

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** P/2017/0325 **Grid Ref:** 310725.17 263960.63

**Community Council:** Penybont **Valid Date:** 31/03/2017 **Officer:** Tamsin Law

**Applicant:** Mr G Owen, Cwmroches, Penybont, Llandrindod Wells, Powys, LD1 5SY

**Location:** Cwmroches, Penybont, Llandrindod Wells, Powys, LD1 5SY

**Proposal:** Full: Proposed erection of 2 no. Poultry buildings for broiler breeder rearing, four no. feed bins, new access track, improvements to existing entrance, creation of one new passing place installation of septic tank and associated development

**Application Type:** Application for Full Planning Permission

### The reason for Committee determination

The application is subject to an Environmental Statement.

### Site Location and Description

The application seeks full planning permission for the construction of two poultry units and associated works to house 38,000 broilers.

The application site is located to the within an area of open countryside, approximately 520 metres from the development boundary of Penybont. The proposed units would be located to the west of the existing buildings on the farm and is bound by agricultural land to the north, south and west. The application site is agricultural land which has been intensively farmed.

The site is located adjacent to a number of ancient woodlands and to the east the site lies in close proximity to the Cae Cwm-Rhochas SSSI. To the west of the site also lies the Sideland Nature Reserve. Footpath 109/117/1 does not run through the site; however is located approximately 300 metres to the south east of the proposed building.

The first proposed buildings would measure 101 metres in length, 28 metres in width, with a maximum height of 6.5 metres (7.6 metres to the top of the ventilation fans) falling to 2.75 metres at the eaves. The feed silos will be located at the eastern end of the unit and would have a maximum height of 6.6 metres.

The second proposed buildings would measure 89 metres in length, 28 metres in width, with a maximum height of 6.5 metres (7.6 metres to the top of the ventilation fans) falling to 2.75 metres at the eaves. The feed silos will be located at the eastern end of the unit and would have a maximum height of 6.6 metres.

A welfare area in the form of a linked building between both poultry units is also proposed and this will measure 14 metres in width, 15.6 metres in depth, with a maximum height of 4.2 metres falling to 3 metres at the eaves. The buildings will be finished in dark grey metal profile sheeting.

The access to the broiler units would be through the existing access to the farm.

## **Consultee Response**

### Penybont Community Council

I have been checking my file and your web site in relation to this application. I may have not forwarded to you our response to the pre application sent to us by the applicants. The council have had an initial meeting on this matter and I have attached our response. Will this be acceptable in that format for inclusion as a first response as an objection.

Thank you for your letter and attachments of the 17th January 2017. Penybont and District Community Council (Planning Committee) met on the 30th to discuss the outline of your proposal. Without prejudice to further information and comments from our community they would object to such a large construction and business being operated in the village limits. Councillors raised the initial concerns as following:

#### Location

- The proposed buildings are 150 meters to the nearest private residence and 750 meters to the main cluster of houses in the village.
- No direct access to the A44

#### Access

- The current and proposed access to the farm from the A44 is along a single-track public road, that also serves private residents.
- Visibility is greatly reduced by trees and hedgerows along its length and presents a clear danger to other road users if used by HGV's
- Heavy goods vehicles will be exiting onto the A44 regularly where the speed limit is greater than 30mph.

#### Environmental

- No indication has been given on the number and size of HGV's being used daily.
- Odours generated from the business (notwithstanding the computer-generated model)
- Storage and disposal and drainage of manure.
- Prevention methods to reduce insect infestation
- Noise reduction methods of fans and other machinery
- Operating hours of business
- Interference with any bridle/footpath rights.
- Proximity to a SSSI site as outlined in the planning advise letter.
- Given the short distances involved the Council feel the development will be visible to highways, public rights of way and residential properties.
- An interference to the private lives of residents.

The above items are but a sample of the councillors concerns raised as each topic in itself generated other concerns. The Council hopes that in the fullness of time that all appropriate reports forming your application will be made available to them (one copy being a hard copy) and you may consider a presentation to the Council and community would be appropriate.

### PCC - Highways

The County Council as Highway Authority for the County Class III Highway, C1222

Wish the following recommendations/Observations be applied  
Recommendations/Observations

The Highway Authority has no objection to this proposal. The proposed site is served from a relatively short stretch of the C1222 county highway before connecting to the A44 county highway which in turn links the site to the wider highway network. The provision of a large passing bay along the C1222, capable of accommodating a large HGV, offers adequate mitigation against the modest increase in traffic. The site access will also be widened to provide simultaneous access and egress for all vehicles likely to attend. As such the Highway Authority recommends that the following conditions be attached to any consent granted.

HC37 Prior to any works being commenced on the development site the applicant shall construct the passing bay along the C1222 county highway as detailed on the approved drawing 0511/001. The passing bay shall be constructed to an adoptable standard prior to any works being commenced on the development site.

HC11 No other development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC4 Before any other development is commenced the access shall be constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 46 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Before any other development is commenced the area of the access to be used by vehicles is to be widened in accordance with detail submitted on approved drawing 0511/002 and constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 7.6 metres for a minimum distance of 20 metres along the access measured

from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

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

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

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

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

#### Welsh Water

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

#### SEWERAGE

There is no public sewerage system in this area. Any new development will require the provision of satisfactory alternative facilities for sewage disposal.

#### WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.

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

If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrwymru.com](mailto:developer.services@dwrwymru.com)

Please quote our reference number in all communications and correspondence.

#### PCC - Environmental Health

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

The proposal includes the installation of a septic tank and drainage field however there is no mention of any percolation tests/results.

If the sewage treatment plant is to discharge to a drainage field or should a septic tank be utilised, then prior to any planning permission being granted, the applicant/agent should submit percolation test results (including calculations) which demonstrate that the tank and soakaway are sufficiently sized and ground conditions are suitable for the foul drainage soakaway to accommodate foul effluent from the new development.

Any new system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system.

Environmental Protection to be advised, via the Planning Authority, when the testing is carried out so a site visit can be made to examine the exposed ground and percolation test holes which must be left undisturbed until inspected.

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

It is clear from the supplied noise report that attenuation is required for the fans to operate without causing noise issue to the nearest noise sensitive dwellings.

Should permission be granted I would recommend the following conditions be attached.

### Recommendations

#### Conditions

##### (a) Noise Conditions

#### Construction

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

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

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

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

For the use of fixed plant/machinery, etc.

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

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

(a1) Transport Noise

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

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

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

(i) General Odour condition

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

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

Manure transportation

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

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

(c) Artificial lighting condition.

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

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

(d) Drainage

Any new system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system

Reason: To protect the local amenities of the local residents from insufficient drainage

PCC - Ecologist

Thank you for consulting me with regards to planning application P/2017/0325 which concerns an application for the proposed erection of 2 no. Poultry buildings for broiler breeder rearing, four no. feed bins, new access track, improvements to existing entrance,

creation of one new passing place installation of septic tank and associated development at Cwmroches, Penybont, Llandrindod Wells, Powys.

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

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

- River Wye Special Area of Conservation (SAC) approximately 628m from proposed development

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

- Cae Cwm-Rhocas Site of Special Scientific Interest (SSSI) approximately 244m from proposed development
- River Ithon SSSI approximately 628m from proposed development
- Cae Llwyn SSSI approximately 954m from proposed development
- Ithon Valley Woodland SSSI approximately 1569m from proposed development
- Coed Aberdulas SSSI approximately 4228m from proposed development
- Twenty-five Acre Wood SSSI approximately 4547m from proposed development
- Bach-Y-Graig Stream Section SSSI approximately 4549m from proposed development
- Llanfawr Quarries, Llandrindod Wells SSSI approximately 4637m from proposed development
- Gweunydd Coch-y-Dwst SSSI approximately 4945m from proposed development
- Howey Brook Stream Section SSSI approximately 4965m from proposed development

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

- Sideland Radnorshire Wildlife Trust Reserve approximately 297m from proposed development
- 57 parcels of Ancient Woodland – closest parcel approximately 113m from proposed development

As of the 1<sup>st</sup> April 2017 NRW introduced revised thresholds of insignificance in relation to Ammonia and Nitrogen, however as identified in NRW's response dated 11/08/2017 they have identified that as they are in transition the new thresholds will not be applied to this application and the ammonia and nitrogen thresholds applied by NRW to proposals before the end of March 2017 have been used to assess the scheme.

A Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated December 2016 has been produced and submitted with application. NRW have reviewed the detailed Ammonia and Nitrogen deposition data provided with regards to statutory designated sites – SAC and SSSI. They have identified that the predicted deposition from the proposed development

Whilst NRW have stated that they consider the predicted deposition levels to be acceptable with regards to the thresholds under which they have considered the application, they have

identified that with regards to Cae Cwm-Rhocas SSSI information gathered by NRW has identified that the SSSI grassland composition has changed in ways that is consistent with an increase in nitrogen deposition and that if they were applying the new thresholds they would be raising objections about the predicted nitrogen deposition increase. In addition they have suggested that the LPA should consider whether there are further ways in addition to the tree planting already proposed (NW1 – NW5 identified in Fig 2 of the Landscape and Visual Assessment Report) to mitigate impacts to the SSSI – they have suggested that a tree buffer in close proximity to the new sheds would take out at least 25% of the ammonia and so reduce nitrogen deposition. Powys UDP Policy ENV5 states that:

*There will be a presumption against proposals for development likely to damage, either directly or indirectly, the nature conservation interest of National Nature Reserves or Sites of Special Scientific Interest.*

*Developments will only be permitted where the benefits clearly outweigh the nature conservation value of the site and conditions will be attached to any permission or a planning obligation sought to ensure:*

- 1. Satisfactory provision for the safeguarding of features of nature conservation importance within the proposed development; or*
- 2. The provision of appropriate compensatory or mitigation measures to offset the impact of the proposals.*

It is therefore recommended that a planning condition is included to secure a scheme of additional tree planting to minimise impacts to Cae Cwm-Rhocas SSSI from nitrogen deposition – it is recommended that NRW are consulted to ensure that any proposals submitted to address this planning condition are considered to be appropriate.

The Report on the Modelling of the Dispersion and Deposition of Ammonia from the proposed development by AS Modelling & Data Ltd. Dated December 2016 has considered the potential impacts of the proposed development to Ancient Woodland sites within 2km of the proposed development. Detailed modelling was undertaken for Ancient Woodland sites where the preliminary modelling undertaken indicated that annual mean ammonia concentrations could exceed the lower threshold percentage of the relevant Critical Level/Load. The detailed modelling has identified a predicted exceedance of 100% of the precautionary Critical Level of 1.0 µg-NH<sub>3</sub>/m<sup>3</sup> over approximately 0.1ha of the northernmost tip of the area of Ancient Woodland to the south-east of the proposed development.

In order to address this impact and to provide compensation for the potential impacts, 5 areas of native woodland planting (NW1 – NW5 shown on Fig 2 of the Landscape and Visual Impact Assessment Report) approximately 0.6ha in size have been proposed.

Having reviewed the submitted plans and associated information it is considered that the proposed compensation measures are appropriate to comply with the requirements of Powys UDP Policy ENV6.

In order to ensure the effectiveness of the proposed mitigation it is recommended that a detailed Native Woodland Creation and Management Plan is secured through an appropriately worded condition.



A Phase 1 Environmental Appraisal was undertaken by Greenscape Environmental Ltd. in January 2017, a report detailing the findings of the surveys has been submitted to inform the application, a revised version of this report to include Reasonable Avoidance Measures for great crested newts dated September 2017 has been submitted.

The appraisal of the site included a desktop survey of the area and a phase 1 environmental appraisal.

The survey identified that the area proposed to be developed is semi improved grassland currently used for grazing purposes – this habitat was assessed as being of low ecological value.

The proposed development will include the removal of a section of defunct hedgerow and a young mature oak tree. Hedgerows are listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi. Hedgerows and linear tree features are also included in the Powys LBAP under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Powys UDP Policy ENV2 states that *'Proposals which are acceptable in principal should:*

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

It is noted that the proposed landscaping scheme identified in Fig 2 of the Landscape and Visual Assessment Report produced by Haire Landscape Consultants dated March 2017 includes the provision of blocks of woodland planting that will provide opportunities for landscape connectivity and corridors for migrating and foraging wildlife in the local area. It is considered that the proposed native woodland planting provides appropriate compensation for the loss of the section of defunct hedgerows.

Consideration was given to the potential for the site of the proposed development to support protected species, assessment of the habitats and features present concluded that the proposed development would be unlikely to impact any protected species including dormice, bats, otter, water vole and great crested newts due to absence of suitable habitat. No further detailed surveys were identified as necessary to assess impacts of the proposed development.

It should be noted that whilst the Ecology Report states that no records of great crested newt were identified within 2km of the proposed development having reviewed available protected species data for the local area a single record of a juvenile great crested newt was found to be present approximately 1.25km north of the proposed development, therefore it should be considered that there is potential for great crested newt to be present in the area. In addition NRW raised concerns in their response dated 11/08/2017 that the use of HSI assessment of the ponds present within 500m of the proposed development was insufficient to conclusively determine the absence if great crested newts in the local area.

In order to address concerns raised by NRW regarding potential impacts to great crested newts from the proposed development, an amendment has been made to the Ecology Report to include a Scheme of Reasonable Avoidance Measures to minimise potential impacts to this species during the construction phase of the proposed development.

Having reviewed the findings of the ecology report and the identified mitigation and enhancement measures it is considered that measures proposed are appropriate to minimise impacts to biodiversity to an acceptable level, proposals for biodiversity enhancement are welcomed in line with the requirements of Section 6 of the Environment (Wales) Act 2016. It is recommended that a planning condition is included to secure adherence and implementation of the identified measures.

The Environmental Statement identifies that lighting on the site will be kept to a minimum. Each shed will have a low wattage, low intensity light above the openings to allow safe working during normal hours. Additional lighting may be required during the removal of the birds – no high intensity light will be used. Section he ecology report makes reference to the provision of a lighting scheme being drawn up and identifies restrictions that will be required to any lighting. Other than this information no detailed plan of any external lighting has been provided as such it is recommended that a planning condition is included to ensure any external lighting provided at the site is in accordance with the recommendations identified in the Ecology Report to ensure minimal impacts to nocturnal biodiversity.

Details of the proposed surface and foul water drainage measures have been identified in the Flood consequence Assessment Report produced by Hydrogeo dated 03/03/2017.

Details regarding Surface Water Management have been provided within section 5 of the Report, it has been identified that in order to provide adequate surface water storage provision to mitigate the impermeable surfaces introduced as a result of the proposed development a storage volume of 598m<sup>2</sup> will be required before discharge off the site to the drainage ditch, this will be provided through the construction of an attenuation lagoon/pond located to the south east of the site. The attenuation lagoon/pond will also serve to filter potentially suspended solids in the surface water run-off from any hardstanding areas.

Details regarding Foul Water Drainage have been provided within section 6 of the Report, it has been identified that foul water from the proposed development will discharge to an appropriately sized septic tank, foul water will then be treated, following treatment the discharge from the unit is 'clean' water and will be discharged into a drainage field soakaway. 'Washdown' water used for cleaning the poultry houses will be collected into underground storage tanks, this system will be a 'sealed system' with the dirty water being pumped out and taken off site for spreading in appropriate conditions.

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

The Environmental Statement for the application identifies that all manure produced by the proposed broiler unit will be removed from the holding and spread elsewhere – on land at least 1.5miles from the site for biosecurity reasons. It has been identified that records will be kept of the quantity and destination of the manure exported in an export log and the receiver of the manure will confirm by signing a docket that the litter will be spread on land in accordance with the Code of Good Agricultural Practice and regulations under NRW and the EA including in accordance with the receivers own manure management plan.

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

In addition to the approved Pollution Prevention Plan NRW have requested that a Pollution Prevention Plan with regards to the installation of the culvert to form the access road is secured through an appropriately worded condition.

The applicant should be mindful that the installation of the culvert to form the access road may require Ordinary Watercourse Consent, this consent process is separate from the Planning Process and advice as to whether OWC is required should be sought from the Lead Local Flooding Authority further details can be found at <http://www.powys.gov.uk/en/roads-transport-and-parking/ordinary-watercourses-applying-for-consent-for-works/>

I have undertaken a Habitats Regulations Assessment Screening of the proposed development in relation to the River Wye SAC. The screening assessment concluded No Likely Significant Effect to the River Wye and or its associated features, I have attached a copy of the screening assessment for your records.

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

*Prior to commencement of development, a Tree Planting Scheme to reduce nitrogen deposition from the proposed development to the Cae Cwm-Rhocas SSSI shall be submitted to the Local Planning Authority for approval. The tree planting identified will be in addition to those areas of new native woodland planting NW1 – NW5 identified on the Landscape Mitigation Plan Figure 2 dated February 2017 within the Landscape and Visual Impact Assessment Report produced by Haire Landscape Consultants Ltd dated March 2017. The approved scheme shall be implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

*Prior to commencement of development, a detailed Native Woodland Creation and Management Plan including details of species to be planted, timetable for implementation, initial aftercare and long-term maintenance to benefit biodiversity for the areas of new native woodland planting NW1 – NW5 identified on the Landscape Mitigation Plan Figure 2 dated February 2017 within the Landscape and Visual Impact Assessment Report produced by Haire Landscape Consultants Ltd dated March 2017 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

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

*The mitigation and enhancement measures identified in Section 6 of the Phase 1 Environmental Appraisal & Method Statement for Newts Report by Greenscape Environmental Ltd dated September 2017 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.*

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

*The Landscaping Scheme specifications and aftercare measures identified on the Landscape Mitigation Plan Figure 2 dated February 2017 within the Landscape and Visual Impact Assessment Report produced by Haire Landscape Consultants Ltd dated March 2017 shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.*

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

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

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

*The development shall be carried out strictly in accordance with the measures identified regarding Site Drainage Management including Foul, Dirty and Surface Water Management within the Flood consequence Assessment Report produced by Hydrogeo dated 03/03/2017 and shown on Drawing 6 of the Report and maintained thereafter unless otherwise agreed in writing by the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3, ENV4, ENV5, ENV6 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

*The development shall be carried out strictly in accordance with the measures identified regarding Pollution Prevention within the Pollution Prevention Plan: In Relation to Proposed Poultry Development at Cwmrhoces Farm produced by Berrys and maintained thereafter unless otherwise agreed in writing by the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3, ENV4, ENV5, ENV6 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

*Prior to commencement of development a Pollution Prevention Plan for the installation of the new culvert required to form the access road 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 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

In addition I recommend inclusion of the following 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.

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;

- Deliberately disturb an great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

## NRW

We apologise for the delay in responding to your consultation. NRW responded to the Major Pre-app consultation on the 23 February 2017. The requirements that we requested during the major pre-app consultation have been met. A copy of that letter is attached to this response. We have summarised these requirements and conditions in table 1 below. Please note that this letter should be read in conjunction with NRW's 23 February 2017 letter.

In light of the information received we have significant concerns regarding this proposal. However these concerns can be overcome by attaching the following conditions to any planning permission granted.

Condition 1: Access road culvert - The culvert must be installed so that its downstream end is not higher than the stream bed level and the pollution prevention plan must include the measures needed to avoid pollution during installation of the culvert.

Condition 2: The implementation of a drainage system as outlined in the drainage plan included in the Flood Consequence Assessment Report.

Condition 3: The implementation of the pollution prevention plan as outlined in the supporting planning documents

Condition 4: The implementation of reasonable avoidance measures in regard great crested newts.

<b>Requirements and Conditions in CAS-28468-G6C6 23 Feb 2017</b>	<b>Applicants Response</b>	<b>Current</b>
<b>Requirement 1</b> – Air quality & protected sites - Identify the SSSI	Email received from AS Modelling & Data Ltd on 22 <sup>nd</sup> May 2017 with	Requirement met
names in Table 5 of the air quality report.	spreadsheets attached giving names of protected sites.	
<b>Requirement 2</b> – A drainage plan should be provided which shows clean and foul drains, effluent containment, soak away, French drains and any sustainable drainage proposed including swales, reed beds or pond.	Drainage plan has been included in the Hydrogeo Flood Consequence Assessment (03/03/2017).	Requirement met <b>Condition 2:</b> The implementation of a drainage system as outlined in the drainage plan included in the Flood Consequence Assessment Report.
Requirement 3 - Submission of a Pollution Prevention Plan and a condition requiring its implementation	A pollution prevention plan has been submitted.	Requirement met. <b>Condition 3:</b> The implementation of the pollution prevention plan as outlined in the supporting planning documents
Requirement 4 - We require the pending ecological assessment by Greenscape Environmental to include consideration of protected species.	<i>A Phase 1 Environmental Appraisal: Cwmroches Farm, Penybont, Llandrindod Wells, Powys. Greenscape (Jones, B. 2017) has been submitted.</i>	Requirement is met in that it has considered protected species.  However NRW are unable to agree that the use of the Habitat Suitability Index and some preliminary hand searches would be sufficient to judge absence/presence of Great Crested Newts. In the absence of survey data (eDNA and traditional surveys) we advise a precautionary approach through the implementation of reasonable avoidance measures.  <b>Condition 4:</b> The implementation of reasonable avoidance measures in regard great crested newts.
<b>Condition 1:</b> The culvert must be installed so that its downstream end is not higher than the stream bed level and the pollution prevention plan must include the measures needed to avoid pollution during installation of the culvert.		<b>Condition 1:</b> The culvert must be installed so that its downstream end is not higher than the stream bed level and the pollution prevention plan must include the measures needed to avoid pollution during installation of the culvert.

## Air Quality – Protected Sites

NRW have continued to assess this scheme under the ammonia and nitrogen thresholds applied to proposals made to NRW before the end of March 2017.

### Cae Cwm-Rhocas SSSI

The background ammonia is  $1.15\mu\text{g}/\text{m}^3$  and background nitrogen deposition is  $16.8\text{kgN}/\text{ha}/\text{yr}$ .

The ammonia critical level is  $3\mu\text{g}/\text{m}^3$  and the nitrogen critical load is  $10\text{kgN}/\text{ha}/\text{yr}$  for the site.

The farm process contribution to ammonia is  $0.325\mu\text{g}/\text{m}^3$  (10.8% of critical level) and to nitrogen is  $1.687\text{kgN}/\text{ha}/\text{yr}$  (16.9% of the critical load).

The predicted new level for ammonia is  $1.475\mu\text{g}/\text{m}^3$ , which is below the critical level of  $3\mu\text{g}/\text{m}^3$  and, therefore, not likely to cause significant damage to the SSSI.

Nitrogen deposition is already 68% over the nitrogen critical load of  $10\text{kgN}/\text{ha}/\text{yr}$ . The additional  $1.678\text{kgN}/\text{ha}/\text{yr}$  would increase the exceedance to 84.9% of the critical load. We have information that the SSSI grassland composition has changed in ways that are consistent with an increase in nitrogen deposition and, if we were applying the new thresholds we would be raising objections about this increase in nitrogen deposition, even though it is a relatively small increase.

However, as we are in transition and not applying the new thresholds to this case, we recommend that your authority investigates with the applicant if there are further ways in addition to the tree planting already offered to reduce nitrogen deposition to Cwmroches SSSI. The ES has identified that tree planting will be used to mitigate impact in relation to air quality and landscape. Figure 2 of the Landscape and Visual impact assessments identifies 5 new woodland blocks that will be planted NW1- NW5. A tree buffer close to the new sheds would take out at least 25% of the ammonia and so reduce the nitrogen deposition.

### River Wye SAC

Although the aquatic features are not vulnerable to ammonia or nitrogen deposition, the SAC includes Colwyn Brook Marshes that is about 8km from the proposal (location 110 in Table 5 of the modelling report), with an ammonia critical level of  $1\mu\text{g}/\text{m}^3$ .

The ammonia critical level is  $1\mu\text{g}/\text{m}^3$  and the nitrogen critical load is  $10\text{kgN}/\text{ha}/\text{yr}$  for the site.

The farm process contribution to ammonia is  $0.063\mu\text{g}/\text{m}^3$  (6.3 % of critical level) and to nitrogen is  $0.488\text{kgN}/\text{ha}/\text{yr}$  (4.9 % of the critical load).

### Cae Llwyn SSSI

The ammonia critical level is  $3\mu\text{g}/\text{m}^3$  and the nitrogen critical load is  $20\text{kgN}/\text{ha}/\text{yr}$  for the site. The farm process contribution to ammonia is  $0.065\mu\text{g}/\text{m}^3$  (2.17 % of critical level). No nitrogen deposition value was presented.



### Ithon Valley Woodlands SSSI

The ammonia critical level is 1 µg/m<sup>3</sup> and the nitrogen critical load is 10kgN/ha/yr for the site. The farm process contribution to ammonia is 0.026 µg/m<sup>3</sup> (2.6 % of critical level) No nitrogen deposition value was presented.

### Twenty five acre wood SSSI

The ammonia critical level is 3 µg/m<sup>3</sup> and the nitrogen critical load is 20kgN/ha/yr for the site. The farm process contribution to ammonia is 0.006 µg/m<sup>3</sup> (0.2% of critical level) No nitrogen deposition value was presented.

### Gweunydd Coch y Dwyst SSSI

The ammonia critical level is 3 µg/m<sup>3</sup> and the nitrogen critical load is 20kgN/ha/yr for the site. The farm process contribution to ammonia is 0.006µg/m<sup>3</sup> (0.2% of critical level) No nitrogen deposition value was presented.

### European Protected Species

We have considered the ecological submission Phase 1 Environmental Appraisal: Cwmroches Farm, Penybont, Llandrindod Wells, Powys. Greenscape Environmental.

#### Great Crested Newts

Condition 4:

The implementation of reasonable avoidance measures in regard great crested newts.

GCN and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended).

The use of a Habitat Suitability Index on its own would be insufficient to ascertain that great crested newts are absent from this site. In the absence of survey data (eDNA and traditional surveys) we advise that Reasonable Avoidance Measure should be conditioned to demonstrate that the proposed development would either not harm or disturb the GCN or their breeding sites and resting places should they be present on this site. Such measures would include appropriate timing of works and provision of suitable habitat compensation (if required). In terms of timing of the works preparation of the land for development should be undertaken during the spring/summer season (April to mid-June) when GCN enter into / around aquatic habitat to breed, and outside the hibernation period (avoiding November to February, inclusive).

#### Bats

Limited information is provided although the external lighting scheme is described in the Environmental Appraisal paragraph 6.2.2 as below 1 lux, orientated towards the ground and set on a short timer. It is stated that there will be no direct illumination of the hedgerows or the newly planted corridor. We consider that the submitted assessment is satisfactory and

that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status to any local populations of bat.

#### □ Dormouse

Limited information is provided although the submitted assessment is satisfactory and that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status to any local populations of dormouse.

#### Manure Management Plan

The applicant has stated that all manure will be removed from their holding and spread elsewhere. The applicant has also committed to keep details of the quantity and destination of the manure exported in an export log.

#### Scope of NRW Comments

Our comments only relate specifically to matters that are included on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not *rule out the potential for the proposed development to affect other interests, including environmental interests of local importance*. Any site owner/developer 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. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

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

#### Welsh Government Planning Division

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

#### Cllr John Powell

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

### **Representations**

The application was advertised through the erection of a site notice and press advertisement. Two representations have been received, one objection and one support, and are summarised below.

#### Objection:

- Concerns raised of the pre-application consultation on the application
- Sideland Nature Reserve is in close proximity to the site and the development may have significant impact upon this nature reserve

#### Support

- Promotes local employment opportunities and provides security for farming industry

## **Planning History**

P/2012/0516 – Outline: Erection of an agricultural workers dwelling. Pending S106  
SO/2016/0001 – Acreening Opinion: Proposed poultry units. EIA Required

## **Principal Planning Constraints**

TPO  
Class 3 Road

## **Principal Planning Policies**

### National Planning Policy

- Planning Policy Wales (9th Edition, 2016)
  
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 16 – Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)
  
- Welsh Office Circular 11/99 – Environmental Impact Assessment
- Welsh Office Circular 61/96 – Planning and the Historic Environment
  
- Natural Environment and Rural Communities Act (2006)

### Local Planning Policy

- Powys Unitary Development Plan (2010)

SP3 – Natural, Historic and Built Heritage

SP4 – Economic and Employment Developments

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV4 – Internationally Important Sites

ENV5 – Nationally Important Sites

ENV6 – Sites of Regional and Local Importance

ENV7 – Protected Species

EC1 – Business, Industrial and Commercial Developments

EC7 – Farm/Forestry Diversification for Employment purposes in the Open  
Countryside

EC9 – Agricultural Development  
EC10 – Intensive Livestock Units  
RL6 - Rights of Way and Access to the Countryside  
TR2 – Tourist Attractions and Development Areas  
DC3 – External Lighting  
DC9 – Protection of Water Resources  
DC13 – Surface Water Drainage  
DC14 – Development and Flood Risk

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**

### Introduction

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

### Environmental Impact Assessment Regulations 2017

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

Schedule 1 of the Regulations states that the threshold for the “intensive rearing of poultry is 85,000 places for broilers or 60,000 for hens”. Whilst an Environmental Impact Assessment is not a mandatory requirement for the proposed development, the floor area of the proposed building exceeds the applicable threshold of 500 square metres and therefore for the purposes of the regulations is Schedule 2 development requiring a screening opinion to be issued by the Local Planning Authority.

Members are advised that the proposed poultry development was assessed against the selection criteria contained within Schedule 3 of the Regulations, with the opinion being that the development was EIA development by virtue of location of the proposed development (its close proximity to the River Wye SAC) and the characteristics of potential impacts on the environment.

On the basis of the above, the planning application is accompanied by an Environmental Statement.

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016, states:

“The relevant planning authority or the Welsh Minister or an inspector must not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have taken the environmental information into consideration, and they must state in their decision that they have done so”.

### Principal of Development

Policies EC1, EC7, EC9 and EC10 accept the principle of appropriate agricultural development within the open countryside. In light of the above, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

### Farm Diversification

Cwmroches is a family owned farming business and is seeking consent to diversify in order to secure the long-term viability of the farming enterprise.

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

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

### Landscape and Visual Impact

Guidance within the Powys Unitary Development Plan indicates that development proposals will only be permitted where they would not have an unacceptable impact on the environment and would be sited and designed to be sympathetic to the character and appearance of its surroundings.

The application site comprises of agricultural land located to the west of the existing farm complex. Details provided with the application state that the site was chosen as other locations had more impact on landscape and visual receptors than the chosen site.

A Landscape and Visual Impact Assessment was submitted in support of the application and detailed that the proposed development site comprises established pasture land of medium landscape value. The proposed development will be visible from a very limited number of locations to the east of the site and the materials used in the construction will reduce the visual prominence of the proposed buildings. The Assessment states that the siting and orientation of the building means that it is well screened from most locations by existing landform and vegetation. Additional landscaping mitigation proposed will provide effective screening from the limited number of locations identified as being potential receptors for visual impact. The proposed landscaping scheme will also reduce significantly the visual

impact of the existing buildings at the site. The mitigation proposals will be effective in ensuring that the effect on the site and the wider landscape will be mitigated.

The proposal involves the construction of two poultry sheds, feed bins and hardstanding and associated landscaping and would be located adjacent to the existing poultry enterprise. The development would result in the loss of part of a field, and the encroachment of built development into the open countryside.

The proposed poultry buildings are of a large scale, they are grouped within the context of the existing building complex and as such, potential landscape and visual impact is considered to be minimised. Furthermore, given the height of the proposed buildings and topography of the land, their profile is reduced and thus further reduces potential landscape impact. Proposed landscaping together with the use of appropriate colours and materials are considered to help the proposal integrate into the landscape. There would be a loss of part of the existing field, but, taking account of the mitigation measures, the location adjacent to existing buildings and the condition and sensitivity of the landscape it is considered that the development would not have an unacceptable adverse effect on the site and the landscape character of the area.

There is the opportunity to view the development from other properties whose occupiers would be more sensitive to visual impacts. In particular it is possible that the upper parts of the buildings and feed bins would be visible. However the distance maintained between the proposal and nearby properties, together with the trees and hedgerows on intervening land and the close relationship of the units to the existing farm complex, it is considered that there would not be an unacceptable impact on residential receptors.

A public right of way is located near to the site, being located to the south. Users are quite likely to be using these routes recreationally and it is likely that they would be sensitive to changes in the established rural setting of these routes. However the existing vegetation and landscape mitigation proposed will all serve to mitigate the view from the public rights of way network. From the public rights of way it is considered that the effect on visual amenity would not be unacceptable.

The Powys Unitary Development Plan through policy EC9 seeks to ensure that the harm from new agricultural buildings is minimised through sensitive design and siting. Guidance within EC9 suggests that wherever possible, new buildings should be grouped with existing buildings and utilise materials which are sympathetic to the site's surroundings. Whilst Officers acknowledge that the proposed poultry development represents a substantial addition to the rural landscape, given the proposed grouping, it is considered that the proposed unit would be viewed as integral to the existing farm complex within the wider landscape. Furthermore, given the limited visibility of the application site together with existing and proposed landscaping, it is considered by Officers that the proposal is capable of being accommodated without causing unacceptable harm to existing character and appearance.

In light of the above observations and notwithstanding the scale of the proposed development, given the proposed siting together with existing and proposed landscaping, it is considered that the proposed development is broadly in accordance with planning policy. Should Members be minded to grant planning permission it is recommended that any consent is subject to appropriate conditions restricting materials and securing the

implementation and retention of existing and proposed landscaping. Subject to the above, Officers consider that the visual and landscape impact associated with the proposed poultry development can be appropriately managed thereby safeguard the Powys landscape in accordance with policies SP3, ENV2, EC1, EC9 and EC10 of the Powys Unitary Development Plan.

### Transport Impacts

Policy GP4 of the Powys Unitary Development Plan indicates that development proposals will only be permitted where appropriate highway provision is incorporated in terms of a safe access, adequate visibility, turning and parking.

Access to the application site will be provided via the existing junction off the C1222 which then connects with the A44. The proposed development will provide a large passing bay capable of accommodating a large HGV and the access to the site will also be widened to allow for simultaneous access and egress from the site.

Following consultation with the Highway Authority, a response has been received which confirms that Highway Officers are satisfied that adequate highway provision can be secured subject to the imposition of suitable conditions.

In light of the above and notwithstanding the third party concerns expressed, Officers consider the proposed development to be in accordance with planning policy, particularly policies GP4 of the Powys UDP, Technical Advice Note 18 and Planning Policy Wales.

### Biodiversity and Ecology

#### *SSSI's and Montgomery Canal SAC*

Policies ENV4, ENV5 and ENV6 indicates that development proposals should preserve and enhance biodiversity and features of ecological interest. Specific guidance within UDP policy ENV4 confirms that development proposals should not significantly affect the achievement of the conservation objectives for which a SAC is designated either individually or in combination with other proposals. In addition to the above, policy ENV5 confirms that there will be a presumption against proposals for development likely to damage either directly or indirectly, the nature conservation interest of national nature reserves or sites of special scientific interest.

The proposed site of development is located within approximately 5km of the following Nationally Designated sites;

- River Wye Special Area of Conservation (SAC)
- Cae Cwm-Rhocas (Cwm Roches Meadows) SSSI
- Cae Llwyn SSSI
- Ithon Valley Woodlands SSSI
- River Ithon SSSI
- Llanfawr quarries SSSI
- Twenty-Five Acre Wood SSSI
- Coed Aberdulas SSSI
- Gweunydd Coch-Y-Dwst SSSI
- Bach-Y-Graig Stream Sections SSSI

The following non-statutory designated sites are located within 2km of the proposed poultry unit;

- Sideland Radnorshire Wildlife Trust Reserve
- 57 parcels of Ancient Woodland

In support of the application a Modelling of the Dispersion and Deposition of Ammonia was submitted. The report concluded that the process contributions to the annual mean ammonia concentration and nitrogen deposition rate are predicted to be below the Environment Agency's threshold. Accordingly the report concludes that no impacts upon the features of this site are expected as a result of ammonia levels or nitrogen, either alone or in combination with other similar installations. Consultation with NRW confirmed that the process contributions of ammonia and nitrogen deposition from the proposed development appear to be below the threshold that NRW apply in their assessment of potential impacts on SACs or SSSIs.

Whilst NRW have stated that they consider the predicted deposition levels to be acceptable with regards to the thresholds under which they have considered the application, they have identified that with regards to Cae Cwm-Rhocas SSSI information gathered by NRW has identified that the SSSI grassland composition has changed in ways that is consistent with an increase in nitrogen deposition and that if they were applying the new thresholds they would be raising objections about the predicted nitrogen deposition increase. In addition they have suggested that the LPA should consider whether there are further ways in addition to the tree planting already proposed to mitigate impacts to the SSSI. NRW suggested that a tree buffer in close proximity to the proposed development would take out at least 25% of the ammonia and so reduce nitrogen deposition. As such a recommendation from the Powys Ecologist has been made that a condition be attached to any consent requiring the submission of a scheme for additional tree planting.

A Habitats Regulation Assessment has also been undertaken by the Powys Ecologist due to the proximity of the River Wye SAC. The HRA Screening concluded that the proposed development would not have a likely significant effect on the SAC.

The Powys Ecologist does not object to the proposed development subject to this condition and other conditions relating to woodland management, landscaping and the development being undertaken in accordance with the reports submitted being attached to any consent.

In light of the above and subject to the recommendations, it is considered that the proposed development is in accordance with policies ENV4, ENV 5 and ENV 6 of the Powys UDP, Technical Advice Note 5 and Planning Policy Wales.

### *Protected Species*

Policy ENV7 of the Powys UDP, TAN5 and PPW seek to safeguard protected species and their habitats.



A Phase 1 Environmental Appraisal & Method Statement for Newts dated September 2017 was submitted in support of the application which included Reasonable Avoidance Measures to minimise potential impacts on species during the construction phase of the development. Following consultation with both NRW and the Powys Ecologist no objection to the proposed development has been received and the Powys Ecologist considers that the identified mitigation and enhancement measures are appropriate to minimise impacts to biodiversity.

Notwithstanding the above, as confirmed by the County Ecologist, it is considered that the proposed development would not negatively affect the conservation status of protected species subject to the recommended mitigation measures being secured by condition.

In light of the above and subject to the recommendations, it is considered that the proposed development is in accordance with policies SP3, ENV3 and ENV7 of the Powys UDP, Technical Advice Note 5 and Planning Policy Wales.

### Residential Amenity

Intensive livestock units have the potential to impact on the living conditions of residents living nearby through a number of factors, in particular emissions of noise and odour, concerns relating to which have been expressed within third party representations received.

Members are advised that the application is supported by an Environmental Statement which contains chapters assessing the significant likely impacts on amenity and the living conditions of neighbouring properties. Consideration of the aforementioned impacts is duly given below;

#### *Noise*

UDP policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Officers acknowledge that intensive livestock units have potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

The application is accompanied by a Noise Impact Assessment. Members are advised that the closest residential properties not associated with the site are Llwyn-Hir Cottage (approximately 244 metres from the proposed building), Bryncoed (approximately 269 metres from the proposed building) and Glyn Celyn and Pendre approximately 325 metres from the proposed building).

Following consultation with Environmental Health it was confirmed that they were content with the conclusions of the submitted noise impact assessment subject to a condition being attached to any consent limiting the hours of construction, limiting the hours of service and delivery vehicles and limiting the noise levels of any plant or machinery at the site.

On the basis of the comments received, Officers consider that sufficient information has been submitted to demonstrate that the proposed poultry development will not have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of noise. As such, the proposed development is considered to

fundamentally comply with UDP policies GP1, EC1 and EC10, Technical Advice Note 11 and Planning Policy Wales.

### *Odour*

In terms of odour, odour levels can be assessed using odour dispersal model based on standardised values. Odour concentrations are expressed as European odour units per cubic metre (ouE/m<sup>3</sup>). The Environment Agency (EA) has published guidance for the objective assessment of odour impacts: How to Comply with Your Permit- H4 Odour Management. It recommends the use of 98th percentile of hourly average odour concentrations modelled over a year. Appendix 3 of this document provides a benchmark of 3.0 ouE/m<sup>3</sup> for moderately offensive odours. Moderately offensive odours are identified as including those associated with intensive livestock rearing. It is noted that the use of this threshold has been supported by Inspectors in planning appeal decisions.

The application is supported by an “Odour Dispersion Modelling Study” prepared by AS Modelling & Data. This assessment uses the standardised approach to odour assessment and the results of the model runs are presented in a report. The conclusion states the following in relation to residential properties not associated with the farm: “The results of the modelling indicate that, should the proposed development of the poultry unit at Cwmroches Farm proceed, the 98<sup>th</sup> percentile hourly mean odour concentration would be below the Environment Agency’s benchmark for moderately offensive odours.”

On the basis of the information submitted, it is considered unlikely that the proposed development will have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of odour. Following consultation, it is noted that no concerns have been offered by the Environmental Health Department in this respect. Therefore Development Management considers the proposal to be in accordance with planning policy, in particular UDP policy GP1.

### Drainage

A Flood Consequence Assessment (FCA) prepared by Hydrogeo Ltd was submitted in support of the application which concluded that there was adequate surface water provision at the site. Following consultation with Environmental Health further information was required regarding porosity tests. Once the drainage information was assessed Environmental Health offered no objection to the proposed drainage at the site subject to a condition requiring the system to meet standards within document H2 of Building Regulations.

At pre-application NRW requested a drainage plan to show clean and foul drains, effluent containment, soak away, French drains and any sustainable drainage proposed including swales, reed beds or ponds. This information was provided as part of the FCA and following consultation with NRW they considered that this requirement had been met and requested a condition to ensure that the system is implemented in accordance with the FCA.

Powys Ecology were also consulted on the drainage plans which introduces an attenuation pond to filter the surface water run off from any hardstanding. It was also identified that the foul water will discharge to an appropriately sized septic tank, foul water will then be treated, following treatment the discharge from the unit is clean and will be discharged to a soakaway

and washdown water will be collected into a sealed system. Powys Ecology considered that the identified measures for the management of water were appropriate.

Therefore Development Management considers the proposal to be in accordance with planning policy, in particular UDP policy DC11 and DC13.

### **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**

Development Management considers that the proposed poultry development is compliant with planning policy. On this basis, the recommendation is one of conditional consent.

All information submitted with the application, including Environmental Statement have been considered.

## **Conditions**

- 1.The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
- 2.The development shall be carried out strictly in accordance with the documents received 31<sup>st</sup> March 2017 (Design & Access Statement, Environmental Statement, Phase 1 Environmental Appraisal, Phase 1 Environmental Appraisal & Method Statement for Newts Report (received September 2017), Dispersion Modelling Study of the Impact of Odour (1<sup>st</sup> December 2016), Report on the Modelling of the Dispersion and Deposition of Ammonia (1<sup>st</sup> December 2016), Landscape and Visual Impact Assessment (March 2017), Environmental Noise Assessment (24<sup>th</sup> January 2017), Flood Consequence Assessment, Pollution Prevention Plan and Transport Statement (21<sup>st</sup> March 2017) and plans received 31<sup>st</sup> March 2017 (drawing no's HA21609/01 Rev B, HA21609/02, HA21609/03 Rev C, HA21609/04, HA21609/05, HA21609/06 Rev B and 0511/001).
- 3.Prior to the commencement of building works full details of the colour of the external materials proposed in the construction of the application buildings and feed bins shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be fully implemented in accordance with the details so approved.
- 4.Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit shall be erected without the consent of the Local Planning Authority.
- 5.Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 as amended or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used for any purpose other than that hereby authorised.
- 6.Prior to commencement of development, a Tree Planting Scheme to reduce nitrogen deposition from the proposed development to the Cae Cwm-Rhocas SSSI shall be submitted to the Local Planning Authority for approval. The tree planting identified will be in addition to those areas of new native woodland planting NW1 – NW5 identified on the Landscape Mitigation Plan Figure 2 dated February 2017 within the Landscape and Visual Impact Assessment Report produced by Haire Landscape Consultants Ltd dated March

2017. The approved scheme shall be implemented as approved and maintained thereafter.

7. Prior to commencement of development, a detailed Native Woodland Creation and Management Plan including details of species to be planted, timetable for implementation, initial aftercare and long-term maintenance to benefit biodiversity for the areas of new native woodland planting NW1 – NW5 identified on the Landscape Mitigation Plan Figure 2 dated February 2017 within the Landscape and Visual Impact Assessment Report produced by Haire Landscape Consultants Ltd dated March 2017 shall be submitted to the Local Planning Authority and implemented as approved and maintained.
8. The mitigation and enhancement measures identified in Section 6 of the Phase 1 Environmental Appraisal & Method Statement for Newts Report by Greenscape Environmental Ltd dated September 2017 shall be adhered to and implemented in full.
9. The Landscaping Scheme specifications and aftercare measures identified on the Landscape Mitigation Plan Figure 2 dated February 2017 within the Landscape and Visual Impact Assessment Report produced by Haire Landscape Consultants Ltd dated March 2017 shall be adhered to and implemented in full.
10. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
11. The development shall be carried out strictly in accordance with the measures identified regarding Site Drainage Management including Foul, Dirty and Surface Water Management within the Flood consequence Assessment Report produced by Hydrogeo dated 03/03/2017 and shown on Drawing 6 of the Report and maintained thereafter.
12. The development shall be carried out strictly in accordance with the measures identified regarding Pollution Prevention within the Pollution Prevention Plan: In Relation to Proposed Poultry Development at Cwmroches Farm produced by Berrys and maintained thereafter.
13. Prior to commencement of development a Pollution Prevention Plan for the installation of the new culvert required to form the access road shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
14. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:
  - 0800-1800 hrs Monday to Friday
  - 0800-1300 hrs Saturday
  - At no time on Sundays and Bank Holidays

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

15. The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission

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

16. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 07.30 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
17. All emissions to air arising from the units hereby approved shall be free from odours at levels that are likely to be offensive or cause serious detriment to the amenity of the locality outside the site boundary of the holdings, as perceived by an authorised officer of the local planning authority by olfactory means.
18. All vehicles used for the movement of manure if taken off site shall be sheeted and/or fully covered.
19. Any artificial lighting incorporated to these units in connection to this application shall not increase the pre-existing illuminance at the light sensitive locations when the light is in operation.
20. Any new system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system.
21. Prior to any works being commenced on the development site the applicant shall construct the passing bay along the C1222 county highway as detailed on the approved drawing 0511/001. The passing bay shall be constructed to an adoptable standard prior to any works being commenced on the development site.
22. No other development shall commence until provision is made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
23. Before any other development is commenced the access shall be constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 46 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
24. Before any other development is commenced the area of the access to be used by vehicles is to be widened in accordance with detail submitted on approved drawing 0511/002 and constructed to a minimum of 410mm depth, comprising a minimum of

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

25. The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 7.6 metres for a minimum distance of 20 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
26. Prior to first use of the buildings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
27. Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
28. No storm water drainage from the site shall be allowed to discharge onto the county highway.
29. Any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

## **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. To safeguard the character and appearance of the area in accordance with policy GP1 of the Powys Unitary Development Plan (March 2010).
4. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy GP1 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
5. In order that the Local Planning Authority may control the use of the premises in the interests of the protection and preservation of the amenity of the area in accordance with policies GP1, EC1, EC9 and EC10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
6. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

7. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.
8. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
9. To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
10. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV4, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
11. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3, ENV4, ENV5, ENV6 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
12. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV4, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
13. To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.
14. To protect the local amenities of the local residents by reason of noise in line with Powys UDP policy GP1.
15. To protect the local amenities of the local residents by reason of noise in line with Powys UDP policy GP1.
16. To protect the local amenities of the local residents by reason of noise in line with Powys UDP policy GP1.
17. To protect the local amenities of the local residents from the excess of mal-odorous emissions. in line with Powys UDP policy GP1.
18. To prevent spillage of manure and minimise odour dispersion and prevent population increase of insects in line with Powys UDP policy GP1.
19. To protect the local amenities of the local residents by reason of noise in line with Powys UDP policy GP1.
20. To protect the local amenities of the local residents from insufficient drainage



21. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
22. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
23. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
24. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
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28. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
29. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.

## **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.

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

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and

Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

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