

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

**Application Number:** 19/0970/FUL

**Grid Ref:** E: 321500  
N: 243653

**Community Council:** Clyro Community

**Valid Date:** 19.06.2019

**Applicant:** Powys County Council

**Location:** Land South of Castle View, Castle View, Clyro, Powys, HR3 5SZ.

**Proposal:** Change of use of agricultural land to public open space and erection of recreational equipment / structures

**Application Type:** Full Application

### The reason for Committee determination

Powys County Council is the applicant.

### Consultee Responses

Consultee	Received
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Community Council

No comments received at the time of writing this report.

PCC-Building Control

No comments received at the time of writing this report.

Wales & West Utilities - Plant Protection Team

26th Jun 2019

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However, 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. 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.

#### Ward Councillor

No comments received at the time of writing this report.

#### Welsh Water

3rd Jul 2019

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 can confirm we have no objections to this application. The applicant is 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 917 2652 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.

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.

#### PCC-(M) Highways

11th Jul 2019

Thank you for consulting the Highway Authority on this matter.

It is envisaged the vast majority of visitors to the recreational space would travel to the development by foot; however, the proposal does not include a footway to the access points of the site thus requiring visitors to cross a grass verge prior to joining the Stonedust path.

I therefore respectfully request the inclusion of a 2m footway along the front of the entire

development site to extend the existing footway outside number 4 Caste Estate; and with crossing facilities to link the site with the existing footways adjacent to numbers 15 and 28 Caste Estate.

I trust this can be addressed before this application is determined.

*Additional Comments Received 15/08/2019:*

Wish the following recommendations/Observations be applied

I note the revised drawing number 676/01 submitted which addresses the concerns previously raised by the Highway Authority and wish for the following conditions be included within the decision notice should the application be approved.

Recommendations

1. The development shall be carried out in accordance with the following approved highway drawing no. 676/01 dated Aug 2019.
2. Prior to any works commencing on the development site, detailed engineering drawings for a 2m footway along the full frontage of the site and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
3. Prior to any works commencing on the development site, detailed engineering drawings for the pedestrian crossing points to the site, as shown on drawing no. 676/01, and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
4. Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.
5. 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 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
6. No other development shall commence until the 'alternative maintenance access' has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the

adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

7. Before any other development is commenced the area of the 'alternative maintenance 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 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

8. Prior to the first operational use of the recreation area the area of the 'alternative maintenance access' to be used by vehicles is to be finished in a 40mm bituminous surface course material for a distance of 10 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.

9. The gradient of the 'alternative maintenance access' shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient 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.

*Additional Comments Received 29/08/2019:*

The County Council as Highway Authority for the County Unclassified Highway, U1999

Wish the following recommendations/Observations be applied

I note the revised drawing number 676/01 submitted which addresses the concerns previously raised by the Highway Authority and wish for the following conditions be included within the decision notice should the application be approved.

On the basis that a condition is included within the decision notice for any proposed development off Kilvert View to ensure that the residential development is not commenced until the new recreational space to the south of 4 Castle View is fully completed and operational, the Highway Authority is contented to allow for construction vehicles to park within the field to the west of 4 Kilvert View.

## Recommendations

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2. Prior to any works commencing on the development site, detailed engineering drawings for a 2m footway along the full frontage of the site and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
3. Prior to any works commencing on the development site, detailed engineering drawings for the pedestrian crossing points to the site, as shown on drawing no. 676/01, and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
4. Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.
5. No development shall commence until provision is made within the field to the west of 4 Kilvert View 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 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
6. No other development shall commence until the 'alternative maintenance access' has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
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8. Prior to the first operational use of the recreation area the area of the 'alternative maintenance access' to be used by vehicles is to be finished in a 40mm bituminous surface course material for a distance of 10 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.

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

*Additional Comments Received 30/08/2019:*

As the access of the parking area isn't directly onto the public highway I am content for the 2<sup>nd</sup> part of condition 5 to be removed, relating to the construction of the parking area.

PCC-Built Heritage Officer

25th Jul 2019

Recommendation No Objection - support

Background to Recommendation

Designation

In close proximity to Scheduled Ancient Monument RD066 Clyro Castle

In proximity to Clyro Conservation Area which contains a number of listed buildings

Policy Background

The advice has been given with reference to relevant policies, guidance and legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Policy Wales 10th edition 2018

Conservation Principles published by Cadw

TAN24

Conservation Areas in Wales - Annexe to TAN24

Setting of Historic Assets in Wales - Annexe to TAN24

Heritage Impact Assessments - Annexe to TAN24

Historic Environment Records

Local Development Plan

Strategic Policy SP7

DM13 Design and Resources Local Development Plan Themes and Objectives;

Theme 4 - Guardianship of natural, built and historic assets

LDP Objective 13 - Landscape and the Historic Environment

Comments

I am mindful of the advice in Sections 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

However, I would also refer to more recent guidance in paragraph 6.1.10 of Planning Policy Wales 10th edition 2018 which states, " For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

Section 6.1.9 of PPW 10 advises that " Any decisions made through the planning system must fully consider the impact of the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place"

Section 6.1.7 of Planning Policy Wales 10th edition requires that "it is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might

extend beyond its curtilage. Any change that impacts on an historic asset should be managed in a sensitive and sustainable way"

In addition Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 states that " special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area", which is repeated in Planning Policy Wales 9th edition 2016 and TAN24.

Section 6.1.14 of Planning Policy Wales 10th edition advises that there should be a general presumption in favour of the preservation or enhancement of the conservation area. Section 6.1.15 advises that there is a strong presumption against the granting of planning permission which damage the character and appearance of a conservation area or its setting to an unacceptable level. Section 6.1.16 advises that preservation or enhancement of a conservation area can be achieved by a development which either makes a positive contribution to the areas character or appearance or leaves them unharmed.

The site is located to the south of the conservation area of Clyro and to the NE of Clyro Castle.

Cadw are the consultee in respect of the setting of Scheduled Ancient Monuments, I shall defer consideration of this section to Cadw. For clarity my comments are in respect of the setting of the conservation area and listed buildings only.

I note the adjacent housing to the site, and the A438 which lies between the application site and Clyro Conservation Area.

The proposal is for the provision of public open space with recreational equipment.

I note the evidence submitted with the Heritage Impact Assessment, which addresses the impact of the proposal on the setting of the SAM, listed building and Clyro Conservation Area. I would not disagree with the conclusions in respect of the listed building and conservation areas in that it is not considered that the proposal would harm the setting of the listed buildings identified or the conservation area.

I note the proposal is for public open space adjacent to the Castle and I would not object to the proposal on the grounds of the setting of the listed buildings identified or the conservation area. and would offer support to the proposal.

PCC-Ecologist

23rd Jul 2019

I have reviewed the proposed plans as well as local records of protected and priority



species and designated sites within 500m of the proposed development.

The data search identified 95 records of protected and priority species within 500m of the proposed development, including hazel dormice and great crested newts - no records were for the site itself.

There are no statutory or non-statutory designated sites within 500m of the proposed development.

An Extended Phase One Ecology Survey report has been produced by Ecological Services Ltd dated June 2019 and submitted with the planning application. The report has been undertaken to assess the potential of the development to impact any protected species presence or habitats of ecological value. The site visit to undertake the extended phase one survey was carried out on the 14 February 2019.

Following the ecological assessment of the site, habitats identified on and adjacent to the development boundary are; semi improved grassland, scrub, scattered trees, tree lines and hedgerow.

Within section four of the ecological report it is recommended that retained trees, tree lines and hedgerows must be protected during the construction phase to ensure that no construction activity or storage of materials will take place within the root protection zone. Therefore to ensure that these features of biodiversity importance for wildlife will be protected during the construction period of works a root protection zone will be established during the construction plans. I recommend that a trees and hedgerow protection plan is secured through an appropriately worded condition.

Given the habitats identified within the site and surroundings it is considered that nesting birds and reptiles have the potential to be present and affected by the proposed developments.

Reptiles; it is considered that the site has moderate potential to support reptiles and further surveys were considered. However, due to the location of the site it is considered unachievable to carry out survey in this location. Therefore, it is assumed that the site support a moderate population of reptiles and it is recommended that the proposed development implements and adheres to a reasonable avoidance method statement regarding reptiles. Therefore I recommend that implementation and adherence to reasonable avoidance method statement regarding reptiles is secured through and appropriately worded condition.

Nesting Birds; The site is considered to provide suitable habitats for nesting birds within the trees and scrub areas of the site. Therefore, any impacts to the trees including management or removal must be undertaken outside of the bird breeding season only.

With regards to other protected and priority species - it is not considered likely that great crested newts, dormice, otters or badger would be present and impacted by the proposed developments.

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.

Any external lighting proposed will need to demonstrate compliance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018) full details can be found at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>. It is therefore recommended that a External Lighting Plan is secured through an appropriately worded condition.

In ensuring the net biodiversity benefits through the development, I considered the creation of wildflower borders, hedgehog friendly fencing, an attention pond, additional tree and hedgerow plant and the use of permeable paving to be appropriate and acceptable.

Given the identified compensation, avoidance and mitigation measure as well as the addition of features to ensure no loss of biodiversity at the site - I consider that the proposed developments will not result in the loss of any features of ecological importance and it is considered the proposed works are unlikely to have a negative impact to biodiversity in the wider area.

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

The mitigation, avoidance and compensation measures regarding proposed and priority species identified in section 4 of the Extended Phase One Ecology Survey produced by Ecological Services Ltd dated June 2019 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a Reasonable Avoidance Method Statement regarding Reptiles shall be submitted to the Local Planning Authority and implemented as

approved and maintained thereafter unless otherwise agreed in writing with the LPA

Reason: To comply with Powys County Council's LDP Policies DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a Tree and Hedgerow 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 LPA.

Reason: To comply with Powys County Council's LDP Policy DM2 and DM4, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

Reason: To comply with Powys County Council's LDP Policies DM2, DM7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition, I recommend inclusion of the following informative:

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:

- o Intentionally kill or injure these species of reptiles,
- o 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.

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.

PCC-Outdoor Leisure & Recreation  
(South)

No comments received at the time of writing this report.

Sports Council For Wales

11th Jul 2019

I confirm Sport Wales has no objection to the proposal.

C P A T

10th Jul 2019

We have had extensive consultation with the archaeological consultants for the scheme and are aware that Cadw have been consulted too. Cadw have no objections.

Some test pits in the area have been covered by a watching brief and no archaeological potential was identified. There has also been a detailed desktop study and field visit which have not identified any archaeological issues.

The ground disturbance is minimal for the recreational facilities and will not have an impact on the setting of the scheduled monument.

We would therefore have no objection to the application proposals.

S.A.M - Cadw

16th Jul 2019

Thank you for your letter of 26 June 2019 inviting our comments on the information submitted for the above planning application.

Advice

Having carefully considered the information provided with this planning application, we have no objections to the proposed development. Our assessment of the application is given below.

Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

### National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and related guidance.

PPW (Chapter 6 - The Historic Environment) explains that It is important that the planning system looks to protect, conserve and enhance the significance of historic assets. This will include consideration of the setting of an historic asset which might extend beyond its curtilage. Any change that impacts on an historic asset or its setting should be managed in a sensitive and sustainable way.

The conservation of archaeological remains and their settings is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in a direct adverse impact on a scheduled monument (or an archaeological site shown to be of national importance).

Technical Advice Note 24: The Historic Environment elaborates by explaining that when considering development proposals that affect scheduled monuments or other nationally important archaeological remains, there should be a presumption in favour of their physical preservation in situ, i.e. a presumption against proposals which would involve significant alteration or cause damage, or would have a significant adverse impact causing harm within the setting of the remains.

### Assessment

The application is accompanied by a heritage impact assessment prepared by EDP which considers the impact of the proposal on the setting of RD066 Clyro Castle.

The assessment of the setting of the scheduled monument follows the guidance given in

Welsh Government "Setting of Historic Assets in Wales" and concludes that whilst the proposed development will alter the immediate surroundings of the castle, including some re-profiling of the topography, any adverse impact on the setting of Clyro Castle will be offset by additional public access to the area surrounding it and the design of the play equipment reflecting a medieval narrative. We concur with this assessment but disagree that the offsetting measures will outweigh the adverse impact to such an extent that they will constitute an enhancement of the setting of the scheduled monument (enhancement of the setting of the monument could be achieved by the provision of information in the development about the castle, but this is not currently included in the proposals). It is therefore our opinion that the proposed development will have a neutral impact on the setting of scheduled monument RD066.

## Representations

A total of 1 public objection have been received at the time of writing this report, and can be summarised as follows;

- Loss of Privacy

## Principal Planning Constraints

Scheduled Ancient Monument  
South of Clyro Conservation Area

## Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 10, December 2018)		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN12	Design		National Policy
TAN16	Sport, Recreation and Open Space		National Policy
TAN18	Transport		National Policy
TAN24	The Historic Environment		National Policy

C1	Community Facilities and Indoor Recreation Facilities	Local Development Plan 2011-2026
DM2	The Natural Environment	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
DM7	Dark Skies and External Lighting	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026
SP5	Settlement Hierarchy	Local Development Plan 2011-2026
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
SPGLAN	Landscape SPG	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	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 within the Community Council area of Clyro and is located adjacent to the settlement development boundary of Clyro, which is a large village, as defined by the Powys Local Development Plan (2018). The site comprises an area of agricultural land, with residential properties located to the north and east, agricultural land to the south. The application site is located to the south of Clyro Conservation area.

The application site comprises an area of 0.43 hectares and will comprise a castle play area to the north, a terraced area to the south and native woodland planting across the site. The proposal will also see the formation of a stone dust path which will run through the site being accessed off the residential estate known as Castle View.

### Principle of Development

Policy DM3 – Public Open Space sets out the principle of development for the formation of additional public open space. The proposed development seeks to create an area of public open space which lies adjacent to Kilvert View (Residential Estate) to the north of the site.

The Fields in Trust Standards recommends that provision should be made for 0.25ha of designated equipped playing space per 1000 population. The proposed site area measures approximately 0.43 hectares with the population of Clyro being approximately 780 people. Therefore, the proposed development will provide more than the required open space provision within the village.

It is therefore considered that the proposed development fulfils the requirements of LDP Policy DM3.

### Scale, Design and Landscape Impact

With respect to design, specific reference is made to LDP policy DM13 (Part 1). This policy indicates that development proposals will only be permitted where the development has been designed to complement and/or enhance the character of the surrounding area in terms of siting, appearance, integration, scale, height, massing, and design detailing. Policy DM4 of the Powys LDP states that proposals will need to be appropriately and sensitively designed in terms of their integration, siting, scale and design to the characteristics and qualities of the landscape, and also have regard for the visual amenity enjoyed by users of both Powys landscapes and adjoining areas.

Reference is made to LDP Policy DM4 – Landscape. A visual and sensory evaluation of the site using LANDMAP classifies this area of land as being of high value, being described as a pleasant, well-used attractive landscape. Despite this, given the nature of the proposed development it is not considered there will be any adverse impact created on the surrounding landscape. The site will predominantly feature areas of mown grass and native woodland planting, therefore there will be little to no additional landscape impact as a result of the change of use of land from agricultural.

The agricultural land classification for the development site is grade 2 which is considered to be the best and most versatile land for agriculture. Despite this, the application site is a relatively small parcel of agricultural land in the context of the surrounding area, with all surrounding farmland also being Grade 2. Given the development is to provide open public space to a community benefit it is considered that this provision outweighs the loss of grade 2 agricultural land. Furthermore, it is not considered that the development of the site for open public space would have any negative impact upon the agriculture in the surrounding area and would not 'sterile' the further grade 2 agricultural land within the proximity of the application site.

In terms of the scale and design, the site contains a few structures that will be visible on the surrounding area, with the Castle Play Structure being the largest. However, given the small scale of this structure it is not considered it will create any adverse impact upon the surrounding area. Furthermore, there is native woodland planting proposed to the north and east boundaries of the site which will form a sufficient buffer area between the application site and the nearest neighbouring properties.

In light of the above, it is considered that the proposed development complies with relevant planning policy.

#### Highway Safety

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

The Local Highway Authority were consulted on the proposed development and initially raised concerns stating that the proposal does not include a footway to the access parts of the site thus requiring visitors to cross a grass verge prior to join the stone-dust path.

In light of this, an amended plan was submitted which included a footway to access the site. Upon receiving this information, the Local Highway Authority confirmed they no longer had any objection to the proposed development going ahead subject to the inclusion of a number of appropriately worded conditions concerning the additional footpath, highway improvements, maintenance access to the site and maintenance vehicle parking.

In light of the above, and subject to the inclusion of the recommended conditions, it is considered that the proposed development complies with relevant planning policy.

#### Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004) and LDP policy DM13 (Part 11).

The proposed development is not considered to offer any adverse impacts to any neighbouring amenities given that much of the proposed development will be an area of open space that contains minimal structures, this therefore will not lead to any direct over-looking into neighbouring residential properties. Furthermore, there is native woodland planting proposed to the north and east elevations which will help to minimise any potential impact from the proposed development on the nearest neighbouring properties, this will be conditioned appropriately to any grant of consent.

In light of the above, it is considered that the proposed development complies 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.

The Ecologist reviewed the proposed plans and identified 95 records of protected and priority species within 500m of the proposed development. There are no statutory or non-designated sites within 500m of the proposed development.

An Ecological Survey report has been produced to assess the potential of the development to impact any protected species or habitats. With Section 4 of the report it has been recommended that retained trees, tree lines and hedgerows must be protected during the construction phase to ensure that no construction activity will take place within the root protection zone. This will be secured through an appropriately worded condition.

The Ecologist also considered that the site provides suitable habitat to accommodate reptiles and nesting birds. A condition regarding adherence to a reasonable avoidance method statement regarding reptiles will be attached to the granting of any consent. Furthermore, given the presence of a number of habitats and species in the surrounding area it is considered necessary to attach a condition regarding any external lighting at the site, should this be proposed.

The Ecologist also recommended the inclusion of a condition regarding the submission of a landscape planting scheme. However, it is considered that adequate landscaping has been proposed as part of drawing no. (686 01 Rev D). Therefore, the condition will be altered so to ensure the implementation of the proposed plan in accordance with the above drawing number.

In light of the above, and subject to the inclusion of the recommended conditions, it is considered that the proposed development complies with relevant planning policy.

### Built Heritage

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore, special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

Due to the application site also being in close proximity to Clyro Conservation Area consideration has been given to LDP Policy DM13 (Part 3), TAN24: The Historic Environment and (Listed Buildings and Conservation Areas) Act 1990.

The Built Heritage Officer reviewed the Heritage Impact Assessment submitted in support of this application and agreed with the conclusion of the report which stated that the proposed development would not harm the setting of the Conservation Area, or of any Listed Buildings within the Conservation Area. There is a considerable distance between the application site and the Conservation Area and it is therefore not considered the development will harm this in any way.

In light of the above, it is considered that the proposed development complies with relevant planning policy.

#### RD066 Clyro Castle

The application site lies immediately to the east of the Scheduled Ancient Monument, RD066 Clyro Castle, because of this consideration has been given to LDP Policy SP7 – Safeguarding of Strategic Resources and Assets.

Cadw have reviewed the Heritage Impact Assessment and agree with the conclusion that the development will not cause any impact upon the monument, but have disagreed with the statement that the development will enhance the monument. Despite this, Cadw have confirmed that the proposed development will have a neutral impact upon the setting of the scheduled monument and have raised no objection to the proposed development going ahead.

In light of the above, it is considered that the proposed development complies with relevant planning policy.

#### **RECOMMENDATION – CONDITIONAL CONSENT**

Having carefully considered the proposed development, officers consider that the proposal complies with relevant planning policy. The recommendation is therefore conditional consent.

## **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plan received on 13/06/19 (drawing no: Site Location Plan), and amended plans received on 30/08/19 (drawing no's: 686 01 Rev D & 686 02 Rev A).
3. The development shall be carried out in accordance with the following approved highway drawing no. 676/01 dated Aug 2019.
4. Prior to the commencement of development, detailed engineering drawings for a 2m footway along the full frontage of the site and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
5. Prior to the commencement of development, detailed engineering drawings for the pedestrian crossing points to the site, as shown on drawing no. 676/01, and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
6. Before any other works commence on site, all Highway Improvements, referred to above (Conditions 4 and 5), shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.
7. No development shall commence until provision is made within the field to the west of 4 Kilvert View for the parking of all construction vehicles together with a vehicle turning area.
8. No other development shall commence until the 'alternative maintenance access' has been constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

9. Before any other development is commenced the area of the 'alternative maintenance 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 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
10. Prior to the first operational use of the recreation area the area of the 'alternative maintenance access' to be used by vehicles is to be finished in a 40mm bituminous surface course material for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
11. The gradient of the 'alternative maintenance access' shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
12. No surface water drainage from the site shall be allowed to discharge onto the county highway.
13. The mitigation, avoidance and compensation measures regarding proposed and priority species identified in section 4 of the Extended Phase One Ecology Survey produced by Ecological Services Ltd dated June 2019 shall be adhered to and implemented in full and maintained thereafter.
14. Prior to commencement of development a Reasonable Avoidance Method Statement regarding Reptiles shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
15. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
16. 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.
17. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained

and those to be planted additional and set out measures for their protection throughout the course of development.

18. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

## **Reasons**

1. Required to be imposed by section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans approved by the Local Planning Authority in the interests of clarity and a satisfactory development.
3. To ensure no detrimental impact upon highway safety in accordance with LDP Policy DM13 (Part 10) and T1.
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11. To ensure no detrimental impact upon highway safety in accordance with LDP Policy DM13 (Part 10) and T1.

12. To ensure no detrimental impact upon highway safety in accordance with LDP Policy DM13 (Part 10) and T1.
13. To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
14. To comply with Powys County Council's LDP Policies DM2, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
15. To comply with Powys County Council's LDP Policy DM2 and DM4, in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, 2018), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
16. 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. To comply with Powys County Council's LDP Policies DM4 and DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2018).
18. To comply with Powys County Council's LDP Policies DM4 and DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 10, November 2018).

## **Informative Notes**

### PCC – Ecology

#### 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.

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.