



1) The proposed development is not of a scale, form and design and general character to reflect the overall appearance of the settlement and surrounding area:

The proposed development falls within the small Community Council area of Mochdre with Penstrowed, mainly within the boundary of the settlement of Penstrowed. This is a relatively quiet agricultural area with a small number of farms and individual residential properties scattered within it. There is a Parish Church and there are some light commercial enterprises also. Thus the proposed 30 dwellings are not of a density consistent with other residential property in this area. The proposed development, which is not part of the LDP for the Community Council area, is substantial and will not be capable of being integrated into the settlement without unacceptably adversely affecting the scale, character and overall appearance of the area.

Thus the Council feels that the application should be rejected because it does not conform to Policy HP5 – Residential Developments.

The council was also in full agreement that the above application should be reviewed for the following reasons:

1) Affordable Housing:

On page 19 of the Design and Access Statement accompanying the application it states that the development will contribute to the provision of affordable housing in accordance with Policy HP7. It also anticipates that the more recent LDP will have a revised guide-line of 20% provision (reduced from the stated 30-35%) in this area of Powys which, if the development were to comprise of 30 dwellings, would result in 6 dwellings being affordable. However, the Composite Version LDP – Deposit with Focussed Changes, January 2016 which was submitted to the Planning Inspectorate by Richard Pitts on 20th May, 2016 (page 80 – copy enclosed) shows a revised guide-line of 30% provision for Central Powys. This means that if the development were to comprise of 30 dwellings, this should result in **9** dwellings being affordable.

2) Flood Risk:

The proposed development is in a flood risk area (very close to the Mochdre Brook) and comprises a large area of hardstanding in a variety of forms - roads, driveways, etc. The materials for these areas should be chosen carefully - they should be block paviers or equivalent to enable water to drain through where possible, rather than run off.

The Council trusts that you will take its observations into account when making your deliberations.

## **Powys Highways**

Can you confirm that a new footway will be provided to the site from where the existing footway terminates along Llanidloes Road. It does mention this within the D&A Statement but cannot see any plans that detail this.

With regard to the internal layout then the parking would need to accord with the CSS All Wales Parking Guidelines and there appears to be many properties off a private drive. As a guide on internal estate roads we only accept three. However, I appreciate this is only an indicative layout.

## **Powys Building Control**

Building Regulations approval will be required

## **Severn Trent Water**

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

### Waste Water Comments

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](mailto:welshplanning@severntrent.co.uk) rather than to named individuals.

## **Powys Built Heritage**

Thank you for consulting me on the above application.

I note the proposal is close to a number of designated heritage assets namely;

Glandulais Farmhouse grade II Cadw ID 15623 included on the statutory list on 16/05/1988,  
Glanhafren Hall Gateway grade II Cadw ID 17328 included on the statutory list on 26/09/1996  
Glanhafren Hall grade II Cadw ID 17327 included on the statutory list on 26/09/1996  
Apple House at Glanhafren grade II Cadw ID 17329 included on the statutory list on 26/09/1996

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and paragraph 11 of Welsh Office Circular 61/96 which states "Sections 16 and 66 of the Act 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 6.5.9 of Planning Policy Wales 8th 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.”

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 is currently out for consultation, and whilst still out for consultation and not adopted, the advice on how to assess the setting of listed buildings may 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.

<http://cadw.gov.wales/historicenvironment/policy/historicenvironmentbill/guidancedocuments/?lang=en>

This emerging document outlines the principles used to assess the potential impact of development or land management proposals on the settings of all heritage 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.

The heritage assets have been identified as;

Glandulais Farmhouse grade II Cadw ID 15623 included on the statutory list on 16/05/1988,  
Glanhafren Hall Gateway grade II Cadw ID 17328 included on the statutory list on 26/09/1996  
Glanhafren Hall grade II Cadw ID 17327 included on the statutory list on 26/09/1996  
Apple House at Glanhafren grade II Cadw ID 17329 included on the statutory list on 26/09/1996

Glandulais Farmhouse is listed as a prominently sited Regency farmhouse of special interest for the survival of its original interior plan form and detail. The listing describes it as a 2 storey house facing north with single storey extension to west and 2 storey extension to rear. I note the description of the house and its setting with in the accompanying Heritage Impact Assessment July 2016, Mercia heritage Series No 977.

Glanhafren Hall is a C17th house with a new front added in c1810 and is listed as a well preserved early C19th house in a prominent rural location. The three storey house faced south towards its gateway onto the A486. The Apple House is to the north of the principal house and is listed as an ornate and distinctive dovecote of the later C19th and for group value with Glanhafren Hall. The group of buildings is attractive and has a number of associated buildings appropriate for a building of its age and scale including a walled garden. I note the description of the house and its setting with in the accompanying Heritage Impact Assessment July 2016, Mercia heritage Series No 977.

Cadw draft 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.”

Glandulais was constructed on a prominent site overlooking farmland and with its principal and highly decorated rooms overlooking that farmland. This would suggest that it was constructed with the intention to be seen from the road and to view the land from the principal rooms of the house. The proposed site is on the northern side of the A489 and as such it is not considered that the proposal would have a significant adverse affect on the setting of Glandulais.

Glanhafren Hall Cadw is to the west of the development site and is also sited to the north of the A489. The house faces southwest towards the A489 and towards its listed gateway. The principal rooms would face away from the development site. The distance between the application site and the listed house is noted and it is not considered that the proposal would have a significant adverse affect on the setting of Glanhafren Hall. The Apple House at Glanhafren is not readily visible from the A489 as it is sited to the north of the house and to the west of the walled garden, and as such I could not conclude that the proposal would have a significant impact on the setting of the apple house at Glanhafren.

The proposal is closest to the listed gateway at Glanhafren, and will bring the urban character closer to this impressive cluster of listed buildings that has the trappings of a large country house, with its; gateposts, drive, former dovecote on the apple house and a walled garden. However given there is still a small portion of land between the application site and the cluster of buildings at Glanhafren, I would not conclude that the proposal would have a significant adverse impact on the setting of Glanhafren. However this is based on the assumption that if the proposal is approved it would not set a precedent for further development along the A489 and especially the portion of land between the application site and Glanhafren. If approved I would request that more landscaping/screening be implemented on the western and north western side of the proposed development to mitigate any impact on the setting of Glanhafren.

Whilst not objecting to the proposal in terms of the setting of listed buildings, I note that the site is outside the settlement boundary for Newtown and as such has a different character to sites within Newtown. The proposal would introduce a suburban character to the area that is very rural. At this significant gateway to Newtown this is of some concern, and would appear to be contrary to UDP Policy GP1 which 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”.

If the principle of development is considered acceptable, I would question whether a suburban layout as that indicated on the outline application is appropriate in this location and whether a more semi-rural form of development may be more appropriate. Whilst this may potentially be a smaller number of dwellings, it does not necessarily have to be a small number of detached dwellings, but it could be larger blocks of terraces replicating agricultural courtyards, which may still achieve a similar density, and would be a more obvious gateway to the town, and not just an extension of the suburban developments.

**Powys Affordable Housing**

I am happy to support the application as long as the following guidelines are adhered to;

- All affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Councils Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9 sites.

**Powys Ecologist**

1<sup>st</sup> Response

Ecological Topic	Observations
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<b>EIA Screening Requirement</b>	<b>No</b>	The site area is understood to be 1.95 hectares and includes 30 dwellings. Therefore, it is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 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.
<b>Protected Species &amp; Habitats<sup>1</sup></b>	European Species <input checked="" type="checkbox"/>	<p>A Preliminary Ecological Appraisal report has been completed by Turnstone Ecology (July 2016) and generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009). The PEA involved a Phase 1 habitat survey, protected fauna survey and Habitat Suitability Assessment and a search of European Protected Species records held within 2km of the development site (although it is not clear if the local Biodiversity Information Service has been used). Bat activity surveys are being completed in July and August 2016.</p> <p>The site is considered to contain habitat suitable for the following EPS: bats (no roosting features directly affected but nearby, foraging/commuting habitat present), dormouse (boundary habitats), otter (no holts or resting sites, but spraints on Mochdre Brook and several historic records from the vicinity), great crested newt (limited to boundary hedgerows). Section 4.4 of the Ecology Report (Turnstone Ecology, July 2016) includes mitigation measures for bats, dormouse and otter. Great crested newt are not considered likely to be affected.</p>
	UK Species <input checked="" type="checkbox"/>	In addition to the species above, the site is considered to contain habitat suitable for the following nationally protected species: badgers (no setts observed, foraging habitat present), nesting birds (in surrounding hedgerows, scrub and trees) and reptiles (limited to surrounding habitats). Section 4.4 of the Ecology Report (Turnstone Ecology, July 2016) includes mitigation measures for badger, nesting birds and reptiles.
	Section 7 Species & Habitat <input checked="" type="checkbox"/>	<p>Hedgerows, woodland and scattered trees and watercourses have been recorded within and immediately adjacent to the development site. Of these habitats, short sections of hedgerow are required to be removed for access purposes. No other habitats are likely to be lost, but may be affected by disturbance and drainage.</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>

<sup>1</sup> Species records within 1km (minimum). Change distance dependant on project type, scale, etc.



		<p>Hedgerows, lowland mixed deciduous woodland and rivers/streams are listed on Section 7 of the Environment (Wales) Act 2016 as a habitat of principal importance for the conservation of biodiversity in Wales. Hedgerows and trees should therefore be retained if possible, but should any hedgerow or tree removal be required, replacement planting should be undertaken with native broad-leaved species of local provenance to ensure continued connectivity with surrounding habitats (see recommended conditions below). The proposals to replace hedgerows and plant trees, with an anticipated increase to these existing habitats, are welcomed. However, pollution prevention controls are required for the adjacent Mochdre Brook.</p> <p>The proposal to re-seed Field B with a lowland meadow mix (Section 4.3.2 of the Ecology Report, July 2016) is also welcomed as providing biodiversity enhancement. Lowland meadows are listed on Section 7 of the Environment (Wales) Act 2016 as a habitat of principal importance for the conservation of biodiversity in Wales.</p> <p>See previous comments regarding species. No reference to Section 7 species that may be present, such as hedgehog, brown hare or field mouse, is provided. There are BIS records for hedgehog within close proximity to the site.</p>
	LBAP Species & Habitat <input checked="" type="checkbox"/>	See previous comments.
<b>Protected Sites</b>	International Sites (within 2km) <sup>2</sup> <input type="checkbox"/>	None within 2km.
	National Sites (within 500m) <sup>3</sup> <input checked="" type="checkbox"/>	There are no nationally-protected sites within 500m of the proposals. The following SSSIs are located within 2km of the development site: Mochdre Dingle (1km south), Gweunydd penstrowed (1.6km north-west) and Penstrowed Quarry (1.8km north-west). None of these sites are considered likely to be affected by the proposals.
	Local Sites (within 500m) <input type="checkbox"/>	None within 2km.
<b>Invasive Non-Native Species</b>	<b>No</b>	

<sup>2</sup> Identify International designated site within 2km 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.

<sup>3</sup> Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

<b>Cumulative Effect</b>	<b>Unknown / Unconfirmed</b>	<p>The agreed route of the Newtown Bypass is adjacent to the development site location. The PEA report (Turnstone Ecology, July 2016) references the findings of the ES for that project for various protected species. However, the cumulative effect of the proposed development with the Newtown Bypass is not clear.</p>
	<b>Summary of recommendations / further assessment or work</b>	<p>The results of the bat activity surveys completed in July and August 2016 will need to be considered with regard to the potential impact of the development on bats that may currently be using the site. The Applicant should be made aware that these may result in the need for additional mitigation measures to be approved with the LPA as Reserved Matters.</p> <p>Reference is made to the collation of European Protected Species records from within 2km of the site, but that these are not available in Wales. The consultant should be reminded that historic biodiversity records are available in Powys via the Biodiversity Information Service.</p> <p>Since the proposals are located adjacent to the Newtown Bypass, I recommend that any potential cumulative ecological effects between the two proposals are considered and assessed, if relevant, including synergy of the proposed mitigation/enhancement measures of the two projects. The Applicant should be made aware that this may result in the need for additional mitigation measures to be approved with the LPA as Reserved Matters.</p> <p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>Apart from nesting birds, bats, otter and water vole, no reference to other Section 7 species that may be present, such as hedgehog, brown hare or polecat, is provided in the PEA report (Turnstone Ecology, July 2016). There are historic records for hedgehog within close proximity to the site. I recommend that Section 7 species that may be present at the site are considered within the Biodiversity Enhancement Plan (see Condition 2).</p>
	<b>Recommended Conditions</b>	<p>Subject to receipt of the further information above, should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>1) The recommendations and mitigation regarding habitats, limited public access to Mochdre Brook, badger, bats, dormouse, otter, birds and reptiles identified in Section 4 of the Ecological Report by Turnstone Ecology dated July 2016 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3,</p>

ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*2) Prior to commencement of development, a detailed Biodiversity Enhancement Plan (including consideration of Section 7 species and the proposals for tree and hedgerow planting and lowland meadow seeding), 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 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*3) Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of Mochdre Brook, 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 ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*4) A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.*

Reason: 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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*5) 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.*

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.

6) 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.

Reason: 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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

### **Informatives**

#### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

#### **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

**Otters – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

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

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

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

**Dormice - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

	<ul style="list-style-type: none"> <li>• Intentionally kill, injure or take any dormice.</li> <li>• Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.</li> <li>• Under the Habitats Regulations it is an offence to: Damage or destroy a breeding site or resting place of a dormouse. This is an absolute offence - in other words, intent or recklessness does not have to be proved.</li> </ul> <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p>
<b>Relevant UDP Policies</b>	<p>SP3 Natural, Historic and Built Heritage  ENV 2: Safeguard the Landscape  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 7: Protected Species</p>
<b>Comments on Additional Information</b>	N/A

## 2<sup>nd</sup> Response

Ecological Topic		Observations
<b>EIA Screening Requirement</b>	<b>No</b>	Powys County Council have confirmed (28/07/16) that a Screening Opinion for Environmental Impact Assessment will not be required.
<b>Protected Species &amp; Habitats<sup>4</sup></b>	European Species <input checked="" type="checkbox"/>	A Preliminary Ecological Assessment report was completed by Turnstone Ecology (July, 2016) and was updated in October 2016 with additional information. These observations are based on the October 2016 PEA and the additional information provided therein. The PEA generally accords with Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009). The PEA involved a Phase 1 habitat survey, protected fauna survey, Habitat Suitability Assessment and a search of European Protected Species records held within 2km of the development site (although not via the local Biodiversity Information Service). Bat activity surveys have been completed in July, August and September 2016.

<sup>4</sup> Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		<p>The site is considered to contain habitat suitable for the following EPS: bats (no roosting features directly affected but present nearby, foraging/commuting habitat present), dormouse (boundary and surrounding habitats), otter (no holts or resting sites, but spraints on Mochdre Brook and several historic records from the vicinity), great crested newt (limited to boundary hedgerows). Section 4.4 of the PEA (Turnstone Ecology, October 2016) includes mitigation measures for bats, dormouse and otter. Great crested newt are not considered likely to be affected.</p>
	<p>UK Species <input checked="" type="checkbox"/></p>	<p>In addition to the species above, the site is considered to contain habitat suitable for the following nationally protected species: badgers (no setts observed, foraging habitat present), nesting birds (in surrounding hedgerows, scrub and trees) and reptiles (limited to boundary and surrounding habitats). Section 4.4 of the PEA (Turnstone Ecology, October 2016) includes mitigation measures for badger, nesting birds and reptiles.</p>
	<p>Section 7 Species &amp; Habitat <input checked="" type="checkbox"/></p>	<p>In addition to the species discussed above, the BIS data includes nearby records of white-letter hairstreak, hedgehog, house sparrow and starling, all listed as species of principal importance for the conservation of biodiversity in Wales under Section 7 of the Environment (Wales) Act 2016. Lowland mixed deciduous woodland, hedgerows and rivers are listed as habitats of principal importance for the conservation of biodiversity in Wales under Section 7 of the same Act.</p> <p>The mitigation required for other protected species described above and retention of all mature trees and the majority of the hedgerows present at the site (other than a small section removed for access), along with pollution prevention measures in relation to the Mochdre Brook, would ensure that any impacts on these species and habitats is minimal.</p> <p>The additional planting proposed and seeding and management of Field B to create lowland meadow habitat, also listed on Section 7, (as described in the Ecological Assessment by Turnstone Ecology, July 2016) would also help to maintain and enhance the biodiversity present at the site, in accordance with the Environment (Wales) Act 2016.</p>
	<p>LBAP Species &amp; Habitat <input checked="" type="checkbox"/></p>	<p>See previous comments.</p>

<b>Protected Sites</b>	International Sites (within 2km) <sup>5</sup> <input type="checkbox"/>	The River Wye SAC is located approximately 7.3km to the south. Although otter is a highly mobile feature of this SAC, and otters could be slightly affected by the proposed works due to potential disturbance during construction and also potentially by lighting during construction and operation, it is very unlikely that the proposed development would have a significant impact on the SAC due to the different river catchment involved and the distance and nature of the proposed works. Therefore a Habitats Regulations Assessment will not be required.
	National Sites (within 500m) <sup>6</sup> <input checked="" type="checkbox"/>	There are no nationally-protected sites within 500m of the proposals. The following SSSIs are located within 2km of the development site: Mochdre Dingle (1km south), Gweunydd penstrowed (1.6km north-west) and Penstrowed Quarry (1.8km north-west). None of these sites are considered likely to be affected by the proposals.
	Local Sites (within 500m) <input type="checkbox"/>	None within 2km.
<b>Invasive Non-Native Species</b>	<b>Yes</b>	Himalayan Balsam is present along the Mochdre Brook (Turnstone Ecology, October 2016). A recommendation within the ecology report to include its removal as part of the proposed habitat enhancement along the Mochdre Brook is welcomed.
<b>Cumulative Effect</b>	<b>No</b>	The agreed route of the Newtown Bypass is adjacent to the development site location. The PEA report (Turnstone Ecology, October 2016) references the findings of the ES for that project for various protected species. Significant cumulative impacts are not considered likely since the habitats along the Mochdre Brook will not be affected, and there are potential opportunities for improved movement of mammals across the adjacent A489 if it carries less traffic in future.
<b>Summary of recommendations / further assessment or work</b>		<p>It would seem likely that the creation of the new access points would require the removal of sections of hedgerow. I suggest that any removed hedgerow is translocated to areas within the development site instead of buying and planting new stock.</p> <p>In addition, it is considered that a precautionary approach should be taken in relation to potential impacts on dormice and any hedgerow removal should be undertaken under an ecological watching brief by an ecologist licensed to handle dormice. This should include a hand search for dormouse summer nests / hibernating dormice immediately prior to the hedgerow removal, according to guidance provided in the Dormouse Conservation Handbook (Natural England, 2006). It is recommended that wych elm or English elm is included in the species mix for the proposed planting at the site, as the foodplant of the white-letter hairstreak, recorded nearby.</p>

<sup>5</sup> Identify International designated site within 2km 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.

<sup>6</sup> Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)



<b>Recommended Conditions</b>	<p>Subject to receipt of the further information above, should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>1) The recommendations and mitigation regarding habitats, limited public access to Mochdre Brook, badger, bats, dormouse, otter, birds, reptiles and UKBAP species identified in Section 4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.</i></p> <p><u>Reason:</u> 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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>2) Any hedgerow removal shall be undertaken under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for summer dormouse nests or hibernating dormice depending on the season.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>3) Prior to commencement of development, a detailed Biodiversity Enhancement Plan (including consideration of Section 7 species and the proposals for tree and hedgerow planting and lowland meadow seeding), 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 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>4) Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of Mochdre Brook, 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 ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p>
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5) A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

Reason: 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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

6) 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.

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.

7) 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.

Reason: 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 7, July 2014), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

#### **Informatives**

##### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on

any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

**Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

**Otters – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

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

Reasonable avoidance measures need to be implemented to ensure

	<p>minimal impact to otter activity in the local area. These will include:</p> <ul style="list-style-type: none"> <li>• No night working or lighting of the works area;</li> <li>• Ensuring that no barriers to movement of otters along the river are created;</li> <li>• Keep unnecessary noise to a minimum during the works; and</li> <li>• Do not light any fires close to areas of vegetation.</li> </ul> <p><b>Dormice - Wildlife &amp; Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)</b></p> <p>It is an offence for any person to:</p> <ul style="list-style-type: none"> <li>• Intentionally kill, injure or take any dormice.</li> <li>• Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.</li> <li>• Under the Habitats Regulations it is an offence to: Damage or destroy a breeding site or resting place of a dormouse. This is an absolute offence - in other words, intent or recklessness does not have to be proved.</li> </ul> <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage  ENV 2: Safeguard the Landscape  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 7: Protected Species</p>
<p><b>Comments on Additional Information</b></p>	<p>Additional information has been submitted with this application in the form of an updated Preliminary Ecological Appraisal (Turnstone Ecology, October 2016). The additional information that was requested previously has been addressed as follows:</p> <ul style="list-style-type: none"> <li>• The results of bat activity surveys completed in July, August and September 2016 have been considered with regard to the potential impact of the development on bats that may currently be using the site. As a result of confirmed bat activity a lighting plan is proposed, which will reflect the Bat Conservation Trust bats and Lighting in the UK guidance (2009).</li> <li>• Species-specific historic records are referred to in the species accounts where relevant.</li> <li>• Section 7 species (such as Brown Hare, European Hedgehog and Polecat) have been considered as UKBAP species and habitat enhancements are expected to benefit these too.</li> <li>• Significant cumulative effects with the Newtown bypass are not considered likely.</li> </ul>

## **Powys Land Drainage**

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

## **Newtown Town Council**

Council supports the application but considers the development likely to have a substantial impact on Newtown so would like to see plans to improve access to facilities, services and infrastructure in Newtown and Llanllwchaiarn. In addition the town council requests that play and recreation facilities are provided on the development itself.

## **NRW**

### **1<sup>st</sup> Response**

Thank you for referring the above consultation received by us on 31<sup>st</sup> July 2016. We understand that the proposal falls outside of the current development boundary of Newtown.

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

### **Summary of Requirement & Conditions**

Requirement 1 – Submission of an adequate site specific Flood Consequence Assessment in support of this application utilizing the best available information available and with level of flood risk posed to the site quantified in terms of flood depths and associated hazards.

Condition 1 – Mitigation described in *section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse 4.4.5 Otter of Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited* - should be implemented and included in the detailed design

Condition 2 - A condition requiring submission and implementation of a Pollution Prevention Plan

### **Flood Risk**

The planning application proposes highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outline of the Mochdre Brook.

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15).

Notwithstanding this policy advice, the decision as to whether a development is justified is entirely a matter for your authority. For this reason, we have reviewed the flood consequences assessment (FCA) (Compiled by Hafren Water, dated July 2016, Ref 2158/FCA) submitted in support of the application, to enable us to provide you with technical

advice on the acceptability of flooding consequences in terms of risks to people and property. Our advice to you is that the FCA is inadequate relative to the scale and nature of the proposed and does not allow us to make an informed response to you in relation to TAN15 criteria. The deficiencies in the FCA are;

The Stage 2 Strategic Flood Consequences Assessment considered a nearby site in detail. Halcrow produced detailed hazard and flood extent maps for this reach of the Mochdre Brook.

The site specific FCA has made reference to the SFCA Stage 2 work but has not interrogated the model data, or followed pre-application advice given by NRW. Halcrow were specifically commissioned to consider promoted sites and perceived risks. Any site specific FCA should consider the findings of any SFCA work and take advantage of the detailed modelling that Halcrow carried out. Whilst the hydrology and survey data may require updating, it is still considered best information available and should form the basis of any FCA in terms of assessment of level of risk, hazard and possible mitigation.

We would also expect anecdotal flooding information to have been sourced from all available records, landowner, nearby residents, Powys County Council and online records.

All surface water drainage proposals will need consideration by the Lead Local Flood Authority.

In summary, the site specific FCA submitted in support of this application is inadequate as it has not used best information available nor has it quantified the level of flood risk posed to the site in terms of flood depths and associated hazards.

We advise that the FCA sources the SFCA information from Powys County Council and interrogates that data in relation to TAN15 requirements.

Dave Tarrant in our Flood Mapping & Data Management team is willing to advise the consultants, Hafren Water on interrogation of data. However, it would be the consultant's responsibility to source the model information, assess its suitability and propose any amendments it considers appropriate relative to the scale and nature of the proposed.

#### European Protected Species

The application is supported by an ecological survey. (Reference Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited. Unpublished.

We consider the ecological submission to be appropriate and proportionate for the purposes of informing the planning decision making process and we concur with the submitted conclusions and mitigation in section 4.3.2.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species. The proposal is not likely to affect any fully protected British protected species. Therefore we have no objection regarding species to the submitted proposals. We advise that the following conditions are attached to any planning consent:

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse 4.4.5 Otter of Wilson, S. (2016). Land off A489, Newtown. Turnstone Ecology Limited - should be implemented and included in the detailed design

Reason: To mitigate adverse effects on protected species and enhance natural habitats.

#### Pollution Prevention

The Mochdre brook flows along the eastern boundary of the proposal site. The pollution prevention guidelines have been withdrawn from the English Environment Agency website although they are still applicable in Wales and can be found on the netregs website at the following link

<http://www.netregs.org.uk/pdf/PPG%20-%20Oct%202007%20-%20replaces%20PPG%2023.pdf>

Condition 2 - A condition requiring submission and implementation of a Pollution Prevention Plan

Reason: To protect the water environment from potential pollution during the construction phase.

No material should be deposited within 10m of any watercourse without discussion with Natural Resources Wales.

All surface water must be discharged via an interceptor. If any dewatering is to occur NRW must be notified first as a permit may be required. Any excavation water must be free of contaminants (e.g., fuels/oils etc). If concrete wash water is to be discharged this may require treatment before discharge and may require a permit.

Any waste material stored, used or disposed of must be done so in accordance with the Duty of Care Regulations and may require a permit or exemption under the 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 site.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of bunded compound should be 110% of the capacity of the tank, all filling points, gauges, vents and sight glasses must be located within the bund. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund. Refuelling should be supervised at all times – and preferably done on an impermeable surface.

Should any contaminated water or materials enter or pollute the watercourse or groundwater, Natural Resources Wales must be notified on 0800 80 70 60.

#### Foul Drainage

The means of foul drainage is not stated in the information submitted with the planning application. For a housing development of this size we strongly recommend that it is

connected to the main sewer network of Newtown. Any private waste water treatment plant would require a permit from NRW and elsewhere we have refused such permits in areas served by mains sewer networks.

When connecting to the public sewerage system, Severn Trent Water should be consulted on the proposals and be requested to confirm that the sewerage and sewage disposal system serving the development has sufficient capacity to accommodate the additional flows generated as a result of the development. This is to ensure that the development does not cause pollution of the water environment or potential deterioration in the Water Framework Directive classification.

### Scope of NRW Comments

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.

### 2<sup>nd</sup> Response

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 06/12/2016.

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.

#### Summary of Requirements:

Requirement 1 – Updated and resubmitted FCA which sources SFCA information from Powys CC and interrogates that data in relation to TAN15 requirements

#### Flood Risk

The planning application proposes a highly vulnerable development within Zone C2 of the Development Advice Map (DAM) contained in TAN15. Our Flood Map information, which is updated on a quarterly basis, confirms the site to be at risk from the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outline of the Mochdre Brook.

We refer you to Section 6 of TAN15 and the Chief Planning Officer letter from Welsh Government, dated 9th January 2014, which affirms that highly vulnerable development should not be permitted in Zone C2 (paragraph 6.2 of TAN15).

Notwithstanding this policy advice, the decision as to whether a development is justified is a matter for your authority. For this reason, we have reviewed the flood consequences assessment (FCA) (Compiled by Hafren Water, dated July 2016, Ref 2158/FCA) submitted in



support of the application, to enable us to provide you with technical advice on the acceptability of flooding consequences in terms of risks to people and property. Our advice to you is that the FCA is inadequate relative to the scale and nature of the proposed and does not allow us to make an informed response to you in relation to TAN15 criteria. The deficiencies in the FCA are;

The Stage 2 Strategic Flood Consequences Assessment considered a nearby site in detail. Halcrow produced detailed hazard and flood extent maps for this reach of the Mochdre Brook.

The site specific FCA has made reference to the SFCA Stage 2 work but has not interrogated the model data, in spite of NRW giving pre-application advice. Halcrow were specifically commissioned to consider promoted sites and perceived risks. It is a fundamental requirement that any site specific FCA should consider the findings of any SFCA work and take advantage of the detailed modelling that Halcrow carried out. Whilst the hydrology and survey data may require updating, it is still considered best information available and should form the basis of any FCA in terms of assessment of level of risk, hazard and possible mitigation.

We would also expect anecdotal flooding information to have been sourced from all available records, landowner, nearby residents, Powys CC and online records. All surface water drainage proposals will need consideration by the Lead Local Flood Authority.

In summary, the site specific FCA submitted in support of this application is inadequate as it has not used best information available nor has it quantified the level of flood risk posed to the site in terms of flood depths and associated hazards.

Requirement 1 – Updated and resubmitted FCA which sources SFCA information from Powys CC and interrogates that data in relation to TAN15 requirements  
Should you require further assistance Dave Tarrant in our Flood Mapping & Data Management team (03000 65 3137) can explain the means of interrogation to Hafren Water. It is, however, Hafren Water's responsibility to source the model information, assess its suitability and propose any amendments it considers appropriate relative to the scale and nature of the proposed.'

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.

3<sup>rd</sup> Response

Thank you for referring the additional information submitted in support of these proposals, which we received from the developer on 13/06/2017. Further to our previous letters submitted in response these proposals (referenced CAS-21928-T1J0 and CAS-21931-V6H6 dated 26/08/2016), we have the following comments to provide.

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

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse and 4.4.5 Otter of Wilson, S (2016) – Land off A489, Newtown, Turnstone Ecology Limited – should be implemented and included in the detailed design.

Condition 2 – The submission and implementation of a Pollution Prevention Plan

#### European Protected Species

The applications are supported by an ecological survey (Wilson, S 2016) 'Land off A489, Newtown – Turnstone Ecology Limited.

We consider the ecological submission to be appropriate and proportionate for the purposes of informing the planning decision making process and we concur with the submitted conclusions and mitigation in section 4.3.2.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species. The proposals are not likely to affect any fully protected British protected species.

Condition 1 – Mitigation described in section 4.3.2 Habitats, 4.4.2 Badger, 4.4.3 Bats, 4.4.4 Dormouse and 4.4.5 Otter of Wilson, S (2016) – Land off A489, Newtown, Turnstone Ecology Limited – should be implemented and included in the detailed design.

We have no objection to the proposals on the grounds of protected species, provided a condition is imposed on the planning consents requiring the implementation of the mitigation measures as detailed in the ecological report.

Reason: To mitigate adverse effects on protected species and enhance natural habitats.

#### Pollution Prevention

The Mochdre brook flows along the eastern boundary of the proposal site. Care must be taken to ensure the environment is not polluted during the course of the works. The following pollution prevention measures should be adhered to, and set out in a method statement to the satisfaction of the Local Planning Authority.

Condition 2 – The submission and implementation of a Pollution Prevention Plan

Reason: To protect the water environment from potential pollution during the construction phase.

All works at the site must be carried out in accordance with PPG6: 'Working at construction and demolition sites' which are available on the Gov.uk website:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>.

Although this document is withdrawn, the advice it provides is still relevant.

The Preliminary Ecological Assessment submitted in support of the proposal suggests some pollution prevention measures under section 5.3.2 'Mitigation', which should be included in the Pollution Prevention Plan.

No material should be deposited within 10m of any watercourse without discussion with Natural Resources Wales.

All surface water must be discharged via an interceptor. If any dewatering is to occur NRW must be notified first as a permit may be required. Any excavation water must be free of contaminants (e.g. fuels/oils etc). If concrete wash water is to be discharged this may require treatment before discharge and may require a permit.

Any waste material stored, used or disposed of must be done in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010. The developer should contact Natural Resources Wales to discuss the necessity of an exemption permit for any material imported to and exported from site.

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of bunded compound should be 110% of the capacity of the tank. All filling points, gauges, vents and sight glasses must be located. Should any pollution occur, Natural Resources Wales must be notified immediately on our incident hotline which is 03000 65 3000.

#### External Lighting

Care should be taken in the type and location of any external lighting within the new development, to ensure that the river, hedgerows and trees identified on site are not illuminated. We advise that a light spillage scheme from the development should be agreed to the satisfaction of the local authority.

#### Flood Risk

The planning application for the northern site proposes a highly vulnerable development in the vicinity of zone C2 of the Development Advice Map (DAM) referred to by TAN15 Development and Flood Risk (July 2004).

The proposal was initially submitted with a site plan which indicated that the red line boundary of the proposal was in the C2 flood zone.

Additional flood modelling work has now been undertaken by the applicant's consultants, in support of the proposal for the northern site. The modelling work has been reviewed by NRW and a summary of our conclusions is listed below:

1. The Powys SFCA model for the Mochdre brook was supplied to the consultant as a starting point for the modelling works. Additional blockage scenarios for the Railway bridge and Dulais bridge were successfully applied to the model and re-run. The model was run for the 1 in 100+25 and 1 in 1000 year events.
2. The model was reviewed and no issues were found with the model construction.
3. The model is considered fit for purpose to support the development and has been incorporated into the SE Wales model manager.

4. The 1 in 1000 year event with 80% blockage on the Railway Bridge provides the worst case scenario for the inundation extent adjacent to the northern site. The red line boundary should be redrawn to reflect this. The red line boundary for the southern site is not affected by any modelled event or scenario.

5. Following the improved modelling works, there is no need on this occasion to challenge the flood map, as there is little/no change in inundation extent from the updated outputs.

For information, this site is affected by the updated DAM in March 2017 and is now partially located in Zone B.

The developer has re-submitted a site plan (Proposed Block Plan showing Position of Access and Indicative Layout, Berrys, Drawing number SA22302/01/07, July 2016) which was received by NRW on 13/06/2017. This plan has been resubmitted to us by your Local Authority on 11/07/2017.

Provided that this updated plan is formally submitted as part of the planning application, we can confirm that the plan now indicates that the proposed dwellings will be built outside of the predicted flood zone. This is confirmed by the modelling work.

With respect to the southern site, the plan indicates that built development will be outside of the flood plain area, therefore we would have no objection on flood risk grounds.

At detailed design stage, we would wish to be re-consulted to ensure that the watercourse corridor is maintained.

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.

## **Welsh Government Transport**

### **1<sup>st</sup> Response**

I refer to your consultation of 1 August 2016 regarding the above application and advise that the Welsh Government as highway authority for the A489 trunk road directs that permission be withheld until further notice due to;

1. Welsh Government Transport Division are in discussions to establish the timescale for de-trunking this section of the trunk road, which will determine the standards to be applied.

If you have any further queries, please forward to the following Welsh Government Mailbox [NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK](mailto:NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK).

### **2<sup>nd</sup> Response**

I refer to your consultation of 23 November 2016 regarding the above application and advise that the Welsh Government as highway authority for the A489 trunk road directs that permission be withheld until further notice while additional information is sought from the applicant and/or information provided by the applicant is analysed to enable appropriate highway observations to be made;

1. The applicant must forward a suitably scaled drawing detailing the proposed access off the A489 trunk road, so that compliance to the Design Manual for Roads and Bridges (DMRB) can be assessed. The drawing must contain details of the following:-

- a) Visibility Splays in either direction, both horizontally and vertically, along the A489 from a suitable set-back on the access road to the proposed development.
- b) Gradient of the access road to the proposed development and the A489 trunk road carriageway in both directions
- c) Access road width and radii dimensions
- d) Access surfacing type along with depth and width dimensions.

2. The applicant must provide detail of proposed Active Travel compliant infrastructure along the existing Trunk Road to join the existing and soon to be enhanced infrastructure.

3. The applicant must provide details of public transport provisions on both sides of the road to include bus stops and shelters to comply with the requirements of the Local Highway Authority

### **Powys Ramblers**

There are rights of way close to the proposed development but on the other side of the A489. In the event of permission being granted can the applicant please be made aware of the necessity of making sure that the nearby footpaths are not obstructed during any works and that they remain fully available for public use during and after any works, Can this be included as an informative in any decision letter please.

### **Powys Outdoor Recreation**

Outdoor Recreation Services would ask for a Section 106 contribution. Powys County Council unfortunately does not have a play area with fixed play equipment near to the proposed development, if the developer decided not to provide adequate play space on their land, then Outdoor Recreation would recommend that a monetary package to be offered to the Town Council to upgrade an existing playground.

As part of the 106 planning gain, Outdoor Recreation Service's usually apply the following terms –

All social housing, size or number of bedrooms is not a factor is £ 800.00 per property.  
All private housing up to three bedrooms is £ 1000.00 per property.  
All private housing over three bedrooms is £ 1200.00 per property.

We refer to the 6 Acre Standard.

If you have any further questions please do not hesitate to contact me.

## **Cadw**

Thank you for your e-mail of 1 August 2016 inviting our comments on the planning application for the proposed development as described above.

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. It is a matter for the local planning authority to then weigh our assessment against all the other material considerations in determining whether to approve planning permission, including any issues concerned with listed buildings and conservation areas.

Having carefully considered the information provided with the planning application, we consider that the proposed development will have no impact on any designated historic assets. We therefore have no comments to make on the proposed development.

## **Representations**

The application has been advertised through the erection of a site notice and press advertisement. One objection has been received and is summarised below;

- The site lies outside the settlement boundary and would constitute development in the open countryside.
- The site has not been allocated in the current UDP or promoted as a candidate site in the emerging LDP.
- The site is remote from facilities and would promote additional vehicular movements and would be contrary to sustainable development principles.

## **Planning History**

P/2016/0796 – Outline application for the erection of up to 60 dwellings and construction of vehicular access.

## **Principal Planning Constraints**

Flood Zone  
Public Right of Way  
Trunk Road  
NewtownBypass Buffer

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, 2016)  
TAN 1 - Joint Housing Land Availability Studies (2015)  
TAN 2 - Planning and Affordable Housing (2006)  
TAN 5 - Nature Conservation and Planning (2009)  
TAN 6 - Planning for Sustainable Rural Communities (2010)

TAN 12 - Design (2016)  
TAN 18 - Transport (2007)  
TAN 20 – Planning and the Welsh Language (2013)  
TAN 23 – Economic Development (2014)  
TAN 24 – The Historic Environment (2017)

#### Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy  
UDP SP5 - Housing Developments  
UDP GP1 - Development Control  
UDP GP3 - Design and Energy Conservation  
UDP GP4 - Highway and Parking Requirements  
UDP HP3 - Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP6 - Dwellings in the Open Countryside  
UDP DC10 - Mains Sewage Treatment  
UDP DC11 - Non-mains Sewage Treatment  
UDP DC13 - Surface Water Drainage  
UDP DC15 – Development on Unstable or Contaminated Land  
UDP DC8 - Public Water Supply  
UDP DC9 - Protection of Water Resources  
UDP ENV 1 - Agricultural Land  
UDP ENV 2 - Safeguarding the Landscape  
UDP ENV 3 - Safeguarding Biodiversity & Natural Habitats  
UDP ENV 7 - Protected Species  
UDP ENV14 – Listed Buildings  
UDP ENV16 – Landscapes, Parks and Gardens of Special Historic Interest  
UDP ENV17 – Ancient Monuments and Archaeological Sites  
UDP RL6 – Rights of Way and Access to the Countryside  
UDP TR2 – Tourist Attractions and Development Areas

Powys Residential Design Guide

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

#### **Officer Appraisal**

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

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site lies adjacent to the settlement development boundary of Newtown (defined as an Area Centre within the UDP). Newtown benefits from a number of services such as supermarkets, banks, public houses, primary and secondary schools and a number of Industrial Estates. Newtown also benefits from good public transport networks which provides access to other areas within and adjoining Powys. Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The indicative site layout details a cul-de-sac layout with a street front development on the southern edge of the site, consistent with other residential developments in the surrounding area. To the north east of the site lies the Clos Glandwr and Heol Vaynor which benefits from a cul-de-sac arrangement. The scales of the proposed dwellings are considered to be in keeping with those in the surrounding area.

Consideration would also need to be given to the impact of the proposed development on the visual amenity of the area. The site, whilst lying in close proximity to the development boundary could appear isolated from the settlement of Newtown. To the east of the site lies an area of public open space and to the north and west an area of agricultural land. However the Newtown Bypass construction works have commenced to the south west of the site, and in this location will be a roundabout, the new trunk road and a bridge. Officers consider that



the site will be seen in the context of the wider Newtown area and will not be seen as sporadic development in the open countryside due to its proximity to the caravan site, bypass and College, located the other side of the open space.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating thirty dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Highway Safety and Movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

As the application is accessed from the A489 Trunk Road the Welsh Government Highways Department were consulted on the application. Initial concerns were raised regarding the detail of the proposed access. Following the submission of amended plans and details Welsh Government Highways were reconsulted. Final comments will be provided in the update report.

Consultation was also undertaken with the Powys County Council Highways department as once the bypass is complete this area of road will be de-trunked. Highways offered no objection to the proposed development and accepted that the internal layout was for indicative purposes at this stage.

### Residential Amenity

Policy GP1 of the Powys UDP seeks to safeguard the amenities enjoyed by occupants of existing and proposed dwellings by reasons of noise, overlooking and privacy.

Whilst details relating to design and appearance are reserved for future consideration, Officers consider that the amenities of neighbouring properties can be safeguarded through sensitive design and siting which will be reviewed appropriately by Development Management in considering any future application for the approval of reserved matters.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy GP1 of the Powys UDP in respect of residential amenity.

### Heritage

Policy ENV14 of the Powys Unitary Development Plan (2010) states that proposals for development which unacceptably adversely affect 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: The desirability of preserving the listed building and its setting; the importance of the building, its intrinsic architectural and historic interest and rarity; the effect of the proposals on any particular features of the building; the buildings contribution

to the local scene; the condition of the building and the need for the proposals to be compatible with the character of the building and its surroundings and to be of high quality design.

The proposed development is located to the east of a number of listed buildings, Glanhafren Hall Gateway, Glanhafren Hall and Apple House at Glanhafren.

Following consultation with the Built Heritage Officer no objection has been raised in relation to the impact of the proposed development on the setting of the Listed Buildings.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy ENV16 and ENV17 of the Powys UDP in respect of residential amenity.

### Biodiversity

The application was accompanied by a Preliminary Ecological Assessment which involved a Phase 1 habitat survey of the site. Following consultation with both Natural Resources Wales (NRW) and Powys Ecology concerns were initially raised over the information provided with the application. Following the submission of additional information no objection was received in relation to biodiversity provided conditions were attached to any consent requiring the mitigation outlined within the report being secured, the submission of landscaping scheme, pollution prevention plan and lighting scheme.

Following consultation with the Powys Ecologist regarding any nearby Special Areas of Conservation, it was confirmed that the River Wye SAC was located over 7km away and it is unlikely that the proposed development would have a significant impact on the SAC due to the different river catchment involved and the distance and nature of the proposed works. It was also confirmed that a HRA would not be required.

In light of the above observations, Development Management considers the proposed development to be in accordance with the relevant policies of the Powys UDP in respect to biodiversity.

### Sewerage

Policy DC10 (Mains Sewerage Treatment) requires that development are adequately served by the public foul sewerage system. Following consultation with Severn Trent Water no objection has been received.

The application is therefore considered to be in accordance with policy DC10 of the Powys UDP.

### Flood Risk

The red outline of the proposed development abuts the C2 flood zone as defined by the Development Advice Maps (DAM). TAN 15 states that highly vulnerable development should not be permitted within a C2 flood zone.

The development site will be located wholly outside the C2 flood zone with the area in the flood zone identified within the same ownership as the development site.

Following comments from NRW raising concerns about the proximity of the development in relation to the C2 Flood Zone and Flood Consequences Assessment (FCA) was submitted for consideration. Further flood modelling was also undertaken and NRW considered the flood modelling to be sound and demonstrated a worst case scenario of a 1 in 1000 year event with an 80% blockage of the Railway Bridge. This demonstrated that in the worst case scenario event the flood zone would slightly extend in to the site. Following recommendations from NRW the red line boundary was amended removing this area from the development site and NRW are satisfied that the site is located wholly outside any flood zone.

In light of the above observations, Development Management considers the proposed development to be in accordance with the relevant policies of the Powys UDP and TAN15 in respect to flood risk.

### Affordable Housing

Whilst UDP policy states that affordable housing provision should be 30-35%, latest evidence produced to support the Local Development Plan indicated that a 20% affordable housing provision in this area would be viable. In support of the application the developer has proposed 20% affordable housing which would be conditioned as part of any consent.

### Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

With regards to the Development Management function, PPW states as follows:

“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

Technical Advice Note 20: Planning and the Welsh Language provided further guidance. Within TAN 20 it is noted that it is estimated that between 1,200 and 2,200 fluent Welsh speakers are moving out of Wales each year. The Welsh Government aims to reserve this trend.

With regards to the Development Management function, TAN 20 states as follows:

“4.1.2 In determining individual planning applications and appeals where the needs and interests of the Welsh language may be a material consideration, decisions must, as with all other planning applications, be based on planning grounds only and be reasonable. Adopted development plan policies are planning grounds, including those which have taken the needs and interests of the Welsh Language into account”.

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Newtown has not been identified as one of the settlements under policy GP5.

The site lies adjacent to the Newtown and Llanllwchaiarn Community but within the Mochdre Community as such an assessment of both areas will be undertaken. Census data demonstrated the following;

- Census data from 2011 demonstrated an increase in Welsh speakers in the Mochdre community from 11.8% in 2001 to 13.3%.
- Census data from 2011 demonstrated an increase in Welsh speakers in the Newtown and Llanllwchaiarn community from 14.7% in 2001 to 14.9%.
- Both areas saw an increase in Welsh speakers in the 3-15 age group with Mochdre seeing a 10% increase and Newtown a 3.3% increase.

It is considered that the introduction of sixty dwellings will help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten local facilities or force sections of the population away from these facilities.

It is also considered that there is an intrinsic link between the provision of affordable housing and the cultural and linguistic vitality of an area. Affordable dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence this aids in retaining those residents and helps mitigate against the impact of a development on the Welsh language, the applicant has highlighted that the provision of affordable housing will be approximately 20% with a number of other houses of a modest scale.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

In light of the above it is considered that the proposed development could sustain and enhance the services currently within Newtown and the Mochdre community and the provision of housing and affordable dwellings will help sustain and enhance the cultural and linguistic vitality of the area.

## **Other Legislative Considerations**

### **Crime and Disorder Act 1998**

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### **Equality Act 2010**

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### **Planning (Wales) Act 2015 (Welsh language)**

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### **Wellbeing of Future Generations (Wales) Act 2015**

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

## Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx (drawing no: SA22302/01/07, Flood Consequences Assessment, Planning Application Supporting Statement (including Design and Access Statement), Transport Statement and Ecological Assessment Report).
5. 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. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
6. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units/bed spaces;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

7. Prior to the commencement of development a phasing scheme for the provision of housing, affordable housing and the employment land shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with the approved scheme.
8. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval
9. Upon the submission of the reserved matters referred to in conditions 1 and 2, a scheme for the provision of on-site recreational facilities shall be submitted to and approved in writing of the Local Planning Authority. The scheme shall accord with the Fields in Trust Standards and shall also involve arrangements for the long term management of the area together with the timing of construction and completion in relation to the housing units hereby permitted. The scheme shall be implemented in accordance with the agreed details.
10. The recommendations and mitigation regarding habitats, limited public access to Mochdre Brook, badger, bats, dormouse, otter, birds, reptiles and UKBAP species identified in Section 4 of the Ecological Report by Turnstone Ecology dated October 2016 shall be adhered to and implemented in full.
11. Any hedgerow removal shall be undertaken under the supervision of an ecologist licensed to handle dormice, following a hand search by the ecologist for summer dormouse nests or hibernating dormice depending on the season.
12. Prior to commencement of development a Pollution Prevention Plan, with particular regard to site drainage and the close proximity of Mochdre Brook, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
13. Prior to the commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
14. 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.
15. 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. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).
6. In order to secure affordable housing in accordance with policy HP7 of the Powys Unitary Development Plan (2010) and TAN2: Planning and Affordable Housing (2006).
7. In order to ensure that the affordable housing and employment elements of the development are delivered in accordance with Planning Policy Wales (9<sup>th</sup> Edition, 2016).
8. In order to ensure the affordable housing remains affordable in perpetuity in accordance with Policy HP7 of the Powys Unitary Development Plan (2010), the Powys Affordable Housing for Local Needs Supplementary Planning Guidance (2011), Technical Advice Note 2: Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
9. In order to secure adequate amenity space in accordance with policy GP1 of the Powys Unitary Development Plan (2010).
10. 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 Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
11. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
12. To comply with Powys County Council's UDP Policies ENV3, ENV4, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
13. 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, 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
14. 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.
15. 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.



## **Informative Notes**

### 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.

#### **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

#### **Otters – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

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

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

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

#### **Dormice - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any dormice.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a dormouse uses for shelter or protection.
- Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a dormouse is an offence if a licence has not been obtained from Natural Resources Wales. If a dormouse is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.