadw in paragraph 5.4 advises that when considering change, public authorities will give due importance of the heritage values of a site when considering the sustainability of proposals submitted to them.

Paragraph 39 states Changes which would harm the heritage values of an historic asset will be unacceptable unless:

- a. the changes are demonstrably necessary either to make that asset sustainable, or to meet an overriding public policy objective or need; and
- b. there is no reasonably practicable alternative means of doing so without harm; and
- c. that harm has been reduced to the minimum consistent with achieving the objective; and
- d. it has been demonstrated that the predicted benefit decisively outweighs the harm to the values of the asset, considering;
 - its comparative significance;
 - the impact on that significance; and
 - the benefits to the asset itself and/or the wider community or society as a whole.

The historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset. The document continues with the following advice on page 15. Every reasonable effort should be made to eliminate or minimize adverse impacts on historic assets. Ultimately, however, it may be necessary to balance the benefit of the proposed change against the harm to the asset. If so, the weight given to heritage values should be proportionate to the importance of the assets and the impact of the change upon them. The historic environment is constantly changing, but each significant part of it represents a finite resource. If it is not sustained, its heritage values will be eroded or lost. In addition, its potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

“Conservation principles” establishes Values which should be attributed to heritage assets including;

- Evidential Value,
- Historical Value,
- Aesthetic Value,
- Communal value.

Conservation Principles identifies principles that have to be addressed when considering the above values.

Evidential Value

This derives from those elements of an historic asset that can provide evidence about past human activity.

Historical Value

Glangwden is a C17th lobby entry house with alterations in the C19th and is listed as retaining its vernacular character and good quality timber framing.

Aesthetic Value

The grouping of the farmhouse and barns is attractive and the C17th lobby house is a vernacular building of the area.

Communal Value

The third principle contained within Conservation Principles is that heritage assets are a shared resource, valued by people as part of their cultural and natural heritage, and gives distinctiveness, meaning and quality to the places where we live providing a sense of continuity and a source of identity. The Conservation Principles identify heritage assets as having the potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

Cadw have prepared guidance on the setting of historic assets to accompany TAN24 issued on 31 May. The guidance provides advice on how to assess the setting of listed buildings could be referred to, with the caveat that there may potentially be changes as a result of the consultation process. In addition to advice on how to assess the visual setting of listed buildings, advice on less tangible elements, including sensory perceptions such as noise and smell are included in the guidance.

The document advises that "Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost"

The document provides advice on how to assess the setting

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

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

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

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

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

The farmhouse is sited some distance from the B4569 and when viewed from the road the house is viewed against the backdrop of farm buildings when travelling from the south, and would not be readily visible when travelling from the north.

Conclusion

Given the siting of the building in this instance I would have no objections to the proposed agricultural building on the setting of the listed buildings

I note the list description refers to upvc windows inserted c.2000 and would request that if a listed building consent application was not granted for those windows that consideration of the relevant action be taken in respect of the unauthorised windows be considered.

CADW

Letter of 12th June 2017

Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development. Our assessment of the application is given below.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site.

We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority. It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

Assessment

This is a major development which meets the criteria given in Schedule 4.1.b of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

A statutory pre-application consultation was conducted; we however, were not included in this consultation.

The application area is located some 575m south-east of scheduled monument MG235 Dolgwen Enclosure. The monument comprises the remains of a hillfort, which probably dates to the Iron Age period. The hillfort was probably sited to command the Nant Gwden to the south and the Nant y Bachws to the north and would have been intervisible with the larger hillfort of Pen y Castell to the southwest.

The development will be visible from the scheduled monument in the identified significant view across the Nant Gwden. It will be seen with the existing buildings of the farm at Glangwen behind and to the side of it. As such, whilst it will be a large building, it will be seen as part of the existing farm. Consequently it is our opinion that the proposed development will have a slight adverse impact on the setting of the scheduled monument however this will not be significant.

E mail of 7 September 2017

Thank you for your consultation letter dated 8 August 2017 regarding the above mentioned development. An environmental statement has been submitted in support of this application. This document does not contain any information to alter our previous advice of 12/6/17.

CPAT

E mail of 8 August 2017

I write to confirm that there are no archaeological implications for the proposed development at this location.

Cadw have confirmed that the development will have only a slight adverse visual impact upon the nearest scheduled monument (MG235) and have no objections.

Highway Authority

E mail of 7 September 2017

The County Council as Highway Authority for the County Class II Highway, B4569

Wish the following recommendations/Observations be applied
Recommendations/Observations

HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the development hereby permitted remains in existence.

HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26

metres above ground level at the edge of the adjoining carriageway and 160 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway.

Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 6 metres for a minimum distance of 20 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC13 Prior to the occupation 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.

HC21 Prior to the occupation of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

HC30 Upon formation of the visibility splays as detailed in HC4 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.

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

In the interests of highway safety.

Severn Trent Water

E mail of 8 August 2017

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

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.

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals, including the STW ref within the email/subject.

Wales and West Utilities

Email of 8 August 2017

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

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

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Environmental Health-Contaminated Land

E mail of 9th August 2018

In relation to Planning Application P/2017/0549 there would be no requirements in respect of land contamination.

Countryside Services

Letter of 6th June 2017

Public footpath 83 follows the access track from public road B4569 and passes through the farmyard at Glangwden before continuing in a north-westerly direction. The proposed development will impact directly on the footpath and result in an unlawful obstruction of public access. The applicant and their agent have met with Countryside Services to discuss the development and a legal diversion of footpath 83.

The granting of planning permission does not, in itself, authorise the diversion or stopping up of the public right of way. A diversion or extinguishment of the path must be achieved through a separate legal process, which involves the making and subsequent confirmation of a public path Order. As it is an offence to obstruct the line of a public right of way, any development works affecting the line of the public path must not be commenced until such time as a public path Order has been both made and confirmed.

Public Responses

A site notice was erected on farm gates adjacent to the junction off the B road onto the access road to the farm, no decision was made for a continuous period of 21 days from the date of the site notice.

- The Ramblers Association provided the following comments:

As mentioned in the comments from Countryside Services this proposed development would obstruct an existing right of way. We are aware that there have been discussions about a legal diversion and this would be acceptable if approved following due process on this matter.

Our view is that any permission should be conditional upon a diversion order being obtained. Our opinion is that if planning permission is granted without such a condition this gives developers an unfair advantage in the separate diversion order process as they are able to argue that they already have planning permission and the diversion order is needed to implement it.

At the very least we consider that there should be a clear informative note in any permission granted to say that a diversion order will be necessary and that no development works, which affect the right of way, can be started until an Order has been approved and the new right of way put in place.

- A letter of support was also received from Lloyds Animal Feeds and highlights the importance of farmers being able to diversify and adapt to producing foods that meet the ever changing requirements.

Planning History

P/2015/0545-Erection of a free range egg production unit to accommodate 32,000 chickens together with associated feed bins, internal farm access and associated works. Conditional consent 24 September 2015

P/2014/0569-Outline some matters reserved: Construction of a rural enterprise/agricultural workers dwelling with detached garage, improvements to existing access and installation of septic tank drainage system. Conditional consent 31 July 2014

P/2013/0375-Demolition of existing part two storey extension and replacement with a new two storey extension, and a single storey ground floor extension. Internal alterations. Blocking up of existing windows, installation of new roof light and flue pipe. Consent issued 17 July 2013

Principal Planning Policies

National Planning Policy

Planning Policy Wales (9th Edition, November 2016)

Technical Advice Note 5-Nature Conservation and Planning (2009)

Technical Advice Note 6-Planning for Sustainable Rural Communities (2010)

Technical Advice Note 11-Noise (1997)

Technical Advice Note 12: Design (2016)

Technical Advice Note 18- Transport (2017)

Technical Advice Note 23-Economic Development (2014)

Technical Advice Note 24-The Historic Environment (2017)

Local Development Plan (April 2018)

SP2-Employment Growth
SP7-Safeguarding of Strategic Resources and Assets
DM2-Natural Environment
DM4-Landscape
DM6- Flood Prevention and Land Drainage
DM7-Dark Skies and External Lighting
DM10- Contaminated and Unstable Land
DM13-Design and Resources
DM14-Air Quality Management
DM15-Waste within Developments
E2- Employment Proposals on Non-allocated Employment Sites
E6-Farm Diversification
T1-Travel, Traffic and Transport Infrastructure

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

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

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

Environmental Impact Assessment Regulations 2016

Part 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 details development proposals and associated thresholds defining where a development proposal constitutes EIA development. These are contained in Schedule 1 and 2 of the Regulations. Schedule 1 of the regulations lists those developments where EIA is mandatory and Schedule 2 where the development must be screened to determine if it is EIA development.

A screening opinion was completed during the application. This opinion screened the proposed development as requiring an Environmental Impact Assessment to be submitted with any application submitted for the proposal. Given the scale and nature of the proposed development an Environmental Statement was produced following advice from the Local Planning Authority and has been submitted in support of this application.

Principle of Development

Policy E6 accepts the principle of appropriate agricultural development within the open countryside. Additionally, policy E2 allows for the limited expansion, extension or environmental improvement of existing employment sites such as the existing poultry unit already located upon the holding. In light of the above, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

Farm Diversification

Glangwden is an established farming business base on a traditional beef and sheep production. The business has previously diversified into free range egg production, this application seeks consent to expand this enterprise with an additional 32,000 egg production unit.

Planning policy acknowledges that rural enterprises play a vital role in promoting healthy economic activity within rural areas. Planning Policy Wales (2016) and Technical Advice Note 23 (2014) emphasise the need to support diversification and sustainability in such areas, recognising that new businesses are key to this objective and essential to sustain rural communities therefore encouraging Local Authorities to facilitate appropriate rural development.

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

Landscape and Visual Impact

LDP policy DM4 (Landscape) states that proposals for development must not, individually or cumulatively, have an unacceptable adverse effect, on the valued characteristics and qualities of the Powys landscape. Further guidance within policy E6, suggests that where possible, the construction of new buildings should lie within or immediately adjacent to the existing farm building complex.

The application site is located within Trannon Uplands Bryn Crugog aspect area as defined by Landmap and is given a Landscape, Visual and Sensory evaluation value of Moderate. The area is characterised by gently rolling hills and scarp slopes that form the upper reaches and valley sides of the Trannon valley complex. Field pattern is typified by overgrown hedgerows and wire fences and containing a proportion of bracken and gorse scrub.

The building proposed has been positioned to the rear (north) of the existing farm complex. This choice of siting would allow the building to be screened from the highway by the existing farm complex and screened from incoming views from the north and partly to the east and west by existing topography.

The location close to the existing farm complex and the moderate sensitivity of the landscape would allow a building of the proposed scale to be accommodated without significantly altering the character of the landscape. The building will consist of box profile steel sheeting.

A dark blue/grey colour will reduce the impact of the building and a condition requiring a matching colour finish as per adjacent building is considered an appropriate way forward.

Taking into account the grouping encouraged by LDP Policy E6 and the character of the development, it is concluded that the proposed development can be accommodated without unacceptable adverse landscape and visual impact in accordance with the relevant LDP policies DM4, DM13 and E6.

Highways Safety and Movement

Policy T1 and TAN18 indicate that development proposals will only be permitted where appropriate highway provision is incorporated in terms of a safe access, adequate visibility, turning and parking.

All vehicles shall access the site via the private farm driveway which leads directly off the B489. There are no neighbours in close proximity to the private driveway and the driveway is not shared with any other property, as such the intensified use of the driveway is not a planning consideration. The main consideration is the intensified use of the junction off the B489, the proposed building would intensify the use of this junction through increase car and lorry movements and as such the highway authority have been consulted on this application.

The highway authority considered the proposal and raises no objection to the intensified use of the junction, provided the recommended conditions are applied to any forthcoming planning consent.

In light of the highways officer's comments, officers consider that the proposed development is in accordance with planning policy, particularly policy T1 of the Powys LDP, Technical Advice Note 18 and Planning Policy Wales.

Impact on Built Heritage and Scheduled Ancient Monument

Planning applications are determined in accordance with Planning Policy Wales (2016), Technical Advice Note 24 and Circulars, this guidance explains the conservation of listed buildings and archaeological remains is a material consideration when determining planning applications. Where a listed building or archaeological remains would be affected by a development, there should be a presumption in favour of conservation of the historic asset in situ.

The farmhouse at Glangwden is a Grade II listed building, the built heritage officer notes the building is listed for its C17th vernacular and particularly its lobby entrance. The site is also located approximately 575m south east of the Scheduled Ancient Monument (SAM) Dolgwden Enclosure (MG235). The monument comprises the remains of a hillfort, which is likely to date back to the Iron Age.

The proposed unit is sited to the north west of the farmhouse and is separated from the farmhouse by intervening existing farm outbuildings. The built heritage officer concludes that given the existing screening the proposed building would not have an unacceptable detrimental impact on the character or setting of the listed building.

Additionally, Cadw note that the proposed building will be visible from the SAM within the significant view across Nant Gwden. However, it is noted that the building will be viewed as part of the existing farm complex and as such Cadw and CPAT believe the unit would have a slight adverse impact on the setting of the SAM however note that it will not be significant.

Consideration has therefore been given to whether the proposed development may be seen as damaging to the setting of this historic asset. Taking into considerations Cadw's comments and the location of the proposed building adjoining an existing modern farm holding it is considered that the proposed building would appear to be very much grouped with this farm holding and therefore would not warrant a reason for refusal on this basis. It is therefore considered that the proposed development fundamentally complies with relevant planning policy.

Biodiversity and Ecology

Protected sites

Coedydd Llawr y Glyn SAC/SSSI is the closest protected site to the proposed unit the proposed development has the potential to impact on protected species through pollution and loss of habitat.

Policies DM2 and E6 indicate that development proposals should preserve and enhance biodiversity and features of ecological interest. Development proposals should not significantly affect the achievement of the conservation objectives for which a SAC is designated either individually or in combination with other proposals. In addition to the above, TAN5 confirms there will be a presumption against proposals for development likely to damage either directly or indirectly, the nature conservation interest of national nature reserves or sites of special scientific interest.

Intensive livestock units have the potential to impact protected sites through aerial emissions (nitrogen and ammonia deposition). The application is supported by a Report on the Modelling of the Dispersion and Deposition of Ammonia (AS Modelling & Data Ltd. 11/10/2016), NRW confirm in their response that the nitrogen and ammonia concentrations are below the thresholds they apply to their assessment of potential impacts and as such the emissions would not have an unacceptable adverse impact on the closest SAC.

In addition, a condition of any forthcoming consent would require a 10m spreading buffer around any water course, NRW consider this approach to be sufficient to ensure riverine habitats are not compromised as a result of the development.

The Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated 11th Oct 2016 also considered the potential impacts of the proposed development to Ancient Woodland sites within 2km of the proposed development. Detailed modelling was undertaken for Ancient Woodland sites where the preliminary modelling undertaken indicated that annual mean ammonia concentrations could exceed the lower threshold percentage of the relevant Critical Level/Load.

The results of the modelling predicted an exceedance of 100% of the precautionary critical level over approximately 0.75ha of ancient woodland to the south west of the poultry houses.

An extended Phase 1 Survey was undertaken by Arbor Vitae Environment Ltd including an assessment of the area of woodland affected by the predicted exceedance. The conclusion of the report identifies that the existing land uses have reduced the ecological value of the affected woodland and that the increased ammonia levels would not result in a significant negative impact. In light of the condition of the ancient woodland predicted to be affected, alternative mitigation has been agreed, this comprises fencing and restoring approximately 2.3ha of Coed Glangwden ancient woodland, it is considered this is an appropriate mitigation strategy to address the predicted ammonia deposition resulting from the proposed development.

In addition to the above, the loss of approximately 30m of hedgerow will be mitigated by planting 100m of hedgerow elsewhere on the holding and existing hedgerows surrounding the range area shall be double fenced to protect them from grazing pressure.

In light of the above and subject to the imposition of conditions suggested by the County Ecologist, it is considered that the proposed development is in accordance with policy DM2 of the Powys LDP, Technical Advice Note 5 and Planning Policy Wales.

Protected species

No ecological survey was initially submitted in support of the application. Following, receipt of concerns from the Powys Ecologist an Extended Phase One Habitat Survey was produced by Arbor Vitae Environment Ltd. The survey found that the land affected by the proposed development including the site of the new building and majority of the ranging area consists of improved grassland which was considered to be of minimal ecological value. The site is bounded and intersected by hedgerows – 30m of which will need to be removed – the hedgerows were found to be mainly in poor structural condition due to grazing pressure and lack of management, however the ecological value of these features was recognised as high.

An assessment of the site for its potential to support protected species including badgers, bats, breeding birds, brown hare, great crested newts, hedgehogs and otters. The survey concluded that no habitat of potential value to badgers, brown hare, great crested newts, hedgehogs and otters would be lost through the proposed development. The loss of the 30m section of hedgerow has however a potential to impact nesting birds and exterior lighting could impact foraging/commuting behaviour of local bat populations.

In light of the above, mitigation was proposed in the way of 100 metres of planted hedgerow in compensation of the 30 metres proposed to be loss. The Powys Ecologist therefore in light of this and subject to appropriately worded conditions confirmed that the proposed development could be managed to an acceptable level and therefore fundamentally complying with Policy DM2 of the Powys LDP, TAN5 and PPW seek to safeguard protected species and their habitats.

Public Right of Way

Policy DM3 recognises open space within Powys as a resource, public footpath 83 follows the driveway from the B4589 through the farmyard at Glangwden and continues in a north-westerly direction. The proposed siting of the poultry unit would intercept the footpath and as a result the applicant has met with Countryside Services to discuss how to divert route of footpath 83.

The granting of planning permission does not, in itself, authorise the diversion or stopping up of the public right of way. A diversion or extinguishment of the path must be achieved through a separate legal process, which involves the making and subsequent confirmation of a public path Order. An informative on any forthcoming consent shall highlight that it is an offence to block or divert a footpath without a Public Path Order.

Impact on Residential Amenity

Intensive livestock units have the potential to impact on the living conditions of residents living nearby through a number of factors, in particular emissions of noise and odour.

The nearest un-associated residential dwelling are as follows:

- Waen Wen-373 metres south-east of the site
- Dolgwden-467metres north of the site
- Win Wen-519metres north of the site
- Cefn Dolgwden-572metres north of the site

Officers have considered the proximity of the proposed development to the existing dwellings as follows:

Noise

LDP policies DM13 and E6 confirm development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Officers acknowledge that intensive livestock units have potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

Within the design and access statement, it is confirmed 16 mechanical ventilation fans will be installed and noise baffles will be installed around each ventilation fans. The mechanical extractor fans thermostatically control the building, therefore the frequency of operation depends on the climate. The fans shall be maintained and inspected in accordance with the manufacturers or suppliers instructions. It is claimed well serviced fans and the minimal use of the proposed modern fans, shall result in minimal noise generation. It states within the design and access statement that the augers used to provide feed around the unit will operate six times a day for nine minutes.

Following initial consultation, a cumulative noise assessment was submitted, this information allows modelling to be applied to the nearest protected dwelling in order to estimate the likely background noise level when the ventilation units are in operation.

On the basis of the submitted information, officers consider that sufficient information has been submitted in support of the application to demonstrate that the proposed poultry development will not have an unacceptable adverse impact on the amenities enjoyed by the occupants of the neighbouring property by reasons of noise. As such, the proposed development is considered to fundamentally comply with relevant planning policy.

Dust

The feed is transferred directly into the building from the feed store via conveyor belt, this arrangement it is claimed shall minimise the creation of dust.

Odour

The proposed poultry building is designed to incorporate a slatted floor for the poultry manure, within the design and access statement it is claimed this floor design has a proven history of creating no odour. The manure is then removed from the building and stored under cover before being spread on the land within a 24hour period.

The Environmental Health Authority have been consulted as part of the application process, the Authority confirmed they raise no objection.

In light of the above, it is considered unlikely that the proposed development will have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of odour.

Following consultation, it is noted that no concerns have been raised by the Environmental Health Department in this respect. Therefore, Development Management considers the proposal to be in accordance with relevant planning policy.

Tourism

LDP Policy DM13 states that proposals will only be permitted where it does not have an unacceptable adverse impact on existing and established tourism assets and attractions. The application site sits in the heart of rural Powys, an area that has a strong tourism industry in a variety of guises although it is noted that many tourists are drawn to the area for its scenic quality and utilise the public right of way network to enjoy the area.

It is noted that a Public Right of Way runs through the existing farm yard and follows the line of the existing access track to the application site. Given that the footpath already goes through the working farm yard and that consideration has already been given to the landscape and visual impact of the proposed building it is therefore considered that the proposed development would not be seen as having an unacceptable impact to the users of the public right of way network within the surrounding area.

As such it is considered that the proposed development fundamentally complies with policy TR1 of the Powys Unitary Development Plan 2010 and policies SP7 and DM13 of the Powys Local Development Plan.

Decision

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

I can confirm that Environmental Impact Assessment Information has been taken into consideration when coming to this recommendation.

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 plans stamped as approved. Plan references include Location plan (Glangwden/Jerman 02), Site Plan (Glangwden/Jerman 01), Plans and Elevations (all date stamped 15th May 2017). Proposed Planting Scheme, Range Plan (GL/Glangwden/Jerman/Ran), Manure Maps.
2. Prior to the first delivery of birds any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the development hereby permitted remains in existence.
3. Prior to the commencement of any other development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 160 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
4. Prior to the commencement of any other development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway.
5. The width of the access carriageway, constructed as Condition 4 above, shall be not less than 6 metres for a minimum distance of 20 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
6. Prior to the first delivery of birds 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.
7. Prior to the first delivery of birds the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway. This area shall be maintained to this standard for as long as the development remains in existence.
8. Upon formation of the visibility splays as detailed in condition 3 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. Prior to the first delivery of birds, a detailed Native Woodland Management and Restoration Plan including details of timetable for implementation, initial aftercare and long-term maintenance to benefit biodiversity for the area of approximately 2.3 hectares of Coed Glangwden identified in the Extended Phase One Habitat Survey produced by Arbor Vitae Environment Ltd shall be submitted to and approved by the Local Planning Authority. Works shall be carried out in accordance with the approved scheme.
10. The mitigation and enhancement measures identified in Section 6 of the Extended Phase One Habitat Survey produced by Arbor Vitae Environment Ltd shall be adhered to and implemented in full.

11. Prior to the erection of any external lighting, a detailed external lighting design scheme shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved scheme.
12. No storm water drainage from the site shall be allowed to discharge onto the county highway.
13. All vehicles used for the transport of manure associated with the building hereby approved shall be sheeted to prevent spillage of manure.
14. The Manure Management Plan (Roger Parry and Partners LLP, as amended July 2017) shall be implemented as approved and maintained thereafter.
15. Notwithstanding the information submitted with the application, no manure shall be spread within a 10metre buffer of a watercourse or within 50metres of a borehole, well or spring.
16. The development hereby approved shall be carried out strictly in accordance with method statement and pollution prevention plan and management plan (dated 15th May 2017)
17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit shall be erected without the consent of the Local Planning Authority.
18. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
19. Notwithstanding the information submitted with the application, any hedges to be removed shall be reinstated once construction works have been completed.
20. Prior to the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention.

Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).
4. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).
5. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).
6. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).

7. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).
8. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).
9. In the interests of highway safety and to accord with Planning Policy Wales (November 2016), Technical Advice Note 18 (2007) and Local Development Plan policy T1 (2018).
10. In the interests of biodiversity and to accord with Planning Policy Wales (9th Edition, November 2016), Technical Advice Note 5-Planning and Nature Conservation (2009) and Powys Local Development Plan for Powys policy DM2 (2018)
11. In the interests of biodiversity and to accord with Planning Policy Wales (9th Edition, November 2016), Technical Advice Note 5-Planning and Nature Conservation (2009) and Powys Local Development Plan for Powys policy DM2 (2018)
12. In the interests of biodiversity and to accord with Planning Policy Wales (9th Edition, November 2016), Technical Advice Note 5-Planning and Nature Conservation (2009) and Powys Local Development Plan for Powys policy DM2 (2018)
13. In the interests of pollution prevention and to accordance with Planning Policy Wales (2016) and Powys Local Development Plan policy E6 (2018).
14. In the interests of biodiversity and to accord with Planning Policy Wales (9th Edition, November 2016), Technical Advice Note 5-Planning and Nature Conservation (2009) and Powys Local Development Plan for Powys policy DM2 (2018)
15. In the interests of pollution prevention and to accord with Powys Local Development Plan policy DM13 (2018).
16. To comply with Powys County Council's LDP Policies in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
17. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy DM13 of the Powys Local Development Plan (March 2010) and Planning Policy Wales (2016).
18. To protect the local amenities of the local residents from noise and to accord with Local Development Plan policy DM13 (2018) and Planning Policy Wales (2016).
19. In the interests of ecology and to accord with Technical Advice Note 5-nature conservation and planning (2009) and Powys Local Development Plan policy DM2 (2018)
20. In the interests of ecology and to accord with Technical Advice Note 5-nature conservation and planning (2009) and Powys Local Development Plan policy DM2 (2018)

Informative Notes

Manure Spreading

The storage and spreading of manure shall be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil

Biodiversity

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.

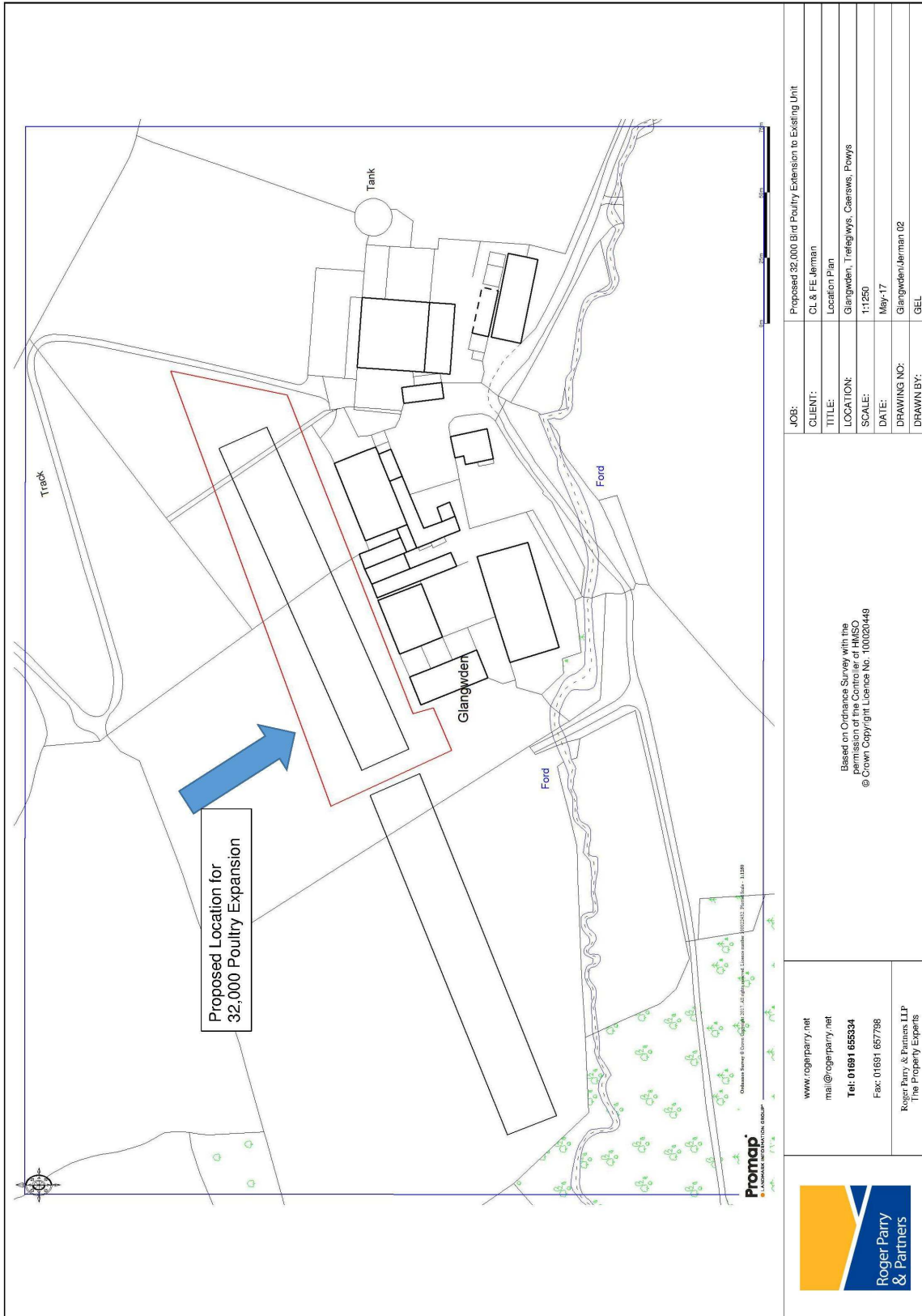
The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually 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.


Public Right of Way

A diversion or extinguishment of the path must be achieved through a separate legal process, which involves the making and subsequent confirmation of a public path Order. As it is an offence to obstruct the line of a public right of way, any development works affecting the line of the public path must not be commenced until such time as a public path Order has been both made and confirmed.

Case Officer: Dunya Fourie- Planning Officer
Tel: 01597 82 7111 E-mail: dunya.fourie@powys.gov.uk

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



 Roger Parry & Partners The Property Experts	www.rogerparry.net mail@rogerparry.net Tel: 01691 655324 Fax: 01691 657798 Roger Parry & Partners LLP The Property Experts	Based on Ordnance Survey with the permission of the Controller of HMSO © Crown Copyright Licence No. 100020449	JOB: Proposed 32,000 Bird Poultry Extension to Existing Unit CLIENT: CL & FE Jernham TITLE: Location Plan LOCATION: Glangwden, Trefeglwys, Caerws, Powys SCALE: 1:1250 DATE: May-17 DRAWING NO: Glangwden/Jernham 02 DRAWN BY: GEL
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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

7.4

Planning, Taxi Licensing and Rights of Way Committee Report

Application No:	P/2017/1096	Grid Ref:	327180.5 318311.55
Community Council:	Llandysili	Valid Date:	Officer: 02/10/2017 Tamsin Law
Applicant:	Mr P Davies P & S Davies Gornal Farm Four Crosses Powys SY22 6RJ		
Location:	Land at Gornal Farm Four Crosses Powys SY22 6RJ		
Proposal:	Outline: Residential development for up to 20 dwellings, formation of a vehicular access, and all associated works		
Application Type:	Application for Outline Planning Permission		

The reason for Committee determination

The application has been called in by the Local Member.

Site Location and Description

The site is approximately 2.09 Ha in size and is located adjacent to the southern edge of the development boundary of Four Crosses (Llandysilio).

The site itself is currently agricultural land and is relatively flat. The site is bound to the north by existing agricultural buildings, to the east by existing residential dwellings, to the south by agricultural land, building and right of way, and to the west by existing buildings.

The application is an outline application for the development of 20 new dwellings. The application proposes 8 affordable dwellings which equates to approximately a 20% contribution. Whilst in outline the plans give an indication to the housing types to be provided for within the development and are outline below;

- 1no 3 bedroom detached dwelling
- 14no 4 bedroom detached dwellings
- 1no 5 bedroom detached dwellings
- 4no 4 bedroom detached affordable dwellings

The application is in outline with all matters apart from access reserved for future consideration.

Consultee Response

Llandysilio CC

1st Response

Llandysilio Community Council have considered the above application and wish the following concerns to be noted.

1. Policy GP1 – Development Control

It is noted that this application is outside the settlement development boundary. The Community Council accept, however, that this could be considered as natural infill of the current boundary.

2. Policy HP5 Residential development

The Community Council would ask for a mix of proposed housing to include single storey properties which would allow residents to down size and also provide the first step on the housing ladder for others.

There are concerns about residential housing adjoining the business site of Lloyd Fraser which operates 24 hours a day and we would suggest an earth bund is constructed with tree planting to minimize any noise.

There are also concerns about the number of allocated Open Space areas– details should be submitted of how this will be managed in the future.

3. Policy DC9 – Protection of Water Resources

Evaluation is needed on the effects of the surface water drainage which would flow into the Sarn Wen Brook. Residents further downstream already experience problems with flooding and this site should not exacerbate this problem.

4. Policy GP4 – Highways and Parking requirements

The proposed re-routing of City Lane onto the Estate road and then onto a mini-roundabout would help solve an existing problem of vehicles exiting City Lane which are often in conflict with motorists travelling through the traffic calming. The Community Council would ask, however, that the mini roundabout is raised to prevent vehicles from travelling across it which is what happens to the 2 other mini-roundabouts in the village. It should also be part of the planning condition that the existing traffic calming opposite City House is removed and replaced with a speed hump across the carriageway. This would then prevent larger vehicles from straddling the speed hump. Highways Dept are currently taking forward proposals to add double yellow lines along this stretch of the B4393 and this should also be a condition of any development.

5 Policy SP1 Social, Community & Cultural Sustainability

Although this concern is listed last here, it is perhaps, the most important of all as no contribution has been put forward for the educational facilities at Llandysilio Church in Wales School. No contribution has been put forward to help the Llanfyllin Medical practice have the much needed extension at Four Crosses Surgery. Please see attached letter from Llanfyllin Medical Practice asking for financial help from developers.

No contribution has been put forward to enhance the recreational facilities at the village. In order for our Village to be able to cope with all the extra housing coming forward there has to be investment in the current services and infrastructure. There is currently a 3 week wait for

an appointment at the surgery in Four Crosses and a limited bus timetable to enable residents to travel to the main practice at Llanfyllin.

2nd Response

Llandysilio Community Council have received notice of an amended proposals in respect of the above and note that the number of dwellings has been reduced to 20. There is no plan on the website detailing the new lay out and no response to my email request for one.

The Community Council considered the revised proposals at their meeting on the 25th January and agreed to OBJECT to these proposals for the following reasons.

1. Policy GP4 – Highways and Parking requirements

As already highlighted there is an existing problem with conflicting vehicle movements due to the presence of the chichane opposite City House and the junction to Foxen Manor. It is very important that a roundabout is installed here rather than add a further staggered junction into an existing problem. It is also important that any development here should also involve the removal of the traffic calming opposite City House and replace it with a speed hump across the carriageway. This would then prevent larger vehicles from straddling the speed hump. Highways Dept are currently taking proposals to add double yellow lines along this stretch of the B4393 and this should also be a condition of any development.

2. Policy GP1 – Development Control

It is noted that this application is outside the settlement development boundary. The Community Council accept, however, that this could be considered as natural infill of the current boundary.

3. Policy HP5 Residential development

The Community Council would ask for a mix of proposed housing to include single storey properties which would allow residents to down size and also provide the first step on the housing ladder for others.

There are concerns about residential housing adjoining the business site of Lloyd Fraser which operates 24 hours a day and we would suggest an earth bund is constructed with tree planting to minimize any noise.

There are also concerns about the number of allocated Open Space areas– details should be submitted of how this will be managed in the future.

4. Policy DC9 – Protection of Water Resources

Evaluation is needed on the effects of the surface water drainage which would flow into the Sarn Wen Brook. Residents further downstream already experience problems with flooding and this site should not exacerbate this problem.

5 Policy SP1 Social, Community & Cultural Sustainability

Although this concern is listed last here, it is perhaps, the most important of all as no contribution has been put forward for the educational facilities at Llandysilio Church in Wales School. No contribution has been put forward to help the Llanfyllin Medical practice have the much needed extension at Four Crosses Surgery. You already have on file a letter from Llanfyllin Medical Practice asking for financial help from developers.

No contribution has been put forward to enhance the recreational facilities at the village. In order for our Village to be able to cope with all the extra housing coming forward there has to

be investment in the current services and infrastructure. There is currently a 3 week wait for an appointment at the surgery in Four Crosses and a limited bus timetable to enable residents to travel to the main practice at Llanfyllin.

Powys Highways

1st Response

The County Council as Highway Authority for the County Class II Highway, B4396

Wish the following recommendations/Observations be applied
Recommendations/Observations

Site

On site – there is wide spread application of private drives. These have substandard layout and turning provision. Parking and bins collecting positions should be clarified.

The proposal includes the realignment of City Lane. This will require a Stopping up Order; the proposals for which have not been tabled.

Access

More information (and Topo' survey) would be needed at the access. A full check (against TA note 54/07) needs to be carried out on whether the four-way Mini-roundabout option meets the proposed situation/ flow predictions. Key dimensions should be referred to and shown on the plan.

Surrounds

The applicant should clarify how existing street features will be accommodated or altered.

Conclusion

In its present form the application is not acceptable. The further information and clarification suggested above should be supplied.

2nd Response

The County Council as Highway Authority for the County Class II Highway, B4396

Wish the following recommendations/Observations be applied
Recommendations/Observations

The following conditions are made in relation to the amended drawing RPP/TW-Jo823-03 Revision B.

As part of this development we will be seeking improvements to the Active Travel infrastructure to link this site to the centre of the village. In addition, in order to facilitate the new junction the access proposals include the re-alignment of the existing unclassified highway, City Lane, to link onto the new estate road and we will require that the applicant provide for the funding of the Traffic Regulation Order for the stopping up of the junction to vehicular use.

Recs.

1. Prior to any works being commenced on the development site full engineering drawings for the off-site footway/cycle infrastructure together with traffic calming proposals along the B4393 to the village centre shall be submitted to and approved in writing by the local planning authority.
2. Prior to the occupation of any of the dwellings the highway improvements, referred to above, shall be fully completed to the written approval of the local planning authority.
3. Prior to any works being commenced on the development site the applicant shall submit and have approved in writing a scheme for the stopping up of the existing junction of the U4902 and B4393 and the approved scheme shall be implemented in full to the written satisfaction by the local planning authority.
4. Prior to the occupation of any dwelling any entrance gates 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.
5. The centre line of the first 15 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
6. No other development shall commence until the access has been constructed so that there is a clear visibility splay 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 0.26 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
7. 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 15 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.
8. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom to a maximum of three excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

9. 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.
10. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
11. The width of the access carriageway shall be not less than 5.5 metres along the access road 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.
12. Prior to the occupation of the development a radius of 6 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.
13. Any internal side-road junctions shall have a corner radii of 6 metres.
14. The centre line radii of all curves on the proposed estate road shall be not less than 20 metres
15. No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.
16. 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.
17. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 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,
18. Upon formation of the visibility splays as detailed in condition 5 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.

19. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

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

Powys Building Control

Building Regulations application will be required.

Wales and West Utilities

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

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

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

To help us provide an efficient response please could you send all responses to welshplanning@severntrent.co.uk rather than to named individuals, including the STW ref within the email/subject.

Cllr Arwel Jones

I refer to the email received from Llandysilio Community Council re the above planning application and take it that it will have to come to committee given the fact it is outside the development plan.

Also can I give you notice that the Community Council and myself will speak at the meeting. Many thanks.

Could you please confirm for the records.

Powys Environmental Health

1st Response

Re: Residential development for up to 35 dwellings, formation of a vehicular access, and all associated works.

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

Construction-phase noise control

For the protection of amenity for nearby residential properties, Environmental Protection recommends the following condition for the control of construction-phase noise:

“Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.”

Construction Method Statement

“No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) The parking of vehicles of site operatives and visitors;
- ii) Loading and unloading of plant and materials;
- iii) Storage of plant and materials used in constructing the development;
- iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) Wheel washing facilities;
- vi) Measures to control the emission of dust and dirt during demolition and construction; and
- vii) A scheme for recycling/disposing of waste resulting from demolition and construction works.”

2nd Response

Thank you for drawing this issue to my attention, I was not aware that there were commercial/industrial operations so close to the application site. In light of this, I would request that the applicant undertakes a BS 4142:2014 noise survey: "Methods for rating and assessing industrial and commercial sound". This will establish whether or not the site is suitable for residential development, or whether noise mitigation measures will need to be incorporated into the design.

Without a BS 4142:2014 report, I will have to object to the application at this stage due to lack of information.

3rd Response

Noise impact assessment

The BS 4142 noise assessment has shown that nearby industrial activity has a significant noise impact on the development site, particularly on those parts of the site closest to the boundary with industry. The report concludes that mitigation will be necessary in order to reduce the noise impact, and it is proposed that a 5m high barrier will be created along the western boundary of the site consisting of acoustic fencing on top of an earth bund.

However, this noise barrier alone fails to achieve desirable noise levels for some of the properties. The daytime outdoor noise levels in eight of the gardens will be above the World Health Organization guideline value of 50dB for moderate annoyance. Furthermore, in four of those properties the night time levels will be greater than 5dB above background, which indicates a likely adverse impact. These are my two areas of concern which I would like to see addressed with further mitigation measures.

In its current form I must object to the application.

4th Response

Further to my previous email in response to the noise impact assessment report, I have received correspondence (see below) from the agent.

It is my understanding that the mitigation works, required to resolve the two issues I have raised, can be achieved by making alterations to the indicative internal and external layouts of the site, or by similar means (e.g. boundary treatments). As such, I would have no objection to confirming these measures at the reserved matters stage.

Is this something we will need to condition now so that it can be dealt with later?

5th Response

Further to the additional noise information, I can respond as follows.

Outdoor noise levels (daytime/evening)

I accept the point that the absolute noise level from the commercial activities (without the application of tonal penalties) will be in the range between 42-46 dB. I have undertaken some noise monitoring at the site in order to validate the background noise levels quoted in

the report, and I can confirm that the values stated are correct; the typical daytime background level is L_{A90} 48 dB. It is not explicit on the plans, but if solid wooden or brick garden fencing is used this will also provide additional acoustic shielding from the commercial noise.

Therefore, I am satisfied that there should be no loss of amenity due to noise during the day/evening periods.

Indoor noise levels (night-time)

The issue of night-time noise affecting plots 11-14 is to be resolved by orientating the development so that no bedrooms at the properties face the noise source. This is confirmed in the amended block plan. I am satisfied that this will achieve the desirable indoor noise level.

And just to confirm, it should be noted that all of the above is contingent on mitigation achieved by the use of a 5m high acoustic barrier along the western site boundary. If this is not an acceptable approach from a Planning perspective, then other noise mitigation measures will need to be proposed.

Powys Built Heritage

1st Response

Thank you for consulting me on the above application.

The proposal is for outline planning permission for 35 dwellings at land south of the B4393. The application is made in outline with 4 matters reserved however the access is to be determined at this stage.

The proposal is adjacent to a number of historic assets namely;

Scheduled Ancient Monuments

MG033 Offas Dyke extending 3000m SE to Bele Brook Llandrinio

Listed Buildings

Cadw ID 8527 The Post Office included on the statutory list on 05 April 1993

Cadw ID 8528 House attached to Post Office including forecourt walls and railings included on the statutory list on 05 April 1993

Cadw ID 8525 Greenfield House included on the statutory list on 05 April 1993

Cadw ID 8526 Old Milk Factory adjacent to Greenfield House included on the statutory list on 05 April 1993

The site is close to a Scheduled Ancient Monument, MG033 Offas Dyke extending 3000m SE to Bele Brook Llandrinio and as Cadw are the consultee in respect of Scheduled Ancient Monuments and as such I shall provide comments on the listed building only. I note the comments by Cadw dated 23 October 1997

TAN 24 advices (section 1.10) that Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) were published in 2011 and

provide the basis upon which Cadw discharges certain statutory duties on behalf of the Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process.

There are six principles.

1. Historic assets will be managed to sustain their values.
2. Understanding the significance of historic assets is vital.
3. The historic environment is a shared resource.
4. Everyone will be able to participate in sustaining the historic environment.
5. Decisions about change must be reasonable, transparent and consistent.
6. Documenting and learning from decisions is essential.

Applicants and other organisations are strongly encouraged to make use of these Conservation Principles when considering development proposals and other works to historic assets. It is important for those responsible to understand the heritage values and assess the significance of the historic assets that will be affected.

The historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset.

The document continues with the following advice on page 15. Every reasonable effort should be made to eliminate or minimize adverse impacts on historic assets. Ultimately, however, it may be necessary to balance the benefit of the proposed change against the harm to the asset. If so, the weight given to heritage values should be proportionate to the importance of the assets and the impact of the change upon them. The historic environment is constantly changing, but each significant part of it represents a finite resource. If it is not sustained, its heritage values will be eroded or lost. In addition, its potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

There are four heritage values which need to be understood before the significance of the asset can be assessed.

- Evidential value
- Historical value
- Aesthetic value
- Communal value

Evidential Value

This derives from those elements of an historic asset that can provide evidence about past human activity.

The Post Office was constructed in 1868 as a purpose built general stores and is 2 storeys with cellar of red brick.

The House adjacent to The Old Post Office was formerly known as City House in a prominent corner plot and fronts onto the B4393. The railings referred to in the listing are intersecting cast-iron railings formed of round arches between main uprights with ball finials, set on low brick forecourt walls with dressed stone copings.

Greenfield House is in a central position south of The Clawdd and built as an owners or managers house for the adjacent Milk Factory.

Old Milk Factory is a three storey red brick with roadside end having tall central opening with segmental arched head infilled with a modern loading door in each storey

Historical Value

An historic asset might illustrate a particular aspect of past life or it may be associated with a notable family, person, event or movement. These illustrative or associated values of an historic asset may be less tangible than its evidential value but will often connect past people, events and aspects of life with the present and are not so easily diminished by change as evidential values and are harmed only to the extent that adaptation has obliterated them or concealed them.

The Post Office has a square dressed date stone with date shield set in quatrefoil recess: "HP 1868" and a George V wall letter-box set in brick pier attached to left front. The interior has many original features 1868 shop fittings survive including shelves, drawers for herbal products and remedies, open shelving partitioned with turned spindle supports, counters with panelled fronts divided by pilaster strips. Counter to right has inset brass measure and behind, a yardstick in the original fitted holder. To centre right is window through to house, to rear is Gothic-arched plank door and steps up to first floor with turned newel. To rear left is plank and glazed office partition. Rows of iron rods for hangings are suspended from the ceiling. The side windows have moulded architraving and panelled shutters. Moulded ceiling cornice. Cast iron columns at corners of front window splay. 1914 wooden telephone kiosk. The general stores incorporated on the ground floor departments for drapery, haberdashery, medicinal products, household goods and groceries. On the first floor was an undertaker's showroom selling coffin linings, shrouds etc with a separate room for customer consultations.

The house adjoining The Post Office contains many original features and to the rear of the house is a two storey, red brick, slate roofed outhouse with surviving bread oven, hot water copper and carved stone sink.

Greenfield House retains its original external features and the adjacent Old Milk Factory was constructed as a purpose built milk processing plant and the top floor was used as Village Assembly Rooms for meetings and entertainment in late C19.

Aesthetic Value

This derives from the way in which people draw sensory and intellectual stimulation from an historic asset through its form, external appearance or setting.

All four listed buildings have a relationship with each other illustrating the development of Four Crosses. The Post Office is listed as a well-preserved general stores and attached

house, opened at the relatively early date of 1868, is a fine example of rural Victorian enterprise. It must have required considerable investment as well as greatly improving the range of services for this community. The Milk Factory forms a group with Greenfield House and together with City House (The Post Office) illustrates a short-lived phase of entrepreneurial development in Four Crosses in the mid C19. The industrialisation of milk processing was closely linked to the expansion of specialised dairy herds on enlarged farmyards in Domgay and Haughton. Together with the coming of the railway the Milk Factory and the Post Office and adjoining house is a key part of the Victorian development of Four Crosses

Communal Value

The fourth principle contained within Conservation Principles is that heritage assets are a shared resource, valued by people as part of their cultural and natural heritage, and gives distinctiveness, meaning and quality to the places where we live providing a sense of continuity and a source of identity. The Conservation Principles identify heritage assets as having the potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

However, I would also refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9th edition 2016 which states, " Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

TAN24 which was issued and came into effect on 31 May 2017 addresses setting with some of the factors to consider and weigh in the assessment including

- the prominence of the historic asset
- the expected lifespan of the proposed development
- the extent of tree cover and its likely longevity
- non-visual factors affecting the setting of the historic asset

Paragraph 1.26 identifies the other factors that may affect the setting of an historic asset to include inter-visibility with other historic or natural features, tranquillity, noise or other potentially polluting development though it may have little visual impact.

Powys Unitary Plan policies reflect national legislation and guidance; Powys Unitary Development Plan Policy ENV14 (Listed Buildings) states that “proposals for development unacceptably adversely affecting a listed building or its setting will be refused”. UDP Policy SP3b states that “proposals for development should seek to protect, conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological, architectural and heritage conservation and historic interest”. UDP Policy GP1 states “development proposals will only be permitted if they take into account the following – the design, layout, size, scale, mass and materials of the development shall complement and where possible enhance the character of the surrounding area”.

Cadw have prepared guidance on the setting of historic assets that in an annexe to TAN24 that came into effect on 31 May with advice on how to assess the setting of listed buildings. This document outlines the principles used to assess the potential impact of development or land management proposals on the settings of all historic assets but is not intended to cover the impact on the setting of the historic environment at a landscape scale.

The document advises that “Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost”

The document provides advice on how to assess the setting

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

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

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

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

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

It is noted that section 2.2 of Managing Setting of Historic Assets which came into effect on 31 May advises that applicants for planning permission should provide the local planning with sufficient, but proportionate, information to allow the assessment of the likely impact of proposal for development on a historic asset and its setting. It is noted that no such assessment accompanied the application nor has been referred to in the accompanying Design and Access Statement. I note the request from Cadw in respect of the setting of Offas

Dyke and would also refer to the fact that the impact on the 4 adjoining listed buildings have not been addressed in the application. The proposal therefore does not comply with section 2.2 of the guidance Setting of Historic Assets in Wales which requires applications for planning permission to provide the local planning authority with sufficient but proportionate information to allow the assessment of the likely impact of the proposal on the setting of historic assets.

I note that the pre-application consultation report submitted with the application includes the responses from Cadw and CPAT advising them of the requirement for the impact of the proposal on heritage assets should accompany the application and the response to those comments is that an appropriate expert will be preparing an assessment using the methodology outlined in the Cadw document Setting of Historic Assets in Wales. I note with regret that this assessment has not been included in the application despite the advice given at pre-application stage.

Cadw document Setting of Historic Assets in Wales advises on how to consider the setting of listed buildings. "Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape. It often extends beyond the property boundary or 'curtilage' and into the surrounding landscape or townscape. Although many historic assets are visible and their settings are obvious, those that are buried also have a setting. "

"The setting of a historic asset can include physical elements of its surroundings. These may be boundary walls, adjacent fields or functional and physical relationships with other historic assets or natural features."

The Cadw document advises on steps to be undertaken to define and analyse the setting with a series of questions.

•How do the present surroundings contribute to our understanding and appreciation of the historic asset today?

- Thinking about when the historic asset was first built and developed:
- What were its physical, functional and visual relationships with other structures/historic assets and natural features?
- What topographic features influenced its location?
- What was its relationship to the surrounding landscape?
- Was it constructed to take advantage of significant views? Although there may be a 360 degree view, some areas of the view may be more significant than others.

- Thinking about changes since the historic asset was built:
- Has its function changed?
- What changes have happened to the surrounding landscape?
- Have changes happened because of changes to the historic asset?
- Has the presence of the historic asset influenced changes to the landscape, for example, where a monument has been used as a marker in the layout of a field enclosure?
- Have historic and designed views to and from the historic asset changed?

- Thinking about the original layout of the historic asset and its relationship to its associated landscape:

- Were these relationships designed or accidental?
 - How did these relationships change over time?
 - How do these relationships appear in the current landscape; are they visual or buried features?
- Are there other significant factors, such as historical, artistic, literary, place name or scenic associations, intellectual relationships (for example, to a theory, plan or design), or sensory factors that can be vital to understand the historic asset and its setting?

Stage 2 should also identify the viewpoints from which the impact of the proposed change or development should be assessed, taking into account, for example:

- views that were designed and developed to overlook the historic asset and its setting
- incidental views to and from the historic asset which contribute(d) to its significance
- important modern views to and from the historic asset
- important modern views over and across the historic asset.”

The proposed housing would be sited between The Old Milk Creamery and Greenfield House and The Post Office and The house adjoining The Post Office.

House attached to Post Office including forecourt walls and railings is currently separated from the site by City Lane which runs adjacent to the listed building. The boundary of the listed building are the railings referred to in the list description as intersecting cast-iron railings formed of round arches between main uprights with ball finials, set on low brick forecourt walls with dressed stone coping, which sets the house apart from the pavement to the front of City House and alongside City Lane. These railings indicate the domestic part of the property from the commercial Post Office.

The application site is agricultural land that appears from old maps to not have been built upon but land adjacent to Four Crosses Railway Station that was sited to the East of The Old Milk Creamery and between The Creamery and The Post Office.

The proposal as submitted would result in the construction of a mini roundabout and the closure of part of City Lane and the re-alignment of City Lane creating an area of public open space adjacent to City House.

The loss of the section of City Lane adjacent to The house adjacent to the Post Office would affect the character of this pair of listed properties from being a house on a junction between 2 roads and appropriate boundary treatment with small railings appropriate for a property of this character, to a house within a housing estate and adjacent to an area of public open space.

The Powys Unitary Development Plan reflects National Guidance with policy ENV 14 being applicable to all applications that are subject to proposals affecting listed buildings, Proposals for development unacceptably adversely affecting a listed building or its setting will be refused. In considering proposals for development affecting a listed building and its setting account will be taken of the following;

1. The desirability of preserving the listed building and its setting;
2. The importance of the building, its intrinsic and historic interest and rarity;

3. The effect of the proposals on any particular features of the building which justified its listing;
4. The buildings contribution to the local scene and its role as part of an architectural composition;
5. The condition of the building and the benefit that the proposals would have to its state of repair;
6. The merits of the proposals in securing an appropriate alternative use of the building; and
7. The need for the proposals to be compatible with the character of the building and its surroundings and to be of high quality design, using materials in keeping with the existing building,

The recent Cadw guidance on the setting of historic assets advises that “Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost”

Given the age of the listed buildings and the commercial aspect of the property as originally constructed the commercial element of the property is back edge of pavement with the domestic element being sited a little distance from the pavement by a small wall with decorative railings. The proposal would include the introduction of a mini roundabout directly adjacent to the pair of listed buildings.

I would not consider that the affect of the proposal on the setting of the listed buildings has adequately been addressed. The introduction of a mini roundabout will have an impact on the setting of the listed buildings, and the loss of the adjacent City Lane and the creation of the public space directly adjacent to the listed building will again affect the setting of this listed building by removing the road to which it adjoins and effectively placing the listed buildings within a housing estate.

In addition no information on the proposed boundary treatment or landscaping between the proposed open space and the listed buildings has been provided. There is reference on the plan to dwarf wall, but it is not clear is this is the existing listed building or another wall.

In addition to the public open space adjacent to The House adjacent to the Post Office, the listed building current retains its original location and relationship with The Railway Station and the listed Old Milk Creamery and Greenfields.

It is not considered that the proposal could be considered favourably on the basis of the information submitted as the proposal would have a significant impact on The house adjacent to the Post Office and The Post Office and inadequate information to illustrate the proposed works has been provided.

Section 6.1.4 of Planning Policy Wales 9th edition “Decisions on planning applications and listed building and conservation area consents must be based on adequate information

provided by the applicant and any action must be in proportion to the impact of the proposals, and the effects on the significance of the assets and their heritage values.”

Section 1.26 of TAN 24 advises that “It is for the applicant to provide the local planning authority with sufficient information to allow the assessment of their proposals in respect of scheduled monuments, listed buildings, conservation areas, registered historic parks and gardens, World Heritage Sites, or other sites of national importance and their settings.”

Section 2.2 of Managing Setting of Historic Assets in Wales which came into effect on 31 May advises that applicants for planning permission should provide the local planning with sufficient, but proportionate, information to allow the assessment of the likely impact of proposal for development on a historic asset and its setting.

It is noted that the site was submitted for consideration as a candidate site and the site has not been allocated in the emerging LDP. All the constraints including built heritage and Offas Dyke were highlighted. I also note the pre-application advice received from Cadw and CPAT and despite being advised of this requirement to provide adequate and proportionate information in respect of the setting of historic assets no such assessment has been provided with the application.

The proposal by virtue of removing the area of City Lane adjacent to City House and the formation of an area of open space adjacent thereby effectively removing this listed building from its context and incorporating it into a housing development would have a significant impact on the setting of the listed building. In addition to the visual impact of the proposal the impact of removing a hard surface and the introduction of soil next to the listed building has not been addressed. There are gateways into the rear of City House and their relationship with the open space has not been addressed, presumably there is a right of access via that gateway onto a public road, that relationship will be lost and has not been addressed.

I am therefore unable to support the application in its current form and based on the submitted information would have to object to the proposal on the basis that the application fails to meet national policy (Section 6.1.4 of Planning Policy Wales 9th edition), national guidance (Section 1.26 of TAN 24 and Section 2.2 of Managing Setting of Historic Assets in Wales) and Local Plan Policy ENV14 in that inadequate information has been provided in respect of the setting of historic assets to enable the current application to be considered favourably.

Should the application be considered favourably in all other respects I would request further information in respect of the impact of the proposal on the listed buildings to be submitted for consideration prior to determination.

2nd Response

Thank you for consulting me on the amended plans dated 15th February 2018 on the planning portal.

I have previously objected to the application on 23 November 2017, and the current plans have been submitted in part to address previous concerns raised by consultees. The recent amended plans seek to address those concerns, and as an assessment of the historic significance of the sites has been made in my previous three comments rather than repeat

them here I would be grateful if they could be considered as an appendix to these comments.

I previously raised objections to the impact of the proposal on the setting of City House and Shop (Cadw ID 8527 The Post Office and Cadw ID 8528 House attached to Post Office including forecourt walls and railings included on the statutory list on 05 April 1993) .

The revised proposal in addition to a reduction in numbers has omitted the roundabout outside City House and Shop and the area of public open space adjacent to City House and the closure of City Lane has been revised in drawing RPP/TW-JOB12 - 03 in that City Lane will remain adjacent to City House albeit reduced to pedestrian access thereby retaining the existing arrangement of the house and post office on the junction of 2 roads which would enable its railings and walls to remain in situ and retaining the current position of City House and shop and not incorporating this pair of listed buildings into a new housing development.

The amended plans have addressed by concerns and as such, I would therefore **withdraw my objection** to the proposal on the grounds of the setting of City House and City Shop (Cadw ID 8527 and Cadw ID 8528) .

I would therefore have **no objection to the proposal on built heritage grounds** however would request that care is taken at reserved matters stage in terms of design and materials.

Powys Ecologist

Ecological Topic		Observations
EIA Screening Opinion needed?	No	The site area is understood to be 2.09 hectares and includes up to 35 dwellings. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application?	No	No ecological information has been submitted with the application. These observations are therefore based on an interpretation of available aerial imagery, the submitted plans, Design and Access Statement and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service. The proposals appear to involve construction of a new

		<p>housing estate within an existing single field which is currently used as grazing pasture. The field is on the outskirts of Four Crosses village and is currently surrounded in all directions by residential and commercial properties. All field boundaries are made up of a thick hedgerow, which is only partly broken along the northern and western boundary. It appears that the new proposal would involve removal of hedgerow from the northern part of the eastern boundary and the eastern part of the northern boundary to accommodate the proposed site access.</p>
<p>Protected Species & Habitats¹</p>	<p>European Species <input checked="" type="checkbox"/></p>	<p>Within 1km of the site there are historical records of Otter and various bat species.</p> <p>It doesn't appear that any mature trees which offer bat roosting potential would be lost to the proposal; a mature tree in the south west corner of the field is shown as retained on the plans provided. The hedgerow that surrounds the site could provide suitable foraging and commuting habitat for bat species. I recommend that the extent of vegetation removal is kept to a minimum and where it needs to be removed this should be mitigated through translocation where possible to allow more immediate habitat establishment, or suitable replacement planting shown in a proposed landscape design drawing. Also a tree/hedge protection plan in accordance with BS5837: 2012 should be implemented during the construction phase to safeguard retained vegetation.</p> <p>I recommend that a sensitive lighting scheme is implemented to avoid adverse impacts on any nocturnal wildlife, such as bats, that may use surrounding vegetation.</p> <p>Local otter records are concentrated along Montgomery Canal to the west and it is not considered that the proposed site represents suitable habitat for otters.</p>
	<p>UK Species <input checked="" type="checkbox"/></p>	<p>In addition to the species listed above, within 1km of the site there are numerous historic records of badger and various breeding bird species, but no records from the site itself.</p>

¹ Species records within 1km (minimum).

		<p>Nesting birds may use the hedgerow surrounding the proposed site. I therefore recommend that any vegetation clearance works required to accommodate the proposed development are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished.</p> <p>The hedgerow that surrounds the site could also provide suitable shelter for common reptile species. It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation clearance required to facilitate the proposed access and associated sightlines. Suitable mitigation should also be provided to offset any losses of suitable reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>The nearest badger record consists of field signs approximately 200m to the north west. No direct impacts upon the local badger population are expected as a result of the proposals due to the fact that the existing field is so open and well managed at present, and is surrounded by commercial and residential developments.</p>
	<p>Section 7 Species & Habitats</p> <p style="text-align: center;">☒</p>	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Hedgerows are a Section 7 Priority Habitat and hedgerow borders most of the proposed site. Based on the submitted plans, it appears that sections of this hedge would be removed to facilitate the proposed access. I recommend that the extent of vegetation</p>

		<p>removal is kept to a minimum and where it needs to be removed this should be mitigated through translocation or suitable replacement planting shown in a proposed landscape design drawing. Also a tree/hedge protection plan in accordance with BS5837: 2012 should be implemented during the construction phase to safeguard retained vegetation.</p> <p>I recommend that native, locally-occurring plant species are included in any landscaping associated with this application and a species list for the landscaping should be provided for approval prior to commencement of development.</p> <p>There are previous records of hedgehogs and hare from within 1km of the application site and there would appear to be suitable habitat for hedgehog along the field boundaries. It is therefore recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider hedgehogs.</p> <p>As a biodiversity enhancement of the site installation of bat and bird boxes as part of the proposals would be welcomed.</p>
	LBAP Species & Habitats <input checked="" type="checkbox"/>	Please refer to the observations above.
Protected Sites	International Sites ² <input type="checkbox"/>	Montgomery Canal SAC is located approximately 700m to the west of the proposed site. Due to the distance and lack of pathways between the two sites no impacts upon the integrity of the SAC are expected.
	National Sites ³ <input type="checkbox"/>	Montgomery Canal SSSI is located approximately 700m to the west of the proposed site. Due to the distance and lack of pathways between the two sites no impacts upon the integrity of the SSSI are expected.
	Local Sites (within 500m) <input type="checkbox"/>	None are located within the search area.
Invasive Non-Native Species	No	No ecological information has been submitted with the

² International designated site within 1km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

³ Any national designated sites within 500m of the proposal, extending to 1km dependant on features of interest *i.e.* wetlands (Powys LDP)

	application.
<p>Recommendations</p>	<p>I recommend that a sensitive lighting scheme is implemented to avoid adverse impacts on any nocturnal wildlife that may use the hedgerow along the southern and western site boundaries.</p> <p>I recommend that vegetation removal for the proposed development is kept to a minimum and where required vegetation clearance works should be timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing and depending on the presence and location of nesting birds, site clearance may need to cease until breeding has finished.</p> <p>It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles and small mammals during any clearance work at the north-east corner of the site. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>A tree/hedge protection plan in accordance with BS5837:2012 should be implemented during the construction phase to safeguard retained vegetation.</p> <p>I recommend that if practicable any hedgerow is translocated to provide a more immediate habitat replacement, including that set back to facilitate access to the proposed site.</p> <p>As a biodiversity enhancement to the site I recommend that native, locally-occurring plant species are included in any landscaping associated with this application and a species list for the landscaping should be provided for approval prior to commencement of development. Also enhancement of the site by installation of bat and bird boxes as part of the proposals would be welcomed.</p>

<p>Further information required prior to determination of application</p>	
<p>Recommended Conditions</p>	<p>Should you be minded to approve this application, and subject to receipt of the information above, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a reptile and small mammal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP</p>

	<p>Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.</p> <p>Informatives</p> <p>Birds - Wildlife and Countryside Act 1981 (as amended)</p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> • 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 Schedule1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. <p>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.</p> <p>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</p>
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	<p>Wales and the Council's Ecologist.</p> <p>Reptiles - Wildlife & Countryside Act 1981 (as amended)</p> <p>All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p> <p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p>Relevant UDP Policies</p>	<p>SP3 Natural, Historic and Built Heritage</p> <p>ENV 2: Safeguard the Landscape</p> <p>ENV 3: Safeguard Biodiversity and Natural Habitats</p> <p>ENV 6: Sites of Regional and Local Importance</p> <p>ENV 7: Protected Species</p>

CADW

1st Response

Thank you for your letter inviting our comments on the above planning application.

Advice

Having carefully considered the information provided with this planning application, we consider that it is inadequately documented. Our assessment of the application is given below.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24 : The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

Assessment

We were consulted on this proposed development in a statutory pre-application consultation. In our response we noted that no consideration of the impact of the proposed development on the setting of scheduled monument MG033 had been produced and that this would be a material consideration in the determination of any planning application (see Planning Policy Wales 6.5.5).

In the Pre-Application Consultation Report submitted our response is acknowledged and it is stated "We will be using an appropriate expert of prepare an assessment using the methodology outlined in the Welsh Government's Setting of Heritage Assets": However, this assessment has not been submitted in support of this application. Consequently, we are not in a position to provide you with the advice on the impact of the proposed development on the setting of the scheduled monument Offa's Dyke: Section extending 3000m SE to Bele Brook, Llandrinio (MG033).

We therefore strongly recommend that you request that the applicant submits an assessment of the impact of the development on the setting of the scheduled monument in accordance with the guidance contained in the Welsh Government "Setting of Historic Assets in Wales". We should then be re-consulted on this application.

2nd Response

Thank you for your letter of 20 April 2017 inviting our comments on additional information for the above development. We also note that the description of the proposed development has been amended reducing the number of dwellings from 35 to 20.

Advice

Having carefully considered the information provided with this planning application, we consider that it is inadequately documented. Our assessment of the application is given below.

Assessment

An archaeological assessment prepared by Clwyd-Powys Archaeological Trust (CPAT) a Chartered Institute for Archaeologists Registered Organisation has been submitted in support of this application.

This report has assessed the impact of the proposed development on the setting of scheduled monument Offa's Dyke: Section extending 3000m SE to Bele Brook, Llandrinio (MG033) and concluded that impact is considered to be moderate and the significance of effect, moderate/large. This would constitute significant damage to the setting of the scheduled monument and this would be grounds for us to formally object to this application (see Planning Policy "Wales Section 6.5.5): However the assessment has been produced based on a development of 35 dwellings as shown in the submitted Masterplan dated July 2017, but it appears that the application has now been amended to a development of 20 dwellings. The reduction in the number of dwellings may reduce the damage the development will cause to the setting of the scheduled monument to an acceptable level.

Consequently, if the number of dwellings proposed in this application has been reduced we recommend that the applicant should be requested to provide a new masterplan showing an indicative layout for the proposed development and a revised assessment of the impact this proposal will have on the setting of scheduled monument MG033.

3rd Response

Thank you for your letter of 15 February 2018 inviting our comments on the revised archaeological assessment considering the impact of a development of 20 dwellings on the historic environment prepared by Clwyd-Powys Archaeological Trust (CPAT) a Chartered Institute for Archaeologists Registered Organisation.

Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monument MG033 Offa's Dyke: Section extending 3000m SE to Bele Brook, Llandrinio. Our assessment of the application is given below.

Assessment

The reduction in the number of proposed dwellings and a re-design of the development has allowed the area closest to scheduled monument MG033 to be designated as open space with a number of trees being planted. The nearest proposed dwelling will now be some 55m east of the boundary of the scheduled monument. This rearrangement has meant that Clwyd Powys Archaeological Trust now consider that the proposed development will have a moderate/slight impact on the significance of the monument. We concur with the results of

this assessment. Consequently we consider that the proposed development of 20 dwellings will cause slight, but not significant, damage to the setting of scheduled monument MG033.

CPAT

1st Response

Thank you for the consultation on this application.

Information retained within the Regional Historic Environment Record indicates that this application falls in an area of high archaeological potential. The proposed development plot currently has no recorded sites actually within it based on a search of the Historic Environment Record. It is in an area of high archaeological potential though and it is bounded on two sides by designated heritage sites.

The plot is located within the broad area of archaeological sensitivity relating to the late Neolithic and Bronze Age funerary and ritual activity at Four Crosses as represented by numerous burial mounds to the north and north east which are part of a linear cemetery and ceremonial landscape. There are a lot of associated archaeological features around the cemetery and the buried landscape at Four Crosses is generally multi-layered with later field systems, pit alignments, post Roman burials, Roman farming activity and post medieval farming. We would therefore expect the sub-surface potential of this plot to be high and pre-determination evaluation in the form of geophysics followed by exploratory trial trenching would be required.

The Offa's Dyke scheduled monument (SM MG033) is located just beyond the south west boundary of the site. There may be some direct impact to a buried portion of the former bank alignment at the south west corner and if any ground disturbance is proposed here evaluation of the area is recommended. We note that the south west corner is generally included within a green space and this is welcomed as it will help to screen the monument from the proposed housing. In general more screening and green space at the south west corner, and along the south boundary next to the footpath, would be beneficial. Cadw should be consulted on the potential visual and setting impact of the housing development on the scheduled monument. The contact would be the Ancient Monuments Planning Admin section via amadminplanning@wales.gsi.gov.uk

There are two Grade II listed buildings on the eastern boundary (Post Office and a House attached to the Post Office) of the development area. There may be visual and setting impacts to these listed buildings although the primary setting of both is the street frontage to the north. The visual and setting impact to the scheduled monument and Grade II listed buildings will need to be assessed following the Welsh Government guidance on the "Setting of Historic Assets in Wales" (May 2017).

The proposed development will disturb any such remains surviving here, but from present knowledge it is impossible to estimate how damaging this might be, and thus to frame an appropriate archaeological response. The planning authority appears to have insufficient information about this archaeological resource, or the applicant's intended treatment of it, to make a balanced decision. As archaeology is a material consideration here I would advise that this application is not determined until this resource has been properly evaluated.

Welsh Government Planning Policy Wales (Edition 9, Nov 2016), TAN 24: the Historic Environment (May 2017) and Powys UDP Policies ENV 17 and 18 suggest that planning authorities should require applicants to supply a suitable archaeological assessment in support of an application where a potential impact to archaeological remains is identified.

The developer will need to engage an archaeological contractor to complete this work in accordance with a brief written by this office on request. In response the archaeological contractor will need to supply a written scheme of investigation along with their cost estimate. The written scheme of investigation will need to be approved by me before work can commence on site.

I would advise that in order to allow sufficient time for an evaluation to be carried out, and the discussion of a subsequent mitigation strategy, the determination of the current application is delayed so that this information can be gathered and presented in support of the application.

We understand that the agent for the applicant is currently seeking tenders to appoint an archaeological contractor and the evaluation fieldwork will follow. When we have received a copy of the evaluation report we will provide advice on any further mitigation that may be necessary.

Please contact me if you wish to discuss the above advice or require any more information.

2nd Response

Thank you for the consultation on this application.

I can confirm that there are no archaeological implications for the amended development at this location.

3rd Response

Thank you for the notice of the additional information.

We note the revised layout with enhanced green space on the south, west and north-east sides which adopts the 15-20 metre buffer zone recommendation in the archaeological assessment report. The buffer further minimizes the visual impact on the listed City House and the scheduled Offa's Dyke monument. In addition a greater buffer is provided around the public footpath.

The revised layout is welcomed and we have no objection to the development if this layout is taken forward.

Contaminated Land Officer

It is noted that the proposed development is situated adjoining land that was formerly a creamery and sewage works (as shown on historic Ordnance Survey Maps) which are potential contaminative use. In light of this, it will be necessary to condition any future consent so as to ensure that any potential contamination issues are adequately dealt with. I would recommend that the following condition and note to applicant be applied to any future consent that may be granted.

The following condition should be applied to this development.

Potential Contamination

In the event that contamination is encountered at any time when undertaking the approved immediate contact must be made with the Local Planning Authority.

The development must not proceed until an investigation and risk assessment has been undertaken by a qualified and experienced environmental consultant, and where remediation is necessary a Remediation Strategy must be prepared, which is the subject to the approval in writing of the Local Planning Authority.

Following completion of the remedial works identified in the approved Remediation Strategy a Verification Report that demonstrates compliance with the agreed remediation objectives must be produced by a qualified and experienced environmental consultant, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors (in accordance with policy ___ of the adopted Local Plan).

Note to Applicant

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 Senior Contaminated Land Officer on 01597 827645.

Powys Ramblers

Thank you for the opportunity to comment on this application.

There seem to be no adverse effects on nearby rights of way. Nevertheless can the applicant please be informed of the importance of making sure that the nearby rights of way are not obstructed during any development works and are kept open throughout.

Representations

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

- proximity of proposed new residential development to existing commercial enterprises and potential for future conflict of land uses
 - no restriction on 24/7 manufacturing in commercial businesses neighbouring the site
- insufficient information submitted to facilitate a balanced determination
 - no LVIA, Phase 1 Habitat Survey or Site Investigation has been submitted
- conflict with local and national policy

- impact on the Offa's Dyke Scheduled Monument
- impact on visual amenity of the area
- limited infrastructure in Four Crosses

Planning History

No relevant planning history

Principal Planning Constraints

Scheduled Ancient Monument – Offa's Dyke
Public Right of Way

Principal Planning Policies

National Planning Policy

Planning Policy Wales (9th Edition, 2016)
Technical Advice Note 1 - Joint Housing Land Availability Study (2015)
Technical Advice Note 2 - Planning and Affordable Housing (2006)
Technical Advice Note 5 - Nature Conservation and Planning (2009)
Technical Advice Note 12 - Design (2016)
Technical Advice Note 15 - Development in Flood Risk Areas (2004)
Technical Advice Note 18 – Transport (2007)
Technical Advice Note 20 – Planning and the Welsh Language (2017)
Technical Advice Note 23 - Economic Development (2014)
Technical Advice Note 24 – The Historic Environment (2017)

Local Planning Policy

Powys Local Development Plan (April 2018)

SP1 Housing Growth
SP3 Affordable Housing Target
SP5 Settlement Hierarchy
SP6 Distribution of Growth across the Settlement Hierarchy
SP7 Safeguarding of Strategic Resources and Assets
DM1 Planning Obligations
DM2 The Natural Environment
DM3 Public Open space
DM4 Landscape
DM5 Development and Flood Risk
DM6 Flood Prevention Measures and Land Drainage
DM7 Dark Skies and External Lighting
DM8 Minerals Safeguarding
DM10 Contaminated and Unstable Land
DM13 Design and Resources
T1 Travel, Traffic and Transport Infrastructure
H1 Housing Development Proposals
H2 Housing Sites
H3 Housing Delivery
H4 Housing Density

H5 Affordable Housing Contributions
H6 Affordable Housing Exception Sites

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

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

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

Principle of Development

The proposed development lies wholly outside the settlement boundary of Four Crosses, as detailed on inset map P18 of the Powys Local Development Plan (LDP), and would result in a residential development of 20 dwellings being constructed outside the settlement boundary. Four Crosses is defined within the LDP as a large village.

Policy H1 states that to ensure that housing developments are appropriately located and suitable in scale and type, housing development will only be permitted in large villages where the following criteria is met;

- i. on sites allocated for housing or on other suitable sites within the development boundary; or
- ii. on sites forming logical extensions outside development boundaries for affordable housing in accordance with Policy H6.

Policy H2 details the allocated sites for housing within the LDP. The applications site does not form part of an allocated site and nor does it lie within the development boundary of Four Crosses. As such the proposed development of 16 open market dwellings and 4 affordable dwellings is contrary to policy H1.

The proposed development is therefore not in accordance with the LDP and should be considered a departure.

Housing Land Supply

The departure is being justified by the applicant on the basis that at the time of its submission Powys County Council did not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

TAN 1 is clear that housing land availability and the need to demonstrate a 5 year housing land supply is a key part of the LDP examination process and that local planning authorities are required to demonstrate that there is a 5 year housing land supply at the time the plan is adopted. A recent decision made by the Planning Inspectorate dismissing an appeal in Four Crosses (dated 10th May 2018) stated the following;

"...whilst TAN 1 states that the latest approved JHLAS can be used as an important piece of evidence in this regard, it nonetheless does not discount other sources of evidence. The Examining Inspector for the LDP would have been informed by a body of evidence in terms of the 5 year housing land supply; that evidence must have been robust in terms of demonstrating a 5 year housing land supply, and deemed to carry significant weight irrespective of the absence of an upto date JHLAS, otherwise the plan would not have been found to be sound."

In considering the above appeal the Inspector stated that the development of 36 dwellings would not be a sustainable form of development in terms of the settlement strategy of the newly adopted LDP and the need to avoid unjustified development in the open countryside. The proposal would therefore be contrary to the provisions of the development plan and advice contained within PPW.

In light of the above, it is considered that the proposed development is contrary to policies SP5, SP6 and H1 as the proposal represents unjustified development in the open countryside.

Historic environment

Listed Buildings:

The general duty with regards to listed buildings in exercising planning functions is set out within Technical Advice Note 24: The Historic Environment. It states that the local planning authority shall have special regards to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses when considering whether to grant planning permission for a development. This duty is echoed in LDP Policy SP7.

The application site does lie in close proximity to three Grade II listed buildings, as outline in the Built Heritage report. The Powys Built Heritage Officer was consulted on the application

and raised concerns over the impact of the proposed development on the setting of the listed building on City Lane. Following this amended plans detailing a reduced scale of development and amended layout were submitted along with a Heritage Impact Assessment. Following receipt of this information Built Heritage were reconsulted and offered no objection to the proposed development based on the amended information.

As such the proposed development is considered to be in accordance with TAN24 and LDP Policy SP7.

Ancient monuments:

The desirability of preserving a scheduled ancient monument and its setting is a material consideration in determining a planning application whether the monument is scheduled or not. This is set out in Planning Policy Wales and Technical Advice Note 24: The Historic Environment. LDP policy SP7 also sets out this consideration at a local level.

The Clwyd Powys Archaeological Trust (CPAT) acts as Powys Planning Authority's advisor on matters relating to archaeology. On first submission of the application they advised that the development lies in an area of high archaeological potential, the full extent of which could only be revealed through a pre-determination archaeological evaluation. The evaluation was received and further comments from CPAT confirmed that no significant archaeological features were found to be present and therefore no objection has been raised to the development proceeding.

Cadw were also consulted on the application as the Offa's Dyke Scheduled Monument lies along the west of the site. Cadw originally comments that insufficient information had been received to assess the development and its impact on the Scheduled Monument.

In their final comments Cadw state;

The reduction in the number of proposed dwellings and a re-design of the development has allowed the area closest to scheduled monument MG033 to be designated as open space with a number of trees being planted. The nearest proposed dwelling will now be some 55m east of the boundary of the scheduled monument. This rearrangement has meant that Clwyd Powys Archaeological Trust now consider that the proposed development will have a moderate/slight impact on the significance of the monument. We concur with the results of this assessment. Consequently we consider that the proposed development of 20 dwellings will cause slight, but not significant, damage to the setting of scheduled monument MG033.

As part of the submission, in order to mitigate concerns raised by Environmental Health regarding noise, a 5 metre high acoustic barrier being constructed on the western edge of the development would be required. Whilst the noise assessment states that this will be in the form of a bund with a timber fence and planting it is considered that insufficient information has been submitted to assess the potential impact of the 5m high acoustic barrier on the the Offa's Dyke Scheduled Monument.

As such the application is considered to be contrary with Planning Policy Wales, TAN24 and LDP policy SP7.

Design and layout

Guidance contained within LDP policy indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

Whilst design and layout are reserved for future consideration, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site. Concerns were originally raised regarding the scale of the development and its potential to impact on designated heritage assets. Following this the layout was amended to show a reduced number of dwellings from 32 to 20.

The indicative layout resembles a modern residential layout which is broadly comparable to the existing development to the west. More importantly it shows that a residential development of 20 dwellings could be accommodated on the site. Detailed design will follow at a later date (if this application is permitted) and this will give the opportunity to ensure the dwellings are designed in an appropriate manner to accord with the character of the settlement.

Residential amenity

UDP policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. More specific guidance is set out in the Powys Residential Design Guide.

Although layout is a reserved matter, consideration has been given to the potential separation distances between properties, as well as their siting and orientation. The most sensitive location for the development regarding this matter will be along the eastern and western boundary of the site where some existing residential development properties are located. Officers consider that the indicative layout demonstrated that the development can be accommodated on site without having a detrimental impact on neighbour amenity. Full consideration of this matter will be given at the reserved matters stage when full details of the scheme will be available.

Concerns raised by third parties regarding the impact on amenity and view are acknowledged however Officers consider that the indicative layout demonstrates a development that would not have a detrimental impact on neighbour amenity. Regarding views from existing properties, this is not a material planning consideration and therefore cannot be considered during the determination of the application.

Comment received from Environmental Health raise concerns regarding the impact of the existing commercial operations on the future occupiers of the proposed development. Further information was requested.

Following receipt of additional information Environmental Health were reconsulted and stated that, with regards to outdoor and indoor noise, they were satisfied that there should be no loss of amenity due to noise during the day/evening periods and that the proposed mitigation will achieve the desirable indoor noise level.

However in their response Environmental Highlight that their comments are based on a 5 metre high acoustic barrier being constructed on the western edge of the development. It is considered that this could have the potential to negatively impact on the residential and landscape amenity of the area and potentially the Offa's Dyke Scheduled Monument. Whilst the agent has stated that the barrier could be in the form of a bund with timber fence and planting they have stated that final detail could be gained through condition. Officers consider that impact on the Scheduled Monument would need to be considered as part of the application to ensure that there are no negative impacts on the Scheduled Monument.

As such it is considered that insufficient information regarding the acoustic barrier has been submitted to assess whether the proposed mitigation would have an impact on landscape and visual amenity and impact on built heritage.

Minerals Safeguarding

Policy DM8 states that non-mineral development within Minerals Safeguarding Areas will only be permitted where the following can be demonstrated by the developer;

1. The mineral resource is not of potential future value; or
2. The development is of a temporary nature and can be completed and the site restored to a condition that would allow for future extraction; or
3. The mineral can be extracted satisfactorily prior to the incompatible development taking place; or
4. Extraction would not meet the tests of environmental acceptability or community benefit as set out in National Policy; or
5. There is an over-riding need in the public interest for the development; or
6. The development is householder development and / or of a very minor nature such as extensions to existing dwellings, and associated development within the curtilage of the property.

The Minerals Safeguarding Areas are identified on the proposal maps for the LDP and detail that the site lies wholly within the Sand and Gravel Category 1 Resource Safeguarding Area.

No information has been submitted with the application to address this matter as such it is considered that due to insufficient information the proposal is contrary to policy SP7 and DM8 of the LDP.

Landscape and visual impacts

UDP Policy ENV2 states that proposals should *'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'*. It goes on to state that proposals which are acceptable in principle should *'contain appropriate measures to ensure satisfactory Integration into the landscape'*.

The site lies between the existing boundary and built form of Four Crosses and agricultural land.

In terms of LANDMAP Visual Sensory Areas (VSA), the site sits within the River Severn Floodplain (MNTGMVS650) which has a moderate evaluation but sits adjacent to Four Crosses VSA (MNTGMVS635) which has a low classification. The area is characterised by a

'dispersed collection of linear settlements surrounding the junctions of the A483(T) and the B4393 comprising Llandrinio, Rhos Common and Four Crosses. No defined village centre, rather an amalgamation of smaller settlements into one'. LANDMAP sets out the key elements that should be changed are to *'encourage development as a more nucleated settlement rather than sprawling linear settlement'*. The proposed development is considered to meet such objectives and occupies a site between the existing settlement and the A483 Trunk Road effectively infilling an area of land.

In terms of landscaping, the submission indicates that the proposal would provide an opportunity to provide areas of open space with new shrub borders. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and public rights of way and that the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location adjacent to an existing residential buildings and commercial buildings and the reduced scale of the proposal, the development is considered to be acceptable. Furthermore, taking into account the character of existing development in the locality, the proposed scale of the development is considered to reflect the character of the development that has occurred within Four Crosses, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

Impact on highway network and parking arrangements

LDP policy T1 requires adequate highway provision in terms of a safe access, visibility, turning and parking. Access is a matter to be considered under this outline application.

Access to the development will be through a new access off the B4396 highway. Initial concerns were raised by the Highways Authority due to the lack of information submitted in support of the application.

Following a meeting between the Highways Authority and the agent and the submission of further information and amended layout no further objections were received subject to the imposition of a number of conditions.

It is considered that subject to conditions the proposal in respect of highway safety is acceptable and accords with the provisions of LDP policy T1.

Sewage disposal

The application details that the site will be served by mains systems in respect of the disposal of foul waters. The proposed use of mains sewerage disposal is compliant with UDP policy DC10.

Severn Trent Water have confirmed that they do not object to the proposed development subject to conditions relating to the agreement of surface and foul water drainage plans and have not raised concerns about the capacity of the system.

It is therefore considered that proposal in this regard is acceptable.

Ecology

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore LDP Policy DM2 seeks to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).

Following consultation with the Powys Ecologist it was confirmed that whilst the site lies approximately 700 metres to the east of the Montgomery Canal SSSI and SAC, due to the distance and lack of pathways between the two sites it is not considered that there is a likely significant effect on the SAC and SSSI.

No objection has been received to the application subject to the imposition of conditions regarding hedgerow and landscaping planting and external lighting.

In light of the above, the proposed development is considered to be acceptable.

Education and Recreation

Planning Authorities are permitted to seek planning obligations from developers of land in accordance with Circular 13/97. Development Management has consulted the Education Department and the Recreation Officer to see whether any planning obligations are necessary to serve the development.

The consultation on this application did not receive any response from these departments; previous application in Four Crosses had a response from Education stating that the school had not reached its capacity. Further information has been requested and will be provided in an update report.

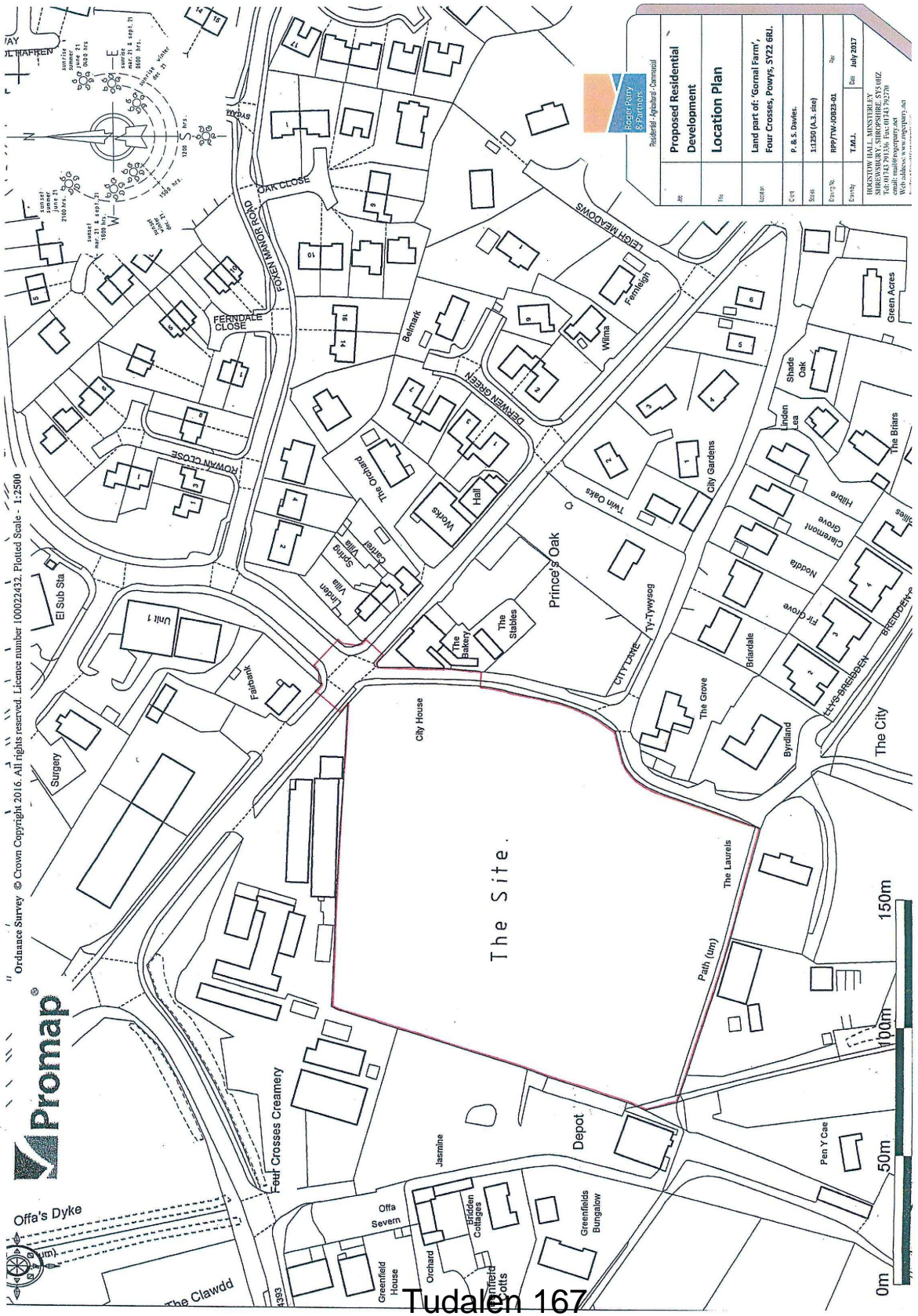
With regards to open space, it is noted that Powys County Council does not have a play area with fixed equipment near to the proposed development. However the indicative layout does demonstrate a provision of public open space.

RECOMMENDATION

In light of the above due to the site lying outside the development boundary, being within a Mineral Safeguarding Area and the lack of information regarding the acoustic barrier and its impact on the Scheduled Monument the application is recommended for refusal subject to the reasons below;

1. The proposed development is considered to be unjustified development in the open countryside contrary to policies SP6 and H1 of the Powys Local Development Plan.
2. Insufficient information has been provided to demonstrate that the development of a minerals safeguarding area is justified. The proposed development is therefore considered to be contrary to Policy DM8 and SP7 of the Powys Local Development Plan (2018), policy GP4 of the Unitary Development Plan (March 2010), Technical Advice Note 18 and Planning Policy Wales (9th Edition, 2016)
3. Insufficient information has been provided to assess the impact of the proposed acoustic barrier on the Offa's Dyke Scheduled Monument. The proposed development is therefore contrary to Planning Policy Wales, TAN24 and LDP policy SP7.

Case Officer: Tamsin Law- Principal Planning Officer
Tel: 01597 82 7230 E-mail:tamsin.law@powys.gov.uk



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Roger Forry & Partners
Residential Agricultural Commercial

Proposed Residential Development Location Plan

Land part of 'Gornal Farm', Four Crosses, Powys, SY22 6RL.

P. & S. Davies.
11255 (A.S. 616)
RPP/TW-0823-01
T.M.L.
July 2017

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Tudalen 167

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



Delegated List

26/04/2018

16/05/2018

For the purpose of the Local Government (Access to Information) Act 1985, the background papers relating to each individual planning application constitute all the correspondence on the file as numbered in the left hand column.

FOR INFORMATION

Decisions of the Head of Regeneration, Property & Commissioning on Delegated Applications

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0183 HOUS	06/02/2018	CONSENT	27/04/2018	Householder: Retrospective application for the erection of a garden shed and fence	Troedyrallt 4 Bethel Street Llanidloes SY18 6BS
P/2017/0951 FULL	07/09/2017	CONSENT	30/04/2018	Full - Conversion and change of use of a former agricultural building into a dwelling	Highland Uchaf Bwlch-Y-Ddar Llandegwyn SY10 9LQ

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0279 CLA1	06/03/2018	CONSENT	01/05/2018	Section 191 application for a lawful development certificate for an existing use in relation to non-compliance with an Agricultural Tie	Walcot Leighton Welshpool SY21 8HH
P/2018/0292 REM	07/03/2018	APPROVE	01/05/2018	Section 73 application to vary condition no. 2 attached to planning permission P/2016/1132 to allow design changes for ecology mitigation	Barn at Church House Farm Llandeillo Green Builth Wells LD2 3SJ
P/2018/0015 RES	03/01/2018	CONSENT	02/05/2018	Application for approval of reserved matters for details of access, appearance, landscaping, layout and scale in connection with proposed dwellinghouse and garage	Land near Crib Y Gwynt Meifod SY22 6XX
P/2018/0039 FULL	22/01/2018	CONSENT	02/05/2018	FULL: Installation of a 20m high lattice mast accommodating 3 no. antennas and 2 no. transmission dishes. Installation of a foul weather enclosure accommodating Home Office equipment cabinet; 1 no electrical meter cabinet, 1 no.	Land at Esgairmaen Van Llanidloes SY18 6NT
P/2018/0191 FULL	06/03/2018	CONSENT	02/05/2018	Full: Erection of an extension to existing farm building and all associated works	Neuadd Llwyd Llanfair Caereinion Welshpool SY21 0HP

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0247 FULL	07/03/2018	CONSENT	02/05/2018	Full: Installation of a manage, erection of stables and demolition of 2 buildings	Llanerch Farm Hyssington Montgomery SY15 6DZ
P/2017/0441 OUT	10/05/2017	REFUSE	03/05/2018	Outline: Erection of detached dwelling and formation of vehicular access	Oakdale Llandinam SY17 5AP
P/2017/0623 OUT	08/06/2017	CONSENT S106	03/05/2018	Outline: Erection of up to 9 dwellings, formation of internal access road and all associated works (Phase 2)	Land adj Windy Ridge Arddleen Llanymynech SY22 6PY
P/2017/1415 LBC	05/12/2017	REFCADW	03/05/2018	LBC: Demolition of the existing garage and erection of a car port, conversion of the existing storage room to a utility, internal alterations and replacement of windows and roof covering	Pen Y Bont Cemmaes Road Machynlleth SY20 8JY
P/2018/0086 OUT	25/01/2018	REFUSE	03/05/2018	Outline: 1 no. affordable dwelling and detached double garage, formation of vehicular access, installation of a septic tank and all associated works (some matters reserved)	Land adj The Fron Geuffordd Sarnau SY22 6QL

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0158 FULL	26/01/2018	CONSENT	03/05/2018	Full: Change of use of buildings and land from agricultural use to a centre for renovation and respraying of caravans and all associated works	Land and buildings at Hill View Four Crosses Domgay Road Llanymynech SY22 6SW
P/2018/0267 FULL	05/03/2018	CONSENT	03/05/2018	Full: Erection of an agricultural building, alterations to existing access and all associated works	Talwrn Farm Llanfyllin SY22 5LG
P/2018/0307 HOUS	12/03/2018	CONSENT	03/05/2018	Householder: Erection of a single storey extension to the rear of the property	18 Richmond Park Ystradgynlais SA9 1SG
P/2018/0309 FULL	12/03/2018	CONSENT	03/05/2018	Full: Erection of a single storey extension to accommodate a design office	Unit 28 Ddole Industrial Estate Llandrindod Wells LD1 6DF
P/2018/0328 HOUS	14/03/2018	CONSENT	03/05/2018	Householder: Construction of carport and workshop with gym on first floor above	Llys-Bualt Hospital Road Cnwc-y-Llo Lane Builth Wells LD2 3HE

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/1021 FULL	04/09/2017	CONSENT	04/05/2018	Full - Erection of one mobile free range egg production unit inc silo, formation of access track and all associated works	Penrhiew Llandinam Caersws SY17 5AF
P/2018/0284 HOUS	03/04/2018	CONSENT	08/05/2018	Householder - Demotion of shed to side of dwelling. Erection of 2x side extensions and front porch	Wernheulog Llanfaredd LD2 3TE
P/2018/0153 HOUS	08/03/2018	CONSENT	09/05/2018	Hous: Alterations to rear elevation fenestration and rear entrance door	Kerry Village Shop & Post Office Kerry Newtown SY16 4NU
P/2018/0194 ADV	14/02/2018	CONSENT	09/05/2018	ADV: Application for display of 3 no. illuminated new signs, retention of 1 no. illuminated sign and 2 no. non-illuminated signs, and relocation of 2 no. illuminated signs	Mcdonald's Restaurant Pool Road Newtown SY16 1DG
P/2018/0213 ADV	19/02/2018	CONSENT	09/05/2018	ADV: Application for display of 6 illuminated fascia signs (4 no. relocated and 2 no. new)	McDonald's Restaurant Cambrian Way Newtown SY16 1DG

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0215 FULL	20/02/2018	CONSENT	09/05/2018	FULL: Refurbishment of restaurant and all associated works	McDonald's Restaurant Cambrian Way Newtown SY16 1DG
P/2018/0255 HOUS	07/03/2018	CONSENT	09/05/2018	Householder: Installation of 1 no velux window at rear of property	Arddol Llanfair Caereinion High Street Welshpool SY21 0QY
P/2018/0261 HOUS	28/02/2018	CONSENT	09/05/2018	Hous: Erection of an extension and replacement porch	Oakdene Llansilin Oswestry SY10 7PX
P/2018/0324 HOUS	14/03/2018	CONSENT	09/05/2018	Householder: Erection of a single storey side extension	Plas Mynydd Brooks Welshpool SY21 8QY
P/2018/0335 HOUS	28/03/2018	CONSENT	09/05/2018	Householder: Demolition of the existing rear conservatory, to be replaced with a single storey extension. Erection of a double garage and single storey extension to the front & a covered walkway at the side of	Wilbury Cottage Stanner Kington HR5 3NP

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2017/1271 HOUS	10/11/2017	CONSENT	10/05/2018	Householder: Demolition of outside store and erection of a single storey domestic extension	Peace Cottage Evenjobb Evancoyd Presteigne LD8 2PA
P/2018/0017 REM	15/01/2018	CONSENT	10/05/2018	VAR: Section 73 application to vary condition 2 of permission P/2012/0947 (approved plans)	Land at Cwm Orog Estate Llangynog Bala Road Oswestry SY10 0HA
P/2018/0193 OUT	28/02/2018	REFUSE	10/05/2018	Outline: Construction of a 3 bed bungalow and garage (some matters reserved)	Plot adj to Gurnos Cottage Lower Cwmtwrch Cwmpnil Road Gurnos SA9 1DB
P/2018/0274 HOUS	28/02/2018	CONSENT	10/05/2018	Householder: Erection of a single storey rear extension	The Beeches Guilsfield Welshpool SY21 9PP
P/2018/0319 HOUS	13/03/2018	CONSENT	10/05/2018	Hous: Erection of an extension	Mount View Middletown Mount Pleasant SY21 8DH

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0331 HOUS	16/03/2018	CONSENT	10/05/2018	Householder: Erection of a rear single-storey extension and all associated works	59 Ynyscedwyn Road Ystradgynlais SA9 1BH
P/2018/0346 HOUS	21/03/2018	CONSENT	10/05/2018	Householder: Erection of a single storey rear extension to the existing garage	School House Rhiwhiriaeth Llanfair Caereinion SY21 0DR
P/2018/0245 HOUS	06/03/2018	CONSENT	14/05/2018	Householder: Erection of an extension to replace a sunroom	Brynllyn Trefeglwys Caersws SY17 5PT
P/2018/0308 HOUS	12/03/2018	CONSENT	14/05/2018	Householder: Erection of an extension to the side of the property and internal & external alterations	Old Hall Cottage Sarn Newtown SY16 4HH
P/2018/0355 HOUS	22/03/2018	CONSENT	14/05/2018	Householder: Construction of a home office	Tor Y Ffynnon Aberbran Brecon LD3 9LS

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0369 HOUS	29/03/2018	CONSENT	14/05/2018	Hous: Demolition of existing extension and erection of a replacement extension	Llyswen Berriew Welshpool SY21 8AZ
P/2018/0381 CLA2	29/03/2018	LAWFUL USE	14/05/2018	Application for certificate of lawfulness for a proposed use namely proposed replacement conservatory roof	26 Underhill Crescent Knighton LD7 1DG
P/2018/0382 HOUS	09/04/2018	CONSENT	14/05/2018	Householder: Erection of a two storey extension	Lower Cwmtwrch 67 Cwmpnil Road Swansea SA9 2QA
P/2017/1075 OUT	21/09/2017	REFUSE	15/05/2018	Outline: Erection of one dwelling, formation of new vehicular access, installation of foul drainage system and all associated works	Bryn Hyfryd Brithdir Llanfyllin SY22 5HD
P/2018/0282 FULL	06/03/2018	CONSENT	15/05/2018	Full : Erection of a livestock feed store/ silage pit and all associated works.	Gorn Farm The Gorn Llanidloes SY18 6LA

Application No.	Valid Date	Decision	Decision notice sentdate	Proposal	Location
P/2018/0358 HOUS	20/03/2018	REFUSE	15/05/2018	Householder - Demolition of porch and construction of a single storey entrance conservatory	4 Bridgend Cottages Churchstoke Montgomery SY15 6AP
P/2018/0396 HOUS	04/04/2018	CONSENT	15/05/2018	Householder: External cladding to the existing structure and erection of a draft lobby	West Grove Crossgates Llandrindod Wells LD1 6RS
P/2018/0408 HOUS	13/04/2018	CONSENT	15/05/2018	Householder: Erection of a side and rear extension to provide living room and entrance lobby	The Meadows Dolfor Newtown SY16 4AB

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 13/04/18

**gan Declan Beggan BSc (Hons) MSc
DipTP DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 14/05/18

Appeal Decision

Site visit made on 13/04/18

**by Declan Beggan BSc (Hons) MSc DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 14/05/18

Appeal Ref: APP/T6850/A/18/3193774

Site address: Land at Ty'n y Bryn Farm, Tregynon, Newtown

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by CTIL and Telefonica UK Ltd against the decision of Powys County Council.
- The application Ref P/2017/0708, dated 2 June 2017, was refused by notice dated 6 November 2017.
- The development proposed is the 'Installation of a radio base station comprising a 17.5 m monopole supporting 3 no. antennas and 2 no. dishes together with ground based equipment cabinets and ancillary development'.

Decision

1. The appeal is allowed and planning permission is granted for an application for the 'Installation of a radio base station comprising a 17.5 m monopole supporting 3 no. antennas and 2 no. dishes together with ground based equipment cabinets and ancillary development' in accordance with the terms of the application, Ref. P/2017/0708, dated 2 June 2017, and the plans submitted with it, subject to the conditions in the Schedule at the end of this decision.

Procedural Matters

2. The description of the site address varies between the submitted planning application form and that on the Council's refusal reason; I have used the latter which is more concise and it is on this basis that I have determined the appeal. In addition, the description of the proposed development varies between that stated on the planning application form/Council's refusal notice to that stated on the appeal form; it is clear from correspondence submitted with the appeal documentation that the nature of development was amended during the time the Council considered the proposal and I have determined the appeal on the basis of the amended description as shown on the appeal form and copied into the banner heading above.
3. The Powys Local Development Plan 2011-2026 (LDP) was adopted in April 2018, superseding the earlier development plan document. The appeal must be determined in accordance with the development plan unless material considerations indicate otherwise; in Wales the development plan is the local development plan adopted in

relation to that area¹. Both main and interested parties were given the opportunity to make comments on the LDP in relation to the proposed development.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area and upon the living conditions of occupiers of dwellings in the general area with particular regard to outlook.

Reasons

5. The appeal site is located on a hillside within rolling countryside south of the village of Tregynon. The appeal site lies to the edge of an agricultural field and is accessed off a minor road via a field entrance. The site lies adjacent to existing hedge and tree lined boundaries beyond which lies an industrial unit; further afield dwellings are dotted across the countryside.

Character and Appearance

6. LANDMAP evaluates the area in which the appeal site is located as being 'high' in terms of visual and sensory aspects due to the extensive area of rolling hillsides, traditional farming techniques, and the area's sense of place as being settled and safe. The proposal would be visible within the landscape. However, visibility does not necessarily result in harm and in this context I acknowledge that local topography, vegetation and built structures would screen the proposal, or significant parts of it, from some of the vantage points as identified by the parties to the appeal. At close and medium range the proposal would be seen in the context of the large industrial building next to the site and other nearby infrastructure such as electricity and telegraph poles. Its visibility generally diminishes significantly with distance.
7. I accept that the proposal will introduce a new vertical element into the landscape that would cause a degree of change. However, the monopole nature of the structure and its green colour, when combined with the screening effects of hedging and trees next to the site and in the wider area, means that it would not be an unduly dominant feature, notwithstanding it may be higher than existing trees, and therefore it would cause limited change to the wider landscape and would not materially harm the area's LANDMAP evaluation and its identified attributes.
8. I conclude, therefore that the scale, form and design of the proposed development would not have an unacceptable effect on the character and appearance of the site or the surrounding area and would comply with relevant policies of the LDP, in particular, SP7, DM4, and DM13, national planning advice contained within Planning Policy Wales Edition 9 (PPW) and Technical Advice Note 19: Telecommunications (TAN19), which collectively seek to protect the visual amenity of an area.

Outlook

9. The proposed development would be visible from a number of dwellings in the locality, however bearing in mind factors such as the separation distances involved, the fact that it would occupy a relatively narrow section of rolling countryside, and would be significantly screened by topography, existing buildings, and vegetation, I do not consider, contrary to the views of local residents, that any effect on their living conditions would be unacceptably oppressive, overbearing, or create an unsatisfactory

¹ Planning and Compulsory Purchase Act 2004 s.38 (4)

living environment for those occupants; this equally applies to less sensitive visual receptors such as those working in the area, notwithstanding their proximity.

10. I conclude, therefore that the proposed development would not have an unacceptable effect on the living conditions of nearby occupants, and would comply with relevant policies of the LDP, in particular, DM13, national planning advice contained within PPW and TAN19, which collectively seek to protect the amenities enjoyed by local occupants.

Other Matters

11. A number of objections relate to the health implications of the proposed development. PPW advises that the health implications of telecommunications development should not be considered further where the proposal meets the guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP) in relation to exposure to electromagnetic fields.
12. The appellant has submitted a declaration confirming that the proposal would comply with the precautionary guidelines as set out by the ICNIRP. The declaration takes into account the cumulative effect of the emissions from the proposed installation and all radio base stations present at, or near, the proposed location; in addition it states the proposal accords with all relevant legislation and as such would not cause significant and irreparable interference with other electrical equipment, air traffic services or instrumentation. No substantive evidence has been submitted to indicate the proposal would have a detrimental effect on the health of those living or working in the locality.
13. A number of third parties object to the proposal in terms of its detrimental impact on heritage assets. In terms of heritage assets, Cadw state the appeal site is outside of the boundary of the registered Gregynog Historic Park and Garden, is not located in the identified essential setting of the park and that the intervening topography is likely to block or extensively screen the proposal from any views from the park and as a consequence it will have no impact on the setting of the heritage asset. The Council's Built Heritage Officer, draws attention to the fact that whilst a listed building is located in the vicinity, nonetheless, she is of the view that there would be no adverse impact on the building; based on the submitted evidence and my observations whilst visiting the site, I have no reason to take a contrary view to either the Council or Cadw in terms of the impact of the proposal on heritage assets.
14. A number of third parties question the need for the development in its particular location and refer to the potential for other sites locally to be utilised. PPW refers to taking into account the extent to which telecommunications masts can be shared and recognises that widespread access to affordable and secure telecommunications infrastructure is important to citizens and businesses across Wales. PPW also states that local planning authorities are encouraged to respond positively to telecommunication proposals and should not question the need for telecommunication systems, although this does not mean that need cannot still be borne in mind in considering a proposal.
15. The appellant states the proposed development will provide much needed connectivity to the designated² large villages of Tregynon and Bettws Cedewain and the surrounding rural area, and without which there would be no 3G or 4G coverage to these areas and where basic indoor 2G services are none existent, with patchy

² As detailed at paragraph 3.2.15 of the LDP

outdoor coverage. Third parties argue the site at Pwllan Farm³ should be utilised, however whilst there is potential for a mast share arrangement at this site, the fact is that this particular mast has not been built yet and there is no guarantee it will be erected anytime soon. More importantly though is the fact that the submitted evidence would support the appellant's view that the Pwllan site would not provide the necessary coverage for both Tregynon and Bettws Cedewain and therefore it was discounted; there is no compelling evidence to indicate otherwise. The appellant has investigated the suitability of a number of other sites for the proposed development and these were discounted for various reasons including technical and visual impact grounds. Notwithstanding the arguments put forward by third parties, I consider it unlikely that a more suitable site may reasonably be available.

16. Objectors to the scheme query the level and extent of pre-applications consultations undertaken by the appellant prior to the submission of the scheme, however this is not a determining factor in this appeal; what is clear is that both the appellant and the Council engaged in a significant level of local public consultation during the period after the application was submitted.
17. Objectors state that the economy of the area would be detrimentally affected as the existing employment site adjacent to the proposal would close if the development were allowed, due to concerns over health and visual impacts. The proposed development should not put into serious doubt the continued future use of the nearby employment site as there is no substantive evidence that there would be any material impacts on those interests. In addition it is worth noting the proposed development would meet with the broad aims of PPW and the LDP in promoting sustainable economic development.
18. Objectors to the proposal raised issues relating to structural stability of the pole, impact on the ecology of the area and tourism; there is no reason for me to believe that the proposed development is likely to cause any material detriment in regard to these matters.

Conditions

19. I have considered the conditions suggested by the Council, given my decision to allow the appeal. In doing so I have had regard to the tests for conditions set out in Circular 16/14: *The Use of Planning Conditions for Development Management*. I have reworded a number of conditions slightly in the interests of precision.
20. I agree that condition 1 is necessary in regards to the imposition of a time limit, whilst condition 2 is necessary in regards to listing the approved plans to facilitate any minor material amendments and to define the plans with which the scheme should accord for the avoidance of doubt. Condition 3 & 4 relating to tree protection and the removal of any equipment when the development is no longer in use are both necessary in the interests of ecology and visual amenity.

Conclusion

21. I have found that the proposed development would not be detrimental to the character or appearance of the area, nor to adjacent residential amenity. After taking account of all the evidence before me, and for the reasons given above, I conclude that the appeal should be allowed subject to the conditions referred to in the Schedule below.

³ Ref. TEL/2017/0014 recently granted planning permission

22. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Declan Beggan

INSPECTOR

Schedule of 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 plans referenced as follows: Proposed Site Elevation (300 C as amended); Proposed site Plan (200 C as amended); and, Site Location Maps (100A).
3. Prior to commencement of development, a tree protection plan shall be submitted to and approved in writing by the local planning authority. The plan shall be in accordance with BS:5837:2012 and works shall be carried out in accordance with the approved plan.
4. Within 6 months from the last use of the infrastructure hereby permitted the infrastructure and associated works shall be fully removed and the site restored to its former agricultural use.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol