

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

**Application Number:** 18/0663/OUT                      **Grid Ref:** E: 279602  
N: 211156  
**Community Council:** Ystradgynlais Community                      **Valid Date:** 06.09.2018

**Applicant:** Penrhos School Developments

**Location:** Ysgol Gynradd Gymunedol Penrhos, Brecon Road, Ystradgynlais, Powys, SA9 1PX

**Proposal:** Proposed residential development and associated works (some matters reserved)

**Application Type:** Outline planning

### The reason for Committee determination

The Local Member requested that the application be determined by Members of the Planning Committee due to the public concerns raised.

### Consultee Responses

#### Consultee

#### Received

PCC-(S) Highways

7th Jun 2019

Thank you for consulting with the Highway Authority (HA) on this application, which seeks outline consent (access to be determined at this stage) for residential development at the former Ysgol Gynradd Gymunedol Penrhos, Ystradgynlais. Further the HA would advise as follows:-

#### Existing and Proposed Trip Generation & Existing Road Network

This proposal is supported by the submission of a Transport Statement which considers the existing highway network characteristics in the vicinity of the site and, the potential impacts on the network arising from the development proposals. The submitted analysis demonstrates that projected "peak hour" vehicular movements generated by this proposal, the distribution of that traffic and the effects of such on the existing network will have a "marginal impact" on the existing highway network during the more critical peak hour periods, or throughout the course of the day. The Highway Authority is satisfied that

the conclusions contained within the Transport Statement are robust and that the potential impacts the site may have on the surrounding highway infrastructure are likely to be marginal, particularly when considered against the previous peak hour traffic generated by the former school.

#### Site Access

Vehicular access to the site is to be gained from a new mini roundabout which is to be constructed on the B4599, Brecon Road; the mini roundabout will replace the existing "T junction" which previously served the school. The roundabout design is supported by an independent Stage 1 Road Safety Audit.

There were initial design concerns raised by both the independent road safety audit team and the PCC Road Safety Auditor, however the original design has since been revised and refined to the satisfaction of all parties. The proposed access clearly demonstrates (subject to conditions) that suitable levels of visibility will be provided and the proposed geometry will accommodate the types of vehicles associated with a development of this nature.

#### Internal layout

Whilst this matter is reserved for future consideration, the submitted information demonstrates, subject to slight modification, that the proposed development is capable of incorporating a suitable highway alignment and adequate levels of turning provision.

#### Parking Provision

This matter is again reserved for future consideration, however the submitted Transport Statement promote future off street car parking provision in line with CSS Wales Parking Standards.

#### Highway Surface Water Drainage

Whilst this matter is again reserved for future consideration, the submitted surface water drainage strategy for the roads within the site is duly noted. The suitability or otherwise of the scheme is a matter that needs to be determined by PCC Land Drainage Department before this application is determined. The applicant is advised that a suitable surface water adoption agreement must be in place before a road adoption agreement can be secured.

#### Recommendation

In light of the above, the Highway Authority has no objection to the submitted proposal, subject to the inclusion of the following highway conditions.

o The development shall be carried out in accordance with the following approved highway drawing W162509\_A03 Rev G.

o Notwithstanding the submitted details, no development shall commence until detailed highway engineering drawings and a Stage 2 Road Safety Audit covering the construction of the mini roundabout on the B4599 county highway is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

o No 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. The parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base material 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.

o No other development shall commence on the development site until the applicant constructs the offsite highway works to the written satisfaction of the Local Planning Authority. Such works shall include the construction of the mini roundabout, eastern and western footway links along the B4599 county highway and the initial 25m of the access road which serves the development. The works detailed shall be constructed to adoptable standard prior to any works being commenced on the development site.

o Before any other development is commenced 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 11metres 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.

#### Advisory Notes

Note: the attention of the applicant must be drawn to related highways legislation which makes provision for the following;

Note: All major off-site highway works shall be subject to an agreement (supported by a road bond) under Section 278 of the Highways Act 1980. The design and detail required as part of a Section 278 Agreement shall be prepared by the applicant and approved by Powys County Council. Implementation of the approved scheme shall be at the expense of the developer. Further information relating to Section 278 requirements can be found in Section 1.5 of the Powys County Council Highway Design Guide.

Note: Where development results in (or retains the potential to) the creation of a private street (typically development in excess of 5 dwellings) Powys County Council has a statutory duty to issue and enforce an Advance Payment Code Notice (APC) under the provisions of Sections 219/220 of the Highways Act 1980.

The Notice requires the applicant to secure a sum or bond with the local highway authority that covers the estimated costs of the identified street works. Applicants/developers may choose to discharge their private street works obligations by entering into a formal road adoption agreement with the local highway authority under Section 38 of the Highways Act 1980. Further information relating to the APC procedure and Section 38 road adoption agreements can be found in Sections 2.1 & 2.2 of the Powys County Council Highway Design Guide.

Welsh Water

19th Oct 2018

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

We acknowledge from reviewing the submitted planning application and Drainage Strategy Report (June 2018) that foul flows are proposed to be discharged to the public foul only sewer located in the B4599 and surface water flows are to be sustainably discharged to the local watercourse. On this basis we can confirm we have no objections to this application. We request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. Conditions No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

Advisory Notes The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition.

Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com). The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

#### 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.

#### Environmental Health

9th Oct 2018

Before any development commences a Construction Method Statement and Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority to include measures in respect of the control of noise and dust during the landscaping and construction phases.

In addition it would be recommended that the landscaping and construction period working hours and delivery times be restricted as follows:

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 Sunday and Bank Holidays

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

Thank you for consulting me with regards to planning application 18/0663/OUT which concerns an outline application for a proposed residential development and associated works (some matters reserved) at Ysgol Gynradd Gymunedol, Penrhos, Brecon Road, Ystradgynlais, Powys.

I have reviewed the submitted information including the Ecological Survey Report V2.1 produced by Fiona Elphick dated 23rd June 2018, Arboricultural Report produced by ArbTS dated 7th July 2018 as well as the consultation response provided by NRW regarding the application dated 15th October 2018.

Having reviewed the submitted information it is considered that the survey effort employed was in accordance with current guidelines and standards, I agree with the conclusion provided by NRW in their consultation response that subject to inclusion of appropriately worded planning conditions the proposed would not result in negative impacts to or loss of biodiversity.

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

No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include but not be limited to the following:

- a) Detailed Reasonable Avoidance Measures for the Development as outlined in Section 6 of the Ecological Survey Report V2.1 produced by Fiona Elphick dated 23rd June 2018 including:
  - o Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - o The location and timing of sensitive works to avoid harm to biodiversity features.
  - o The times during construction when specialist ecologists need to be present on site to oversee works.
  - o Use of protective fences, exclusion barriers and warning signs.
- b) A detailed Pollution Prevention Plan to prevent pollution of surface water from

construction activities

- c) Responsible persons and lines of communication.
- d) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To comply with Powys County Council's UDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2016), TAN 5: Nature Conservation and Planning, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a detailed Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason: 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 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

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 LDP Policies DM2 and DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition, I recommend inclusion of the following informatives:

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](mailto: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:

- o intentionally kill, injure or take any wild bird
- o intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- o intentionally take or destroy the egg of any wild bird
- o 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.

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

Coal Authority

11th Oct 2018

The Coal Authority Response: Material Consideration

I can confirm that the above planning application has been sent to us incorrectly for consultation.

The application site does not fall with the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted.

In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

PCC-Affordable Housing Officer

1st Oct 2018

PCC Housing have no reason to object to this proposal but would stress the requirement for the LDP policy on affordable housing contributions to be applied to any such development.

PCC-Outdoor Leisure & Recreation  
(South)

2nd Oct 2018

Please see the email trail below, with regards to the proposed development of the old school site at Penrhos in Ystradgynlais.

After my initial response to seek a contribution to redevelop the adjacent PCC playground at Penrhos Playing Field from a LEAP to a NEAP. The reasoning was that, with the increase in numbers of potential from the proposed development would significantly

increase demand on the existing site.

I have noted that the developers then initially offered a sum of £17,500 as a contribution to upgrade the play area from a LEAP to a NEAP. But were unhappy to continue with this offer once it was determined that PCC's Countryside & Outdoor Recreation Service are unable to add any financial package of our own to redevelop the play facility and increase its play value.

I can confirm that the Countryside & Outdoor Recreation are content with the £17,500 contribution as this would mean that the site can be upgraded and with the addition on a couple of new fixed play items can increase the play value within the facility.

Community Council

4th Nov 2018

I wish to advise that the Ystradgynlais Town Council resolved at its November 2018 meeting to offer no observation to the following planning application.

Wales & West Utilities - Plant Protection  
Team

11th Oct 2018

Wales & West Utilities acknowledge receipt of your notice received on 01.10.2018 , advising us of your intention to carry out work at:

Ysgol Gynradd Gymunedol Penrhos, Brecon Road, Ystradgynlais, Powys, SA9 1PX

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This plan shows only those pipes owned by Wales & West Utilities in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given without obligation, or warranty, the accuracy thereof cannot be guaranteed, service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales and West Utilities, its agents or servants for any error or omission.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas

apparatus.

If you have requested a new connection or diversion of our apparatus, information will be sent under a separate letter.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Contaminated Land

1st Oct 2018

#### Advice

1. Records identify that the application site is located within 150 metres of a closed landfill site, and is also located in an area of former mining. The Department of the Environment, Industry Profile 'Waste Recycling, Treatment and Disposal Sites: Landfills and Other Waste Treatment or Waste Disposal Sites' (1996) provides guidance on the potential contaminant sources associated with these landfills.

Furthermore, the application site's former use as a school may have caused localised areas of land contamination; associated with the presence of asbestos, boilers and the storage of oil.

2. Paragraph 13.5.1, of Chapter 13 'Minimising and Managing Environmental Risks and Pollution', of the Welsh Government document 'Planning Policy Wales' (2016) states: "responsibility for determining the extent and effects of instability or other risks remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners".

However, no information appears to have been submitted in support of planning application 18/0663/OUT in respect of the potential land contamination risks associated with the application site and the proposed development.

3. Given the sensitivity of the proposed development (residential), it is recommended that planning application 18/0663/OUT should not be determined until the appropriate supporting information has been provided.

As a minimum, a preliminary investigation and preliminary risk assessment ('Phase 1' report) should be submitted in support of planning application 18/0663/OUT.

The preliminary investigation and preliminary risk assessment should be completed by a qualified and experienced environmental consultant; and in accordance with current guidance and best practice, such as CLR11 'Model Procedures for the Management of

Land Contamination' (2004) and BS10175:2011+A1:2013 'Investigation of Potentially Contaminated Sites - Code of Practice'.

If the preliminary risk assessment identifies that there are any potential land contamination risks a detailed scope of works for an intrusive site investigation, prepared by a qualified and experienced environmental consultant, should be submitted for review and approval. Intrusive site investigations should be designed, justified and completed in accordance with current guidance and best practice, such as BS10175:2011+A1:2013.

The WLGA and NRW document 'Development of Land Affected by Contamination: A Guide for Developers' is attached to assist the applicant.

Natural Resources Wales (North) DPAS

15th Oct 2018

Thank you for consulting Natural Resources Wales (letter dated 01/10/2018) regarding the above.

NRW does not object to the proposal. In our opinion, as explained below, the proposal is not likely to adversely affect any of the interests listed, subject to the use of appropriate conditions.

#### Summary of Conditions

Condition 1- EPS: Details of all recommendations described in section 6 of the 'Phase 1 Habitat Survey and Assessment of Tree use by bats' by Fiona Elphick, dated June 2018, are incorporated in a Construction Ecological Management Plan (CEMP) to be submitted to the satisfaction of the Local Planning Authority prior to commencement of works.

#### Protected Species

We note that the ecological report submitted in support of the above application dated June 2018 by Fiona Elphick has identified bat roosting potential in some of the trees along the boundary of the proposal.

Bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017. Any development that would contravene the protection afforded to bats under the Regulations would require a derogation licence from Natural Resources Wales. A licence may only be authorised if:

- i. There is no satisfactory alternative and
- ii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. In

addition,

iii. the development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that Local Authorities should not grant planning permission without having satisfied themselves that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In this case, the bat report concludes that some of the tree work may lead to harm or disturbance to bats or their breeding sites and resting places if present at this site.

NRW welcome the proposed retention of the majority of trees present on site, in line with the recommendations of ecology report. All trees to be retained should be adequately protected against damage during construction, in line with the recommendations made in Appendix 4 of the Arboricultural Report dated 7 July 2018 by ArbTS.

The report also gives a clear indication of the ecological enhancements and avoidance measures required to benefit biodiversity and protected species.

Because the development represents a lower risk for bats in this case, we do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range provided the plans include ecological mitigation/enhancement that comply with the recommendations made in the ecological report. NRW is satisfied that details of avoidance and enhancement measures can be refined prior to commencement of works and would advise the LPA to address this via condition.

Condition 1- EPS: Details of all recommendations described in section 6 of the 'Phase 1 Habitat Survey and Assessment of Tree use by bats' by Fiona Elphick, dated June 2018, are incorporated in a Construction Ecological Management Plan (CEMP) to be submitted to the satisfaction of the Local Planning Authority prior to commencement of works.

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

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: (<https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). 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.

Advice for the developer:

Groundwater:

We understand the proposal is to maintain the existing discharge to the surface water drain at the northern edge of the site, therefore we have no specific comments to make but we would like to refer the developer to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by NRW.

Waste

Waste produced during the construction phase of your development must be dealt with appropriately, and be in line with all relevant waste legislation including Duty of Care Regulations and Hazardous Waste Regulations. As part of your waste duty of care you must classify the waste produced:

- o before it is collected, disposed of or recovered
- o to identify the controls that apply to the movement of the waste
- o to complete waste documents and records
- o to identify suitably authorised waste management options
- o to prevent harm to people and the environment.

Any waste removed from site will be subject to waste management controls. The links below provided information on how to classify waste and register as a waste carrier or hazardous waste producer:

<http://naturalresources.wales/waste/how-to-classify-and-assess-waste/?lang=en>

<http://naturalresources.wales/apply-for-a-permit/waste/?lang=en>

Further guidance can be found on the GOV website here:

<https://www.gov.uk/managing-your-waste-an-overview/duty-of-care>

Pollution Prevention

All works at the site must be carried out in accordance with GPP5 and PPG6 'Works in, near or over watercourses' and 'Working at construction and demolition sites' 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/>

PCC-Contaminated Land Officer

15th Nov 2018

The following document has been submitted in support of planning application 18/0663/OUT:

- Terra Firma (Wales) Limited 'Geotechnical & Geo-Environmental Report: Proposed Residential Development, Former Penrhos Primary School, Ystradgynlais' (ref: 14724) June 2018.

Based on the information submitted, in the above referenced report, the following advice is provided for the consideration of Development Control.

#### Advice

1. Information provided in Table 2.1 'Historical Development from Map Information' and section 2.3.3 'Mining', of the report (ref: 14724), identifies that the application site is located in a former coal mining area.

As the application site is located in a former coal mining area, as a minimum, ground gas protection measures that meet Characteristic Situation 2 (CS2) specifications will be required across the proposed development.

However, as there are additional potential ground gas risks associated with the application site (see below), further investigation and assessment will be required to determine the appropriate specification of ground gas protection measures required for the proposed development.

2. Under section 3.5.1 'Potential Sources of Contamination and Gas', of the report (ref: 14724), it is stated: "The historical landfill located 106 and 174m to the north east/east has been closed since 1950. Consequently, given the age of the landfill the site will no longer produce landfill gas."

On this basis, the landfill gas risk presented in Table 3.4 'Qualitative Preliminary Human Health Risk Assessment', of the report (ref: 14724), has been identified as 'Near Zero'.

It is accepted that the age of a landfill will affect its landfill gas generation potential. However, it is not possible, based entirely on the age of a landfill, to confirm that a landfill will no longer produce landfill gas.

The age of a landfill is only one of a number of factors that will affect the generation

potential of landfill gas. Other factors include:

- Volume and nature of the waste materials.
- Moisture content within the landfill.
- Design of the landfill (lining and capping).
- Conditions within the landfill (physical and chemical).

Each of the above identified factors will all contribute to how and when a landfill will generate gas; therefore, age is not the sole factor to consider when assessing the gas generation potential of a landfill or the migration potential of landfill gas.

Guidance in respect of appropriately assessing the potential risks from closed landfill sites is available in documents such as the CIEH publication 'The Local Authority Guide to Ground Gas' (2008) and CIRIA C665 'Assessing Risks Posed by Hazardous Ground Gases to Buildings' (2007).

Further investigation and assessment of the landfill gas risk, from the identified closed landfill, will be required in accordance with current guidance and best practice such as 'The Local Authority Guide to Ground Gas', CIRIA C665 and BS8576:2013 'Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)'.

3. Section 4.3.1 'Exploratory Strategy and Sampling Regime', of the report (ref: 14724), states: "During the intrusive investigation, small disturbed soil samples were collected. The sampling regime was conducted in accordance with BS10172:2011."

Furthermore, the drawing 'Site Layout' (No: 02) that has been provided is identified as 'Not to Scale' and the trial pit logs, presented in Annex C of the report (ref: 14724), do not include any survey data e.g. grid references.

Based on the information that has been provided it is not possible to undertake a full appraisal of the design and rationale of the intrusive site investigation that was undertaken. Therefore, it has not been possible to application site's soils or targeted potential on-site contaminant sources.

It is identified that the submitted report (ref: 14724), dated June 2018, was produced prior to the issue of the previous memorandum (ref: WK/201816701) dated 1 October 2018. Therefore, the intrusive site investigation was not specifically undertaken to investigate the potential contaminant sources that were identified in the memorandum (ref: WK/201816701).

However, based on the information provided, it appears that only 4 no., of the 12 no., trial

pit positions excavated (TP1 to TP4 inclusive) were targeted to the footprint of the former school buildings. Therefore, further intrusive site investigation of the former school buildings locations, pre and post 1993, will be required.

A detailed scope of works for the intrusive site investigation, prepared by a qualified and experienced environmental consultant, should be submitted for review and approval prior to the works being undertaken.

The intrusive site investigation should be designed, justified and completed in accordance with current guidance and best practice such as BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites - Code of Practice'.

4. Under section 6.2 'Ground Gas', of the report (ref: 14724), it is stated: "No radon protection measures are required for the new development on site. Peat was recorded in TP4 and gas monitoring is therefore recommended."

In respect of radon, Development Control should consult with Building Control to confirm the requirement for protection measures.

The proposed gas monitoring investigation should be designed, justified and completed in accordance with current guidance and best practice such as BS8576:2013 and CIRIA C665.

A detailed proposal for the gas monitoring investigation, prepared by a qualified and experienced environmental consultant, should be submitted for review and approval prior to the works being undertaken.

5. Under section 6.4 'Mitigation and Remedial Measures', of the report (ref: 14724), it is stated: "Asbestos was encountered in TP4 at 0.50m. It is recommended that additional asbestos testing is undertaken across the site once the existing foundations and floor slabs of the former school have been removed from site."

The proposed asbestos investigation could be completed as part of the further intrusive site investigation requested above.

Any potential risks associated with the presence of asbestos should be investigated and assessed in accordance with current guidance and best practice, such as CIRIA publication C733 'Asbestos in Soil and Made Ground: A Guide to Understanding and Managing Risks' (2014).

Furthermore, the CL:AIRE document 'CAR-SOIL Control of Asbestos Regulations 2012, Interpretation for Managing and Working with Asbestos in Soil and Construction and Demolition Materials: Industry Guidance' provides advice in respect of working with

asbestos contaminated soil and construction and demolition materials.

A detailed scope of works for the proposed additional asbestos testing, prepared by a qualified and experienced environmental consultant, should be submitted for review and approval prior to the works being undertaken.

6. The DETS Certificate of Analysis (ref: 18-12873-1) presented in Annex D, of the report (ref: 14724), identifies that the methods for a number of tests undertaken are not accredited e.g. Chromium III, Hexavalent Chromium, Aliphatic petroleum hydrocarbons (C5-C6, C6-C8 and C8-C10) and Aromatic petroleum hydrocarbons (C5-C7, C7-C8 and C8-C10). However, this has not been identified as a limitation in the risk assessments, presented in the report (ref: 14724), that were undertaken using the results of these tests.

Justification for undertaking risk assessments employing data from laboratory methods that are not accredited should be provided. Furthermore, the testing laboratory should confirm the degree of uncertainty associated with the results that have been provided by the methods that are not accredited.

7. Section 6.4 'Mitigation and Remedial Measures', of the report (ref: 14724), includes proposals for remedial measures. The further investigations and assessments detailed above will be required prior to determining the appropriate remediation requirements for the proposed development.

8. Section 7.2 'Foundation and Floor Slab Solution', of the report (ref: 14724), provides recommendations for the foundation and floor slab design for the proposed development. The foundation and floor slab design, for the development, should not be approved until the outstanding ground gas investigation and risk assessment, including recommendations for mitigation, has been submitted for review and approval.

## Summary

It is acknowledged that the submitted report (ref: 14724) was produced prior to the issue of the previous advice, provided in the memorandum (ref: WK/201816701) dated 1 October 2018.

However, there are further requirements in respect of the investigation and assessment of the potential land contamination risks associated with the application site and the proposed development (detailed above).

Therefore, given the sensitivity of the proposed development (residential), it is advised that the further investigations and assessments should be undertaken in support of and prior to the determination of planning application 18/0663/OUT.

The following revised report has been submitted in support of planning application 18/0663/OUT:

o Terra Firma (Wales) Limited 'Geotechnical & Geo-Environmental Report: Proposed Residential Development, Former Penrhos Primary School, Ystradgynlais' (ref: 14724/1) January 2019.

Based on the information provided, in the above referenced report, the following advice is provided for the consideration of Development Control.

#### Advice

1. Information provided in Table 2.1 'Historical Development from Map Information' and section 2.3.3 'Mining', of the report (ref: 14724/1), identifies that the application site is located in a former coal mining area.

As the application site is located in a former coal mining area, as a minimum, ground gas protection measures that meet Characteristic Situation 2 (CS2) specifications will be required across the proposed development.

However, as there are additional potential ground gas risks associated with the application site (see below), further investigation and assessment will be required to determine the appropriate specification of ground gas protection measures required for the proposed development.

2. Section 4.3.1 'Exploratory Strategy and Sampling Regime', of the report (ref: 14724/1), states: "During the intrusive investigation, small disturbed soil samples were collected. The sampling regime was conducted in accordance with BS10172:2011."

Furthermore, the drawing 'Site Layout' (No: 02) that has been provided is identified as 'Not to Scale' and the trial pit logs, presented in Annex C of the report (ref: 14724/1), do not include any survey data e.g. grid references.

Based on the information that has been provided it is not possible to undertake a full appraisal of the design and rationale of the intrusive site investigation that was undertaken. Therefore, it has not been possible to determine how appropriately the investigation has characterised the application site's soils or targeted potential on-site contaminant sources.

It is identified that the site investigation was undertaken (23 May 2018) prior to the issue of the previous memorandum (ref: WK/201816701) dated 1 October 2018. Therefore, the intrusive site investigation was not specifically undertaken to investigate the potential

contaminant sources that were identified in the memorandum (ref: WK/201816701) dated 1 October 2018.

However, based on the information provided, it appears that only 4 no., of the 12 no., trial pit positions excavated (TP1 to TP4 inclusive) were targeted to the footprint of the former school buildings. Therefore, further intrusive site investigation of the former school buildings locations, pre and post 1993, will be required.

3. Under section 6.2 'Ground Gas', of the report (ref: 14724/1), it is stated: "No radon protection measures are required for new development on site. Peat was recorded in TP4 an old landfill is within influencing distance of the site. Gas monitoring is therefore recommended."

In respect of radon, Development Control should consult with Building Control to confirm the requirement for protection measures.

The proposed gas monitoring investigation should be designed, justified and completed in accordance with current guidance and best practice such as 'The Local Authority Guide to Ground Gas', CIRIA C665 'Assessing Risks Posed by Hazardous Ground Gases to Buildings' (2007) and BS8576:2013 'Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)'.

4. Under section 6.4 'Mitigation and Remedial Measures', of the report (ref: 14724/1), it is stated: "Asbestos was encountered in TP4 at 0.50m. It is recommended that additional asbestos testing is undertaken across the site once the existing foundations and floor slabs of the former school have been removed from site."

Any potential risks associated with the presence of asbestos should be investigated and assessed in accordance with current guidance and best practice, such as CIRIA publication C733 'Asbestos in Soil and Made Ground: A Guide to Understanding and Managing Risks' (2014).

Furthermore, the CL:AIRE document 'CAR-SOIL Control of Asbestos Regulations 2012, Interpretation for Managing and Working with Asbestos in Soil and Construction and Demolition Materials: Industry Guidance' provides advice in respect of working with asbestos contaminated soil and construction and demolition materials.

5. The DETS Certificate of Analysis (ref: 18-12873-1) presented in Annex D, of the report (ref: 14724/1), identifies that the methods for a number of tests undertaken are not accredited e.g. Chromium III, Hexavalent Chromium, Aliphatic petroleum hydrocarbons (C5-C6, C6-C8 and C8-C10) and Aromatic petroleum hydrocarbons (C5-C7, C7-C8 and C8-C10). However, this has not been identified as a limitation in the risk assessments, presented in the report (ref: 14724), that were undertaken using the results of these tests.

Justification for undertaking risk assessments employing data from laboratory methods that are not accredited should be provided. Furthermore, the testing laboratory should confirm the degree of uncertainty associated with the results that have been provided by the methods that are not accredited.

6. Section 6.4 'Mitigation and Remedial Measures', of the report (ref: 14724/1), includes proposals for remedial measures. The further investigations and assessments detailed above will be required prior to determining the appropriate remediation requirements for the proposed development.

7. Section 7.3 'Foundation and Floor Slab Solution', of the report (ref: 14724/1), provides recommendations for the foundation and floor slab design for the proposed development. The foundation and floor slab design, for the development, should not be approved until the outstanding ground gas investigation and risk assessment, including recommendations for mitigation, has been submitted for review and approval.

8. Under section 8 'Supplementary Investigation', of the report (ref: 14724/1), outline details for a ground gas investigation and a further phase of soil investigation have been presented.

Full details for the proposed intrusive site investigation, including a scale plan of the proposed sampling/monitoring positions, must be submitted for review and approval prior to the works being undertaken.

Intrusive site investigations should be designed and fully justified in accordance with current guidance and best practice such as BS10175:2011+A2:2017 'Investigation of Potentially Contaminated Sites - Code of Practice' and BS8576:2013 'Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)'.

## Summary

Based on the information provided, it is recommended that the following conditions and note, to the applicant, are attached to any permission granted for planning application 18/0663/OUT:

### Condition 1. Site Characterisation

No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any

development begins.

The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

#### Condition 2. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The

verification report contents must be agreed with the local planning authority before commencement of the remediation scheme.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WPGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

#### Condition 4. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy \_\_\_\_ of the adopted Local Plan (date)].

Note to Applicant

#### Potential Contamination

The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.

#### **Representations**

7 letters of public representations objecting to the proposed development have been received at the time of writing this report. The letters can be summarised as follows:

- Concerns over ecology
- Concerns over adjoining properties
- Concerns over public footpath

- Contaminated Land
- Loss of light to neighbouring properties
- Concerns over highway safety
- Right of access to neighbouring properties

### Planning History

App Ref	Description	Decision	Date
DEM/2015/00 001	Demolition of former school	Approval	

### Principal Planning Constraints

None

### Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 10, December 2018)		National Policy
TAN1	Joint Housing Land Availability Studies		National Policy
TAN2	Planning and Affordable Housing		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN8	Renewable Energy		National Policy
TAN11	Noise		National Policy
TAN12	Design		National Policy
TAN18	Transport		National Policy
TAN20	Planning and the Welsh Language		National Policy
TAN23	Economic Development		National Policy

SP1	Housing Growth	Local Development Plan 2011-2026
SP3	Affordable Housing Target	Local Development Plan 2011-2026
SP5	Settlement Hierarchy	Local Development Plan 2011-2026
SP6	Distribution of Growth across the Settlement Hierarchy	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
DM1	Planning Obligations	Local Development Plan 2011-2026
DM2	The Natural Environment	Local Development Plan 2011-2026
DM3	Public Open Space	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting	Local Development Plan 2011-2026
DM8	Minerals Safeguarding	Local Development Plan 2011-2026
DM9	Existing Mineral Workings	Local Development Plan 2011-2026
H1	Housing Development Proposals	Local Development Plan 2011-2026
H2	Housing Sites	Local Development Plan 2011-2026
H3	Housing Delivery	Local Development Plan 2011-2026

H4	Housing Density		Local Development Plan 2011-2026
H5	Affordable Contributions	Housing	Local Development Plan 2011-2026
DM10	Contaminated and Unstable Land		Local Development Plan 2011-2026
DM13	Design and Resources		Local Development Plan 2011-2026
SPGAH	Affordable Housing (2018)	SPG	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity (2018)	SPG	Local Development Plan 2011-2026
SPGOBS	Planning Obligations (2018)	SPG	Local Development Plan 2011-2026

### **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 on the former Penrhos Primary School in Ystradgynlais whilst the main school building has now been demolished (DEM/2015/0001) it is noted that the site has been left dormant since the former use. The site is located with neighbouring residential development located to the east and west whilst to the north is agricultural land. To the south runs Brecon Road, the B4599.

Consent is sought in outline with some matters reserved for the proposed residential development of 42 dwellings. Consent is being sought for access with all other matters reserved.

### Principle of Development

Policy H1 of the Local Development Plan 2018 (LDP) seeks to ensure that housing development is appropriately located and suitable in scale and type. The application site is located within the recognised Town of Ystradgynlais in accordance with the LDP. The application site under policy H2 is identified for residential development (P58 HA3) as the former Penrhos CP School, Brecon Rd, Ystradgynlais which is an area of 1.5 ha with an allocation for 41 dwellings.

Due to the application site being identified under the LDP for residential development it is therefore considered that the principle of residential development within this location therefore complies with relevant planning policy subject to the following considerations:

### Housing Density

Policy H4 of the LDP states that all housing development proposals should seek to make the most sustainable and efficient use of land. It is therefore identified that the density of any proposed housing development should be in accordance with the recommended guide ranges. It is identified that for Towns there should be a provision of 27+ units per ha. Under policy H2 it has been identified that the housing allocation extends to 1.5ha and therefore a recommended contribution of 41 units has been proposed.

The application site whilst in outline proposes a contribution of 42 dwellings within the allocated housing site. This is therefore one additional dwelling above the recommendation in line with the housing allocation. It is however noted that policy H4 supports proposals for over 27+ houses per hectare which the proposal will provide whilst still being able to provide sufficient parking/amenity space per dwelling.

In light of the above it is therefore considered that the proposed density for the application site fundamentally complies with relevant planning policy.

### Design and Layout

Development proposals must be able to demonstrate a good quality design and shall have regard to the qualities and amenity of the surrounding area, local infrastructure and resources. In line with policy DM13 development proposals should therefore be designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing, and design detailing.

Whilst design and layout are reserved and will be dealt with at a later point in time, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The indicative layout resembles a modern residential layout which is broadly comparable to those as seen in the settlement. More importantly it shows that up to 42 dwellings could be accommodated on the site.

Whilst public representations have raised concerns over the character of the development on the surrounding area, Officers acknowledge that all matters relating to this application have been reserved for future consideration. On the basis of the plans provided, it is considered that the application site is capable of accommodating 42 dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties. The proposed development is therefore considered to comply with relevant planning policies.

### Landscape and Visual Impact

Planning policy seeks to ensure that development proposals are appropriate and sensitive in terms of integration, siting, scale and design to the characteristics and qualities of the landscape including its: topography; development pattern and features; historical and ecological qualities; open views; and tranquillity.

The application site occupies a former primary school site. Whilst the school has now been demolished, the site still retains the car parking area and tarmacked hardstanding which formerly surrounded the former school. The site is located directly off Brecon road with Cwmtawe Road and residential development located to the east and with Min y Rhos residential estate located to the west. It is therefore considered that the application site is located within a prominently residential area.

In terms of landscaping the indicative layout plan indicates that there will be existing trees retained around the application site. It is noted that landscaping is reserved as a future matter for consideration and therefore detailed proposals would be considered at a later stage. Whilst the proposal would result in a visual change in comparison to the current vacant site, taking into account the location being surrounded by other residential developments, it is considered that the proposal subject to appropriate consideration of design at reserved matters stage is acceptable and therefore in accordance with relevant planning policy.

### Affordable Housing

Policy H5 of the Powys Local Development Plan states that proposals for new housing development of five or more dwelling units or on sites of 0.25 ha and above will be required to make contributions towards the provision of affordable housing. The target contributions required to be made by development proposals are based on the required

contribution for the relevant sub-market area. Ystradgynlais falls within the South West Powys sub-market area with a 0% contribution to affordable housing.

Whilst it is noted that the Affordable housing Officer has requested that affordable housing be provided in line with the Affordable Housing SPG it is noted that the LDP does not require any affordable housing provision in this area based on the evidence collected during the Strategic Viability Assessment that informed the LDP.

As such, no affordable housing will be provided as part of the proposed development and this is in line with policy H5 of the Powys LDP. However, whilst only indicative it is noted that the proposal seeks to provide a mixture of housing types including bungalows, through to 2, 3 and 4 bedroom dwellings.

### Open Space Contribution

Policy DM3 of the Local Development Plan seeks to ensure that provision for new Open Space will, subject to viability, be sought from all housing developments of 10 or more dwellings.

The type and nature of the provision will be determined by the deficiencies identified in the Open Space Assessment for the locality and, depending on the individual circumstances, may be provided on or off site.

The application site proposes instead of providing on site provision to instead provide a contribution to an existing facility which can then be upgraded. The outdoor Recreation Officer for Powys County Council identified that there is currently an existing PCC playground facility located at Penrhos Playing field (approximately 140 metres to the north-east of the application site). A contribution of £17,500 has been agreed to be secured by a Section 106 agreement to allow for the existing site to be upgraded and to also provide a couple of new fixed play items to this area.

In light of the above and subject to the signing of a Section 106 agreement it is considered that the proposed development fundamentally complies with relevant planning policy.

### Highways

A safe access, parking and visibility splays are a fundamental requirement of any development (LDP: DM13, Part 10), LDP: T1 and Technical Advice Note 18.

Concerns have been raised by public representations over the footpath provision, provision of a mini-roundabout, highway safety in general and access to adjoining residential properties.

A Transport Statement was submitted in support of the application which considered the existing highway network. The submitted analysis demonstrates that projected "peak

hour” vehicular movements generated by this proposal, the distribution of that traffic and the effects of such on the existing network will have a “marginal impact” on the existing highway network during the more critical peak hour periods, or throughout the course of the day. The Highway Authority is satisfied that the conclusions contained within the Transport Statement are robust and that the potential impacts the site may have on the surrounding highway infrastructure are likely to be marginal, particularly when considered against the previous peak hour traffic generated by the former school.

Vehicular access to the site is to be gained from a new mini roundabout which is to be constructed on the B4599, Brecon Road; the mini roundabout will replace the existing “T junction” which previously served the school. The roundabout design is supported by an independent Stage 1 Road Safety Audit.

Initial design concerns were raised by both the independent Road Safety Audit team and the PCC Road Safety Auditor, however the original design has since been revised and refined to the satisfaction of all parties. The proposed access clearly demonstrates that suitable levels of visibility will be provided and the proposed geometry will accommodate the types of vehicles associated with a development of this nature.

In relation to the internal layout of the site, the Powys Highway Officer notes that layout is a reserved matter and that given the number of houses proposed an adoptable internal layout will be required. This will be required to be demonstrated at the time of submission of reserved matters application.

In light of the above it is therefore considered that the proposed development subject to appropriately worded conditions could be developed to an acceptable level and therefore complying with relevant planning policy.

### Biodiversity

With respect to biodiversity specific reference is made to LDP policy DM2 which seeks to maintain biodiversity and safeguard protected important sites.

An Ecological Survey Report V2.1. produced by Fiona Elphick dated 23<sup>rd</sup> June 2018 and an Arboricultural Report produced by ArbTS dated the 7<sup>th</sup> July 2018 were submitted in support of the application. The Powys Ecologist and NRW have been consulted. It is noted that the development represents a lower risk for bats and therefore NRW and the Powys Ecologist have confirmed that they do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status. The Ecological report recommends that the majority of trees present on site are to be retained and the Ecologists welcome this recommendation.

Therefore, subject to an appropriately worded conditions it is considered that the proposed development fundamentally complies with relevant planning policy.

## Public Right of Way

Concerns have been raised by Members of the Public that there is an existing footpath which runs through the application site and which hasn't been indicated on any proposed plans as to whether it will be retained.

Following further investigations and discussions with the Countryside Services team it is confirmed that there is no public footpath running through the application site.

## Contaminated Land

It is identified that the application site is located within a former coal mining area. In support of the application a Geotechnical and Geo-Environmental Report has been submitted by Terra Firma.

The Contaminated Land officer initially raised concern over the proposed development but following receipt of additional information has been consulted and has confirmed subject to the recommended conditions any associated risks could be managed to an acceptable level.

The Coal Authority have also confirmed that the application does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach for a Coal Mining Risk Assessment to be submitted.

In light of the above and subject to appropriately worded conditions it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

## **RECOMMENDATION**

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is one of conditional consent subject to the signing of a Section 106 agreement to secure the open space contribution as agreed. Should the Section 106 agreement not be signed within 6 months from the date of the resolution to approve the application then it will be delegated to the Lead Professional for Development Management to determine the application as appropriate.

## **Conditions**

1 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2 Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3 The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4 The development shall be carried out in accordance with the following approved drawings W162509\_A03 Rev G, YSTR-15-04-01, Flood Consequences Assessment and Drainage Strategy Report (June 2018).

5 Notwithstanding the submitted details, no development shall commence until detailed highway engineering drawings and a Stage 2 Road Safety Audit covering the construction of the mini roundabout on the B4599 county highway is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

6 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. The parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base material 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.

7 No other development shall commence on the development site until the applicant constructs the offsite highway works to the written satisfaction of the Local Planning Authority. Such works shall include the construction of the mini roundabout, eastern and western footway links along the B4599 county highway and the initial 25m of the access road which serves the development. The works detailed shall be constructed to adoptable standard prior to any works being commenced on the development site.

8 Before any other development is commenced 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 11metres 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.

9 Prior to the commencement of development a Construction Method Statement and Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority to include measures in respect of the control of noise and dust during the landscaping and construction phases. Development thereafter shall be completed in full accordance with the details as approved.

10 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 Sunday and Bank Holidays

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

11 No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins.

The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

12 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 1 has been received from the local planning authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

13 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA

document 'Development of Land Affected by Contamination: A Guide for Developers' (2012).

14 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

15 No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include but not be limited to the following:

a) Detailed Reasonable Avoidance Measures for the Development as outlined in Section 6 of the Ecological Survey Report V2.1 produced by Fiona Elphick dated 23rd June 2018 including:

- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Use of protective fences, exclusion barriers and warning signs.

b) A detailed Pollution Prevention Plan to prevent pollution of surface water from construction activities

c) Responsible persons and lines of communication.

d) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

16 Prior to commencement of development a detailed Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

17 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.

## **Reasons**

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

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

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

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

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

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

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

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

9 To ensure a satisfactory development in accordance with policy DM13 of the Local Development Plan (March 2018).

10 To ensure a satisfactory development in accordance with policy DM13 of the Local Development Plan (March 2018).

11 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (March 2018).

12 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan 2018

13 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).

14 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Plan (2018).

15 To comply with Powys County Council's UDP Policies DM2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, December 2018), TAN 5: Nature Conservation and Planning, the Conservation of Habitats and Species Regulations 2017, the Wildlife & Countryside Act 1981 (as amended) and Section 6 of the Environment (Wales) Act 2016.

16 Reason: 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 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

17 Reason: 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 10, December 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

## **Informative Notes**

- 1 Potential Contamination  
The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 0870 1923757.
- 2 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
- 3 In addition, I recommend inclusion of the following informatives:  
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:

- o intentionally kill, injure or take any wild bird
- o intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- o intentionally take or destroy the egg of any wild bird
- o 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.

### 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