

1st Response dated 26th March 2018

The County Council as Highway Authority for the County Unclassified Highway, U4228

Wish the following recommendations/Observations be applied
Recommendations/Observations

A recent site visit has raised a number of highway concerns regarding this application due to its complete lack of adequate details, and as such, the Highway Authority recommend refusal for the following reasons:

- Although the Design and Access Statement submitted briefly mentions the types of vehicles proposed to utilise the site, no mention has been made regarding the use of trailers to carry canoes to the area. No details have been submitted regarding the proposed vehicle movements to and from the site, including the breakdown of these movements with the different types of vehicles.
- The access off the U4228 is severely substandard with no proposed improvements submitted. The width of the current access gate at 3m is too narrow to accommodate the passing of two vehicles.
- The gradient and alignment of the access after the first 6m from the edge of the highway are again, not suitable for the proposed development and likely vehicle types accessing the site.
- The proposal states that a car park will be constructed, however no details regarding this proposed area have been submitted. It is essential that the area provides sufficient parking areas to accommodate the volumes and types of vehicles used by visitors to the area to ensure there is no additional parking on the highway around Heol Vaynor or Glandwr.

Second response dated 21st December 2018

The County Council as Highway Authority for the County Unclassified Highway, U4228

Wish the following recommendations/Observations be applied
Recommendations/Observations

Prior to the commencement of any other works, the access and visibility splays are to be constructed in accordance with drawing number SO61.2.1.100 Rev B.

- HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 15 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.

- HC3 The centre line of the first 15 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
- HC7 Prior to the commencement of any other development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 15 metres from the edge of the adjoining carriageway.
- HC21 Prior to the first beneficial use of the development the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 15 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence
- HC32 No surface water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

Severn Trent Water

E mail of the 1st March 2018

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

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

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

Environmental Health

E mail of the 8th March 2018

Foul drainage

I assume that the foul drainage from the changing/shower block will be to the mains sewer. If so, I have no objection.

The plan also shows a row of portaloos but I can't see any further information. Can the applicant/agent confirm the foul drainage arrangement for these facilities please?

Countryside Services

Letter of the 5th March 2018

I can confirm that a public footpath N27A runs along the proposed access track. Advice will need to be sought on the surfacing of the public footpath.

Whilst the footpath may not be directly affected by the main development but could be affected by associated development.

It is strongly recommended that the applicant checks their proposals against the Definitive Map, which is the legal record of the location and status of public rights of way.

For public rights of way advice please visit our web page:
<http://www.powys.gov.uk/en/countryside-outdoors/footpaths-bridleways-and-other-public-rights-of-way/>

In the event of a successful planning permission please include a note advising that:

- Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
- Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
- New fencing or boundaries – The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- Temporary closures – The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- Legal Diversion – The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

PCC Ecologist

E mail of 7th August 2018

Thank you for consulting me with regards to planning application P/2018/0237 which concerns an application for construction of access track and parking spaces to serve river activities access at Land adjoining Glandwr Heol, Vaynor, Newtown, Powys.

I have reviewed the proposed plans and supporting information submitted with the application as well as aerial photographs of the site and surrounding habitats and local records of protected and priority species and designated sites within 500m of the proposed development.

Species recorded in the local area include otter, Atlantic salmon, kingfisher, white-clawed crayfish. Observations of otter commuting along the River Severn in close proximity to the proposed development and non-native invasive species are known to be present along the watercourse including Himalayan balsam, Japanese knotweed and American signal crayfish.

No statutory or non-statutory designated sites are present within 500m of the proposed development.

No ecological information has been submitted with the proposed development

I note that the proposed works will in the main be impacting an area of amenity grassland which is considered to be of low ecological value. However, given the proximity and the nature of the works to the riparian habitat it is considered that further information is required to enable the LPA to assess the potential impacts of the proposed development to biodiversity. Riparian habitats are features of high ecological value and support a wide variety of protected and priority species.

It is therefore considered that a Preliminary Ecological Appraisal including a background data search from the Powys and Brecon Beacons National Park Biodiversity Information Service (BIS) will need to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

It is important to note that further surveys following National guidelines at the appropriate time of year will be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and

biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Pollution Prevention Plan

Details of Pollution Prevention measures that will be implemented during the construction of the access features will need to be submitted to demonstrate that the proposed development would not result in negative impacts to the river Severn through pollution impacts. Details of current guidelines regarding pollution prevention can be found at <http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/> . Details of pollution prevention measures are required to demonstrate that the proposed development would comply with the Water Framework Directive Regulations.

Invasive non-native species

Invasive non-native species are known to be present along and within a number of watercourses within Powys, if INNS are found to be present within the proposed development areas then an appropriate INNS management plan will need to be identified to demonstrate how these species will be managed during the construction phase of the proposed development and to demonstrate actions that would be taken to ensure the use of the access features would not result in the spread of any INNS.

External Lighting

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. This information could be secured through a planning condition, however the submission of a Wildlife Sensitive Lighting Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

Therefore, it is considered that the application currently lacks sufficient information to enable the LPA to determine the potential for the proposed development to impact biodiversity and to demonstrate that the development complies with relevant National and Local planning policies and associated legislation, further information as identified above is required to be submitted to inform this assessment. Biodiversity is a material consideration in the planning process and this information is therefore required prior to determination of the application.

Natural Resource Wales

Letter of the 20th March 2018

We recommend that you should only grant planning permission if the scheme can meet the following requirements and you attach the conditions listed below. These would

address significant concerns that we have identified. Therefore, we would not object provided the requirements are met and you attach the conditions to the planning permission.

Summary of Requirements and Conditions

Requirement 1 – Flood risk: The submission of additional construction details for the proposed canoe access point to establish the acceptability of the proposal.

Condition 1 – Biosecurity: the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Condition 2 – PPP: The submission and implementation of a Waste Management Plan and a Pollution Prevention Plan for all operations likely to have an impact on the water quality of the River Severn.

Flood Risk

All built development is categorized as less vulnerable and is on the edge of the theoretical flood plain of the River Severn.

The applicant is advised to source flood level information for this reach of the River Severn from the Data Distribution team <http://naturalresourceswales.gov.uk/evidence-and-data/access-our-data/?lang=en>.

Football changing rooms will be brick built but using the above sourced data, all electrical and vulnerable aspects of the development should be set a nominal distance above flood levels.

The proposed polytunnel and garden sheds should be well secured to avoid being affected by overland flood flows.

There should be no ground raising as a result of the proposed access track and car parking areas, in order to avoid impact on flood flow routes.

We would resist any further additional built development as a result of the proposed allotment development.

Any further sheds or fencing or other structures could be affected by flood flows and potentially cause blockage or damage downstream.

The proposed infrastructure will allow for appropriate land use, football, communal gardening, access for river use but any further intensification of built development should be resisted in order to minimise impact and avoid an undesirable precedent for development in floodplain. We advise that any Permitted Development rights which may allow for further intensification of sheds, should be considered for removal.

With regards to the proposed canoe access along this reach we are aware that this facility is being designed. Although NRW, acknowledges the principle of the structure, details will be required to establish the acceptability of the design at the proposed location.

This requirement will also inform any comments we may want to make in relation to potential impacts on protected species.

Requirement 1 – Flood risk: The submission of additional construction details for the proposed canoe access point to establish the acceptability of the proposal.

We reiterate that all of the proposed canoe access structures through Newtown will also require a separate Flood Risk Activity Permit, primarily to approve the temporary works construction method statements.

Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non native species (INNS) and diseases. We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include

- (i) appropriate measures to control any INNS on site, if present; and
- (ii) measures or actions that aim to prevent INNS being introduced to /allowed to disperse from the site for the duration of construction and operational phases of the scheme.

Condition 1 – Biosecurity: the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA

Protected Species

NRW has not considered European Protected Species(EPS) because the application does not appear to include an EPS report. Please consult NRW again if an EPS report identifies the presence of EPS.

We have records of bat and otter using the river corridor in this area and we note the proposed works will involve changes to the river bank and its vegetation. We advise that a Reasonable Avoidance Measures scheme (RAMS) for the species listed above should be secured via appropriate conditions. We would expect to see no additional fixed lighting in proximity of the top river bank to avoid disturbance to otters and bats.

Pollution Prevention

Due to the proximity of some of the proposed works to the river, NRW is concerned that the proposal has the potential to lead to suspended solids entering the River Severn.

A Pollution Prevention Plan will be required together with a Waste Management Plan to demonstrate there will be no impact on water quality.

Condition 2 – PPP: The submission and implementation of a Waste Management Plan and a Pollution Prevention Plan for all operations likely to have an impact on the water quality of the River Severn.

All works proposed along the river bank must be carried out in accordance with GPP5 'Works in, near or over watercourses' which is available at:

<http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/>

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

Any waste material stored, used or disposed of must be done so in accordance with the Duty of Care Regulations and may require a permit or exemption under the Environmental Permitting Regulations 2010.

Foul Drainage

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website <https://naturalresources.wales/permits-and-permissions/water-discharges/?lang=en>

Scope of NRW Comments

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

responsibility to ensure that they secure all other permits/consents relevant to their development

E mail of the 16th June 2018

Thank you for consulting us on the amended plans for the above. We note that the proposal no longer includes the erection of changing rooms, portaloos, polytunnels, Communal sheds.

We would appreciate if you could confirm that the features listed above are no longer included within the proposal.

NRW has no additional comments to make at this stage, our requirements and recommendations as referred to in our letter of 20/03/2018 (CAS-56995-X6T9) are still relevant.

Requirement 1 is still outstanding as no construction details of the canoe access point into the river have been provided at this stage.

We will be revise our comments upon receipt of detailed plans as per requirement 1 above.

Other Responses

Ramblers Association

We have previously commented on this application and asked for further clarification on several issues. Unfortunately the additional information provided does not provide any further clarification and so are initial comments still stand as below:

“Powys Ramblers are very much in support of the Going Green project of which this application is a part. However, there is a public footpath leading to the Severn along the line of the proposed new access track. We could not spot any mention of this in the plans or documentation, nor of arrangements for a pedestrian route or signing at the end of the track where there would be car parks. The scheme would be very unlikely to cause any obstruction once built, and better public access to the river is part of the overall project. Even so, the ROW should be explicitly mentioned on the block plan and in the supporting document. Can the applicant be required to do this please.

In the event of permission being granted can the applicant please be advised of the importance of keeping the footpath free from obstruction during development works and making sure it is kept open throughout.”

Public response

A site notice was erected at the entrance to the site off the estate road, no decision was made for a continuous period of 21 days.

The scheme was amended at the planning agent's request on the 13th June 2018 and a re-consultation exercise was carried out.

A total of 108 signed copies of an objection statement have been received, the statement raises objection to the proposed development on the following grounds:

- Loss of public open space
- Additional traffic on the busy estate road
- Increased flood risk
-

5 individually written letters of objection have been received, these raise objection on the following grounds:

- Flooding, it is highlighted that this area floods regularly and photographs have been provided showing the area under water. Concern is raised the introduction of hard standing areas will exacerbate flooding.
- Loss of open space; it is highlighted that there is very little open space remaining on the Vaynor development and this area is used regularly for play and dog walking.
- Impact on the highway; it is highlighted the estate road is very busy and there is a lot of on street parking, concern is raised regarding use of the highway for additional site traffic

Planning History

P/2018/0316: Creation of 4 no. river access points to allow accessible use by canoeists. Pending

P/2017/1274: Proposed Green Infrastructure Project to include Site A - Change of use of land to form a play park / amenity area and erection of play equipment; Site B - Construction of a BMX pump track; Site C - Erection of hub building & formation of storage compound, formation of car park, new entrance and all associated works. Consented

Principal Planning Policies

National Planning Policy

Planning Policy Wales (10th Edition, 2018)

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

Technical Advice Note 12: Design (2016)

Technical Advice Notes 15 - Development and Flood Risk (2004)

Technical Advice Note 16: Sport, Recreation and Open Space (2009)

Technical Advice Note 24: The Historic Environment (2017)

Local Planning Policy-Local Development Plan (2018)

SP7-Safeguarding of strategic Resources and Assets

DM2-Natural Environment

DM3-Public Open Space

DM4-Landscape

DM5-Development and Flood Risk

DM6-Flood Prevention Measures and Land Drainage

T1-Travel, Traffic and Transport Infrastructure

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

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Officer Appraisal

Principle of Development

Policy DM3 concerns development proposals within public open space, the proposed development concerns an area of informal recreation ground and as such this policy is relevant.

While this development proposes recreational facilities they would affect an informal recreation area to the east of Hoel Vaynor. The policy includes a set of criteria that seeks to ensure public space is only lost where there is adequate reuse and alternative uses for the spaces have been explored.

The site comprises a single width access route from the existing access off Heol Vaynor and onto the recreation ground. The proposal would result in a small part of the informal playing field being surfaced with hard core to facilitate vehicle access. The proposed changes to the area are considered minimal and are likely to continue to support general recreational use of the field, while also opening up the riverine environment for recreation.

It is considered the proposed scheme would enhance the recreational potential on these areas of open space and the riverine environment and as such is considered acceptable.

Development in a flood risk area

The sites are within the river Severn C2 floodzone as defined by the TAN15 Development Advice Flood Maps (DAMs). Public representations raise concern regarding flooding on this site.

The scheme submitted under application P/2018/0316 includes details of the apparatus to be constructed on the river bank, NRW have responded under the relevant application to confirm they are satisfied with the apparatus in terms of flood risk. The response from NRW is noted, however requirement 1 is not considered relevant to this application and as such not further information has been sought.

The proposal would result in a small area of hardcore on the existing maintained grass area. It is proposed to surface the access with hardcore, this surface treatment would remain free draining and would occupy a small part of the overall surrounding recreational area.

The scale and nature of the proposed development would continue to support general recreational use and as such the proposal is considered to accord with the policy criteria set out under LDP policy DM3. It is not considered that the proposed scheme comprises highly vulnerable development as defined by TAN15 and it is not considered that the scale and type of development would exacerbate on site or off site flooding above that which exists.

Landscape and visual assessment

The proposal is limited to the hardcore surfacing of a circular access route on existing recreation ground. The construction materials are in keeping with the natural appearance of the area and would further integrate into its surroundings over time. The scheme does not propose any features which extend above ground level.

Policy DM4 seeks to protect valued landscape characteristics and qualities from development which would have an unacceptable adverse effect. The proposed scheme would not alter the character of the landscape and would not be visible from any visually sensitive sites, as such the scheme is in accordance with policy DM4.

Neighbour amenity

Site 1 is close to houses on the Vaynor residential development, a number of third party responses raise concerns in terms of amenity of the neighbouring property. A number of the third party responses were received prior to the amended description of development. The proposed use of the existing access to pick up canoes is unlikely to reduce neighbour amenity through disturbance. The site is accessed directly off Hoel Vaynor and access to the site is in relation to a specific activity. The proposed scheme is considered unlikely to have an unacceptable adverse impact on neighbour amenity.

Ecological impact

It is important to be mindful of how a development proposal would impact directly and indirectly on biodiversity and in particular those species identified as being at risk under the Habitats Regulations (HR). In accordance with HR, policy DM2 seeks to protect

biodiversity from development which would have an unacceptable impact on the favourable conservation status of protected species.

The site does not directly impact on the riverine environment or river banks and as detailed by the ecologist the site is of low ecological value. The ecologist's response was received prior to the amended description of development and the submission of an ecological report for the 4 canoe access sites under application P/2018/0318.

Based on the updated development and report, it is considered that reasonable avoidance measures for otter together with requirements for a pollution prevention plan and biosecurity risk assessment as specified by NRW in their response, is sufficient to ensure the favourable conservation status of protected species in the area would not be unacceptably affected. These requirements would be secured via condition of any forthcoming consent.

The proposed scheme is considered to be in accordance with LDP policy DM2, subject to the conditions of any forthcoming consent.

Impact on the highway infrastructure

In accordance with policy T1 all development proposals are assessed in relation to their potential to generate traffic, suitable parking provision and a safe means of access. These elements are key to determining whether or not development would be acceptable in terms of highway safety.

A number of public responses received raised concern regarding the potential increased traffic along Heol Vaynor and exacerbation of existing issues with on street parking. The Highway Authority also raised concern regarding the vehicular use and intensification of the existing access.

An updated plan was received on the 18th December 2018 detailing works to the existing access in order to facilitate vehicle access. The Highway Authority confirmed on the 21st December 2018 they are satisfied with updated plan.

The applicant's agent confirmed the existing gated access is used on an irregular and informal basis. They confirmed the movements associated with the proposed scheme would be limited to a minibus and trailer in association with canoe river access. Any further vehicle access restriction on the gate is a private matter and would need to be handled by the site operators.

Public rights of way

Countryside services confirm within their response that a public right of way crosses the area proposed to be surfaced. While no objection to the proposal is raised, it is noted that the public right of way should remain free from obstruction. An informative of any

forthcoming consent shall include details of the ongoing maintenance of the public right of way route.

Recommendation to Members

The proposed development is in accordance with the relevant national and local planning policies, as listed within this report, and as such it is recommended conditional consent is issued, together with the attached conditions.

Conditions

- 1 The development shall begin not later than five years from the date of this decision
- 2 The development hereby approved shall be carried out strictly in accordance with the approved plans. The approved plan references include Location Plan S061.1.3.100, Proposed Site Plan S061.1.3.101 Rev E, Proposed Plan S061.1.3.100 Rev B
- 3 Prior to commencement of the development a detailed Biosecurity Risk Assessment with regards to Invasive Non-native species shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.
- 4 Prior to commencement of the development a detailed Otter Reasonable Avoidance Method Statement shall be submitted to and approved in writing by the Local Planning Authority, works shall be carried out in accordance with the approved statement.
- 5 Prior to commencement of development a pollution prevention plan shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.
- 6 Prior to the erection of any external lighting, a lighting scheme shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.
- 7 Prior to the first beneficial use of the development any entrance gates shall be set back at least 15 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.
- 8 The centre line of the first 15 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
- 9 Prior to the commencement of any other development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 15 metres from the edge of the adjoining carriageway. This area shall be maintained to this standard for as long as the development remains in existence

10 No surface water drainage from the site shall be allowed to discharge onto the county highway.

Reasons

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

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

3 In the interests of biodiversity and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 5-Nature Conservation and Planning (2009) and Local Development Plan policy DM2 (2018)

4 In the interests of biodiversity and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 5-Nature Conservation and Planning (2009) and Local Development Plan policy DM2 (2018)

5 In the interests of biodiversity and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 5-Nature Conservation and Planning (2009) and Local Development Plan policy DM2 (2018)

6 In the interests of biodiversity and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 5-Nature Conservation and Planning (2009) and Local Development Plan policy DM2 (2018)

7 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

8 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

9 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

10 In the interests of highway safety and to accord with Planning Policy Wales (10th Edition, 2018), Technical Advice Note 18-Transport (2007) and Local Development Plan policy T1 (2018)

Informative Notes

- 1 In the event of a successful planning permission please include a note advising that:
 - o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
 - o Landscaping & Surfacing - .Advice will need to be sought before interfering or surfacing a public right of way.
 - o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All

Traffic.

- o Temporary closures - The developer can to seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.
- o Legal Diversion - The developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

2 Ecology

1 Protected Species

Work should halt immediately and Natural Resources Wales (NRW) contacted for advice in the event that protected species are discovered during the course of the development. To proceed without seeking the advice of NRW may result in an offence under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife & Countryside Act 1981 (as amended) being committed. NRW can be contacted at: Tel: 0300 065 3000

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 that works to trees or structures where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk

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.

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All species of reptiles known to occur within Powys, namely the common lizard, slow-worm, grass snake and adder, are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

Intentionally kill or injure these species of reptiles,

Trade (live or dead animals) i.e. sale, barter, exchange, transporting for sale and advertising to sell or to buy.

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

In addition these species of reptiles are also listed in Part 1 Section 7 of the Environment (Wales) Act 2016 - which is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Species of reptiles known to occur in Powys are also listed as Species of Conservation Concern on the Powys LBAP.

If reptiles are discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and/or the Council's Ecologist.

Otters - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017

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 2017

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.

Case Officer: Dunya Fourie, Planning Officer
Tel: 01597 827111 E-mail: dunya.fourie@powys.gov.uk