



construction and other highways works should be carried out BEFORE any construction or associated works on-site commenced. Despite my request as the local member that the LPA ensured this condition was adhered to, construction of the building and associated on-site works proceeded without the passing bays being created or even started and now, post-construction, the applicant is applying to have the condition removed.

As you are no doubt aware, P/2017/0640 was a very controversial application and the consent was granted under delegated powers, without it going to planning committee. This was justified on the grounds that an EIA was not required, because the applicant had successfully appealed to the WG Planning Inspectorate against the LPA's request that one be carried out. As local member I had assumed (wrongly) that the application would have to be determined at committee, due to its nature and the assumption that it would require an EIA, and did not invoke the 'call-in' procedure. By the time it was clear that an EIA was not required it was too late for me to invoke a 'call in', as the 21 day period within which that can be done had passed.

Given the above I therefore request that, if possible, the current application (18/0339/REM) be subject to call-in and be determined by the Planning, Taxi Licensing and Rights of Way Committee.

PCC-(M) Highways

21st Sep 2018

Having considered further the requirement for the passing bays and the lack of clarity regarding the locations for the passing bays, we are content for the condition to be removed from the decision notice for P2017/0640.

Welsh Water

19th Sep 2018

We have no comments to make regarding this application

## **Representations**

Following the display of a site notice, no public representations have been received at the time of writing this report.

## **Planning History**

<b>App Ref</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
P/2017/0640	Full: Proposed erection of a 16,000 bird free range egg unit, 2 no. feed bins, new site access	Consent	2nd Nov 2017

and associated landscaping and engineering works

### **Principal Planning Constraints**

Open Countryside

### **Principal Planning Policies**

<b>Policy</b>	<b>Policy Description</b>	<b>Year</b>	<b>Local Plan</b>
PPW	Planning Policy Wales (Edition 9, November 2016)		National Policy
TAN5	Nature Conservation and Planning	2009	National Policy
TAN6	Planning for Sustainable Rural Community	2010	National Policy
TAN11	Noise	1997	National Policy
TAN12	Design	2016	National Policy
TAN18	Transport	2007	National Policy
TAN23	Economic Development	2014	National Policy
TAN24	The Historic Environment	2017	National Policy
SP2	Employment Growth		Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets		Local Development Plan 2011-2026
DM2	The Natural Environment		Local Development Plan 2011-2026
DM4	Landscape		Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting		Local Development Plan 2011-2026
DM13	Design and Resources		Local Development

		Plan 2011-2026
E2	Employment Proposals on Non-Allocated Employment Sites	Local Development Plan 2011-2026
E6	Farm Diversification	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
EWA	Environment (Wales) Act (2016)	
NERC	Natural Environment & Rural Communities	

### **Other Legislative Considerations**

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

### **Officer Appraisal**

#### Site Location and Description

The application site is located within the Community Council area of Painscastle. The application site is located with agricultural land located to the south east and west. To the north runs the County Class II highway, B4594.

By way of background to the application site planning application P/2016/0608 was previously submitted for the erection of a poultry unit. The application was screened as requiring an Environmental Impact Assessment. A screening direction was then sought from Welsh Government who determined that the application did not need to be accompanied by an Environmental Impact Assessment. Consent was then granted for the erection of a 16,000 bird free range egg unit with associated works and new site access under the reference number P/2017/0640. The building measures approximately 91 metres in length by 16 metres in width reaching a height to the ridge and eaves of 3.1 metres and 5.2 metres retrospectively. The building has been constructed using steel frame cladding, slate green in colour.

Consent is now sought retrospectively for the removal of condition 13 from planning permission P/2017/0640 in relation to passing bays. Condition 13 states:

*“Prior to any works being commenced on the development site the applicant shall construct up to 5 passing bays, in locations to be agreed in writing by the Local Planning Authority. The passing bay(s) shall be constructed up to adoptable standard prior to any works being commenced on the development site.”*

### Highway Safety

Policy DM13 part 11 states that development proposals should meet all highway access requirements (for transport users) and parking standards.

It is noted that this application seeks consent to remove the condition relating to passing bays. Condition 13 of the P/2017/0640 application states:

*“Prior to any works being commenced on the development site the applicant shall construct up to 5 passing bays, in locations to be agreed in writing by the Local Planning Authority. The passing bay(s) shall be constructed up to adoptable standard prior to any works being commenced on the development site.”*

Powys County Council’s Highway Authority have been consulted on the proposed removal of condition and have stated that they are content for the condition to be removed. The Highway Authority have stated that following consideration for the requirement of passing bays and the lack of clarity initially regarding the locations for the passing bays, the Highway Authority are content for the condition to be removed.

It is noted that the development has commenced without the highway conditions being appropriately discharged from the P/2017/0640 application and therefore the conditions will be re-attached to the granting of any future approval. The conditions will be re-worded to take account that development has already commenced, which will require the highway related conditions to be carried out within a period of 28 days from the date permission is granted. The development includes the construction of a new vehicular access to the application site. It is noted that the main traffic movement associated with the proposed development would arise from feed delivery and egg collection. Egg collection would be approximately every twice every week with feed delivery once per fortnight with bird delivery/collection being 2 lorries every 14 months along the previously agreed routing plan.

In light of the comments received and subject to the recommended conditions, Development Management does not consider that the proposed development will have an unacceptable impact on highway safety and as such consider the proposed to be in accordance with planning policy, particularly policy DM13 and T1 of the Powys Local Development Plan.

### **Recommendation**

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

## **Conditions**

1 This permission being retrospective as prescribed by Section 73(a) of the Town and Country Planning Act 1990 (as amended) shall be deemed to take effect from 01/08/2018.

2 The development shall be carried out in accordance with the following approved plans and documents - Proposed Elevations 16-032 101, Site Plan 16-032 201, Block Plan 16-032 301, routing plan, Design and Access Statement, Ammonia Modelling, Odour Modelling, Drainage Strategy report, Pollution Prevention Plan, Archaeological Assessment & Visual Impact Analysis, Noise Impact Assessment, Environmental Appraisal (Greenscape Environmental Ltd).

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

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

5 Within 28 days from the date of the development hereby permitted the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to a point 0.26 metres above ground level at the edge of the adjoining carriageway and 70 metres distant in both directions 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 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.

6 Within 28 days from the date of the development hereby permitted the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway, for its entire width. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

7 Within 28 days from the date of the development hereby permitted provision shall be made within the curtilage of the site for the parking of not less than two cars and three heavy goods vehicles together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

8 The width of the access carriageway, constructed as Condition 6 above, shall be not less than 7.3 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.

9 Within 28 days from the date of the development hereby permitted, a radius of 12.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

10 Within 28 days from the date of the development hereby permitted the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

11 Upon formation of the visibility splays as detailed in Condition 5 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

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

13 All HGV vehicles serving the site shall adhere to the routing plan submitted by the applicant.

14 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 LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [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.

15 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.

16 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.

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

18 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.

19 The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.

20 The drainage strategy and pollution prevention plan submitted with the original application (P/2017/0640) by Waterco shall be strictly implemented in full and maintained thereafter.

21 Within 28 days from the date of the development hereby permitted details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:

- i) A statement setting out the design objectives and how these will be delivered;
- ii) earthworks showing existing and proposed finished levels or contours;
- iii) means of enclosure and retaining structures;
- iv) other vehicle and pedestrian access and circulation areas;
- v) hard surfacing materials;
- vi) minor artefacts and structures
- vi) water features.

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment; schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; an implementation programme (including phasing of work where relevant). Development thereafter must be completed in full accordance with the details as approved.

22 Prior to the first use of any external lighting a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to and approved in writing by the Local Planning Authority. Development thereafter shall be completed in full accordance with the details as approved.

23 The recommendations regarding bats identified in section 6 of the Environmental Appraisal Report (Greenscape Environmental Ltd, July 2017) shall be adhered to and implemented in full.

## **Reasons**

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

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

3 In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

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- 12 In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.
- 13 In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.
- 14 To safeguard the amenities of the locality in accordance with policy DM13 of the Powys Local Development Plan.
- 15 To safeguard the amenities of the locality in accordance with policy DM13 of the Powys Local Development Plan.
- 16 To safeguard the amenities of the locality in accordance with policy DM13 of the Powys Local Development Plan.
- 17 To safeguard the amenities of the locality in accordance with policy DM13 of the Powys Local Development Plan.
- 18 To safeguard the amenities of the locality in accordance with policy DM13 of the Powys Local Development Plan.
- 19 To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9: 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
- 20 To comply with Powys County Council's LDP Policy DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, July 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
- 21 To comply with Powys County Council's LDP Policy DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
- 22 To comply with Powys County Council's LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
- 23 To comply with Powys County Council's LDP Policy DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

## **Informative Notes**

- 1 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.

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

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

It is therefore an offence to:

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

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

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

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

It is an offence for any person to:

- Intentionally kill, injure or take any dormice.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a

dormouse uses for shelter or protection.

- Under the Habitats Regulations it is an offence to:

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

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

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.