

Planning, Taxi Licensing and Rights of Way Committee Report

UPDATE 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 the update

Additional third party comments have been received from Radnorshire Wildlife Trust and CPRW.

Third Party Representations

Radnorshire Wildlife Trust

As Chairman of Radnorshire Wildlife Trust I will be speaking against this application on Thursday. It is 72 metres from our Sidelands Reserve but the significance of that has been completely ignored despite the relevant policies in your UDP and draft LDP. The consultant's ecology report is very flawed and does not follow professional good practice. For example they didn't bother to contact us or seek records from the Local Records Centre. We have taken further advice within NRW and I quote: "The ecologists' conclusion that the bryophytes and lichens are not sensitive to ammonia is significantly over-stretching their capability". I suggest that your Section 7 Environment Act duties are relevant and if this application is approved we will consider going for judicial review.

However, on the basis of taking a precautionary approach, you may wish to consider deferral so that we can ask the Cabinet Secretary to call it in. While the officer's report doesn't ignore NRW advice, it doesn't really take the main point from it, i.e. nitrogen deposition is already 68% over the nitrogen critical load of 10kgN/ha/yr. The additional 1.678kgN/ha/yr would increase the exceedance to 84.9% of the critical load. There may be ways to reduce nitrogen deposition further than the suggested tree planting. The precautionary approach would thus seem sensible.

CPRW

Response appended to the update report.

Officer Appraisal

Biodiversity and Ecology

The heading for the section on SSSIs and SACs within the report contained an error and stated SSSI's and Montgomery Canal SAC, this should have just states SSSIs and SACs.

The concerns raised by both Radnorshire Wildlife Trust and CPRW are noted and I would draw Members attention to the section within the original report which discusses the impacts of the development on nearby SAC's, SSSIs and other non-statutory designated areas such as the Sideland Radnorshire Wildlife Trust Reserve and Ancient Woodland.

Following the submission of these comments further discussion was undertaken with the Powys Ecologist who stated that NRW guidelines state that Ancient Woodland can have exceedence of 100% of the critical load when looking at ammonia and nitrogen deposition. The submitted reports detail that Sideland Nature Reserve would have an exceedence level of 60.4% of the critical load which is wihtin the NRW guidelines. The submitted assessment also used a stricter critical level in their assessment.

The Powys Ecologist does not object to the proposed develeopment subject to this condition and other conditions relating to woodland management, landscaping and the develeopment 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.

Highways

It was noted that in the original Committee Report that two of the Highways conditions contained references to the incorrect condition. This has been amended in this report.

RECOMMENDATION

Development Management considers that the proposed poultry development is compliant with planning policy. On this basis, the recommendation is one of consent subject to the conditions outline in this update report.

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 31st 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 (1st December 2016), Report on the Modelling of the Dispersion and Deposition of Ammonia (1st December 2016), Landscape and Visual Impact Assessment (March 2017), Environmental Noise Assessment (24th January 2017), Flood Consequence Assessment, Pollution Prevention Plan and Transport Statement (21st March 2017) and plans received 31st 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 24 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 23 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.
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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.
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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.

Case Officer: Tamsin Law- Principal Planning Officer
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