

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

**Application Number:** 20/2118/FUL  
**Grid Ref:** E: 322401  
N: 297243  
**Community Council:** Montgomery Community  
**Valid Date:** 11.02.2021

**Applicant:** A Dawson

**Location:** Land Off Forden Road, Montgomery, Powys, SY15 6EU,

**Proposal:** Erection of 33 affordable local need dwellings, formation of vehicular access road and all associated works

**Application Type:** Full Application

### The reason for Committee determination

The application has been called in for determination by planning committee by the local member.

### Consultee Responses

#### Consultee

#### Received

Community Council

8th Mar 2021

This proposal was considered by Montgomery Town Council Planning Committee at an open meeting on Friday March 5th following a virtual public consultation meeting with the developers on Thursday 4th of March that was attended by a large number of residents.

The response was unanimously agreed by full Town Council on Monday 8th March 2021.

### General Comments

In principle MTC welcomes the housing proposal although we consider there needs to be more detail provided and a thorough consideration given to highways issues before full planning consent could be granted for what is a major proposal for this small, historic town.

MTC considers the proposal would satisfactorily meet the housing needs of the town within the lifetime of the Powys LDP and, for a variety of reasons, this site is preferable to Verlon Fields and should replace it in the LDP at revision.

We have consulted with the community and share a number of material concerns outlined below:

#### Highways /Access arrangements

These arrangements and the overall increase in traffic are the major area of concern.

The proposed access is far too close to the exit/entrance to New Road and Sarkly Lane and, due to the topography, offers extremely poor visibility sight lines onto the Forden Road. The size of the development means a potential for 50 - 60 additional vehicles accessing and exiting the site as well as trades and deliveries; a significant increase for the area.

Given the level of comment at Pre-Application stage, MTC are disappointed that these real concerns have not been addressed in the subsequent full application. The opportunity for a long overdue improvement to safety for all road users has not been taken. MTC urges Powys County Council to work with the developers of this site to maximise the opportunity to provide safe access and egress not only to this site, but to also remedy an existing dangerous junction.

It is critical that note is taken of local knowledge before there is an exacerbation of existing issues and the potential for serious incidents. In particular we would draw the following to the Planning Officer's attention:

- excessive speeds are common along this stretch of road (Go Safe data supports this public observation) and the road is used by vulnerable users (walkers, equestrians and cyclists) and the aim must be to increase, not deter, active travel. The proposed layout puts such users at considerable risk;
- the simple provision of 40/30 mph limit signs and road markings can be seen to have virtually zero impact on road speeds. In conjunction with a roundabout flashing signs showing the actual speed at which a vehicle is travelling are required in order to have the desired impact;
- given the blind summit there needs to be a reduction of speed to 30mph before the New Road junction not after;
- Montgomery residents are actively supporting the Welsh Government's proposals to introduce 20mph zones through towns and large villages and for the safety of all residents this would be the opportunity to replace existing 30mph with 20mph signs throughout Montgomery;
- existing dangers for traffic exiting New Road onto Forden Road due to extremely

poor visibility, and

- vehicles leaving the new development and heading in the chirbury Road direction using the proposed layout will be making two right hand turns across the carriageway in quick succession and proximate to a blind rise.

The only sensible, practicable solution is the construction of a roundabout at the Forden/Sarkly/New Road junction with the new development access road onto this roundabout. This would have the added advantage of slowing traffic which would then approach the dangerous 45 degree B4388/ B4385, junction and the town at a safer speed.

The entirety of traffic speed, volume and parking issues in Montgomery need to be taken into consideration in advance of any such significant new build in the town.

#### Mix of housing types

We appreciate the constraints of funding but it is abundantly clear from public comment and our own observations that the socio-demographic nature of the town suggests a requirement for affordable homes to buy outright as well as rental properties and rent to buy and trust the ultimate mix will reflect area requirements.

There is concern that the houses should be truly local needs and that there is a fair and transparent system in place to ensure priority to local applicants.

The Town Council is pleased that good provision has been made for those with limited mobility and that, as a result of MTC comment at Pre-Application stage, a pavement is to be provided along Forden Road although we would reiterate the need for a sufficient width to accommodate a wheelchair.

With potential for considerably increased pedestrian use, the existing footpath from the veterinary surgery up to the Forden Road junction also requires widening as it is currently dangerously narrow.

#### Design and layout

Overall MTC would wish to see far more detail regarding design of individual houses. We welcome the verbal comments made at the public meeting in this regard but these are not necessarily reflected in the application.

The proposed number of homes is considerable for both the site and local requirements. We have seen no evidence base for Montgomery to support such a high level of need and there are extremely limited employment opportunities in Montgomery and immediate area. There is scope to slightly reduce the number of houses allowing for a layout

design more sympathetic to the site and rurality and the living environment of new residents.

This is an especially sensitive site in an Registered Historic Landscape rated Outstanding and on a main approach to Montgomery and its Conservation Area. It is within the setting of an important Scheduled Monument. It will be clearly seen from various vantage points on Castle Hill where presently little building is discernable. MTC is pleased to note the planned tree planting and a layout that sets houses back from the Forden and New Roads thus softening the impact of a densely build environment. MTC would object to the removal of the boundary hedgerow, especially if replaced with larch lap fencing. The essential rurality within the setting of the Castle Hill would be softened by maintaining the existing hedgerow for the whole site and a layout that is as non-linear as possible.

For similar reasons MTC would expect attention to be given to the building materials employed and detail of design. The roofing material should be slate in line with other buildings in the townscape and brick should be mellow and of good quality. The town is typified by its old and characterful buildings and mix of styles and the new build requires elements to introduce character into individual properties. Recent construction in Newtown and Welshpool should not be used as a benchmark as the unique character of Montgomery diverges considerably from these towns. In size Montgomery is no larger than a village (some 1300 population) and it is important to retain the sense of place and character for all residents and the many visitors that support the economy of this old County town. Affordability should not be an excuse for poor design or inferior build quality. The aspect of all build facing the existing roads needs particular attention.

MTC would assume all homes will now be built to high energy efficiency standards for both environmental and economic reasons and that planning consent will be suitably conditioned. We will be interested to receive details of how such measures will be fully incorporated above and beyond minimum building regulations as exemplars of good practice.

The provision of off-road parking is to be commended although some of the shared car parking arrangements may be problematic particularly considering the need for electric charging points.

MTC concurs with the applicant regarding the preference for low level housing over the high rise design proposed for the care home. This offers an opportunity for a sympathetic approach to this site and we would share CADW's concerns regarding the handling of development here.

#### Drainage

There will need to be a comprehensive drainage plan for this site. MTC are aware of

problems with drainage, particularly on the New Road side, and are also aware that other sites drain to this field.

#### Play provision

MTC would wish to see development of a play area on -site or a joint play area with the Mortimer's development (having an area originally identified for play as part of the s.106 agreement) connected by a pedestrian gate. If neither of these are feasible options a contribution to the planned new town play park on the recreation field would be welcome in lieu.

Provision of any play or community area or wildlife site on the new development will require a plan for on-going maintenance.

#### Other facilities

Given the size and limitations of facilities in Montgomery it is clear that a critical capacity will shortly be reached for town parking and an already overstretched medical practice, particularly as a number of houses are specifically designed with older or less able residents in mind.

#### Ecology

Local knowledge suggests the site is biodiverse and suitable mitigation and protective measures need to be in place. Proposed tree planting and retention of the hedgerow corridor have the potential to enhance biodiversity and MTC commends the inclusion of wildlife corridors around the periphery of the site. We assume the pond is also a wildlife area and that appropriate provision will be made for safety of children with respect to the feature. We welcome the stated involvement of the Wildlife Trust to maximise on potential.

#### Employment

have the opportunity to benefit from construction and ground works.

#### Archaeology

MTC would expect an archaeological survey of the site prior to works commencing, given its' historic nature, which is in close proximity to the site of the Civil War Battle of Montgomery.

Thank you for the opportunity to comment on this proposed development. MTC would be pleased to provide any further information and would wish to be engaged with s.106 discussions at the earliest stage.

Montgomery Town Council (MTC) note the revised access proposal onto New Road (U4810). The proposal was discussed at a meeting held in public on 02/08/21 and a response agreed.

MTC acknowledge the difficulties inherent in creating a suitable access. From local knowledge the Town Council consider the latest proposal to be unfeasible and unsafe for all residents.

As in previous responses, MTC advise either:

- access at the apex of the site onto a roundabout with an extension of the 30mph zone in the Forden direction or,
- access onto Forden Road but much nearer the Thermostat site where the sight lines are considerably better and traffic calming can be implemented into town

Either solution would obviate some of the more evident dangers.

MTC strongly object to the proposed New Road access on the following grounds:

I) the U4810 is a narrow lane not designed to take volumes of traffic. In this area it is constricted and completely unsuited to the traffic volumes generated by 33 new homes.

II) insufficient road width for vehicles to pass, which will be further narrowed by a pavement. When traffic has occasionally been diverted this way this has resulted in a chaotic situation driveways being used to facilitate passing and verges cut into

III) the principle challenge for this development is the blind junction of the U4810 and the B4388. Traffic frequently travels at speeds around 50mph on the B4388 at this point and approaches the New Road junction at a blind summit. Increasing the amount of traffic exiting at this junction is antithetical to all safe practice. The exit on to the Chirbury Road at the other end of New Road is also dangerous with very limited visibility towards Chirbury so users of New Road have only two means of exit and both are highly dangerous.

IV) New Road is a quiet rural lane for most of its length and popular with walkers and equestrians. Active travel use is incompatible with the proposal to increase the traffic volumes on this road by potentially some 400%

V) Construction of a pavement along this stretch of New Road would obviously be essential if the access was at this point but would destroy the attractive rurality of this area, involve the culverting of a very deep ditch (there are flood problems at the Forden Road junction), further reduce the width of the already narrow carriageway, potentially

require removal of the hedgerow intended to screen the site and maintain biodiversity

VI) Given the narrowness of the carriageway it is difficult to envisage how a suitably splayed entrance to the new housing could be achieved that would permit access of construction or delivery lorries

Powys Highways state that there will be:

replaced 'village' signage;

extension of the 30mph and 40mph zones;

traffic management on New Road ,

and that both the Forden and Chirbury Road junctions will be subject to a 'future TRO' .

In the absence of any detail as to where these are placed and what TROs are anticipated it is impossible to assess if any of these measures can ameliorate the considerable problems and risks that will be generated by this highly unsuitable access arrangement. Our Speed Watch team and residents are very aware that the mere provision of speed limit signs, countdown markers etc has virtually no impact on the speed of vehicles.

It is worthy of note that when an application was made for a care home on the site, Highways were adamant that access onto New Road would not be permitted; nothing has changed so MTC must question why such a dangerous access should now be even considered.

Accidents and near misses are not infrequent at the Forden Road junction and even last week there was a collision and a vehicle ended up in the hedge. MTC understands that photographs have been forwarded to the Planning Officer.

As this application has been called in for determination MTC hereby give notice that we would wish to speak at the relevant Planning Committee meeting.

Thank you for taking these very significant issues into consideration. More work obviously needs to be done regarding access/egress arrangements and MTC representatives would be happy to meet with Highways and the developers on site to discuss the issue with a view to achieving a safer solution for current and future residents.

PCC-Building Control

17th Feb 2021

Please be aware that Building Regulations approval will be required prior to commencement.

Ward Councillor

18th Feb 2021

I welcome proposals to provide affordable dwellings in Montgomery. I note that this proposal relates to an exception site, and that land with a housing allocation in the current LDP is situated nearby and lies undeveloped. I also note that this site was previously designated as an employment site. For both these reasons, I would prefer to see this proposal brought forward on to the allocated housing site.

The site lies adjacent to the junction of New Road and Forden Road. It has long been recognised that this junction is inherently dangerous with very poor sight-lines. Remodelling of this junction has been held to be contingent on development of the application site, and I am extremely disappointed that the application does not address this issue. Indeed, the proposed access, inserting an additional junction so close to the New Road/Forden Road junction will arguably increase risk. An opportunity exists for a single new junction to be provided serving both this site and New Road. I should like to see Highways and the applicants working together to achieve a properly integrated solution, and I believe a capital contribution from Highways would be justified on safety grounds. Proposals to extend the 30mph limit should have regard to the whole issue, not just the proposed new access.

With regard to access, a pedestrian link should be provided from the proposed development into the adjacent Mortimer Road development, providing an alternative route into the town centre. This will be especially important in relation to walking routes to Montgomery School. Moreover, an impermeable barrier between these two developments will not be in the interests of community cohesion or normal social interaction.

This proposal represents a significant increase in the residential accommodation of the town and is on an exception site. As submitted, it raises the highways issues highlighted above. For these reasons I should like to call in this application for Planning Committee determination.

*Additional Consultation Response*

31<sup>st</sup> Jul 2021

Following the addition of additional documentation to the planning papers, and in particular the revised site plan dated 19th May 2021 and Highways comments dated 20th July, I make the following observations:

- o The revision of the proposed road layout so as to allow for the whole or partial stopping up of the dangerous New Road/Forden Road junction is very welcome and should prove a positive benefit in terms of safety to users of the B4388 & U4810. It should reduce 'rat-run' use of New Road.
- o Further discussion in due course, together with consultation with residents of New Road and the wider the community. will be needed to determine the most appropriate TROs to maximise the benefit of this change of layout and further reduce the likelihood of

inappropriate traffic along the narrow New Road.

- o I welcome the proposed condition relating to lit footways.
- o Footpath (only) connection to the existing Mortimer Road still seems desirable in relation to providing safe and convenient walking routes to Montgomery School

PCC-(N) Highways

12th Mar 2021

Wish the following recommendations/Observations be applied

Recommendations/Observations

The Highway Authority are unable to support the above-named application for the following reasons.

The B4388 in the area of the proposed access is constrained by vertical alignment to the north, and the proposed site access is in close proximity to the junction of the B4388/U4810.

The proposed visibility splay to the north shown on Drawing Number 201 Rev P1 is not achievable due to the vertical alignment of the B4388, and the southern splay is drawn incorrectly.

We note Page 13 of the Design & Access Statement (DAS) states "Access to the proposed residential development will be off the Local Authority Highway B4388 Forden Road details of which have been subject to pre-application discussions with PCC Highways and details agreed". Whilst it is the case that the Highway Authority (HA) was consulted by the applicant on the Pre-Application Consultation (PAC), we note that our response has not been shown on the PAC details submitted with the planning application, and we further note that our concerns have not been fully addressed.

The U4810 which runs along the north eastern boundary of the site, is constrained by its width, and lack of formal passing bays and pedestrian links. The junction of the B4388/U4810 is constrained by its alignment and visibility in both directions. The proposed development would increase the number of movements along U4810 leading to further conflicts on the constrained highway.

The applicant proposes to construct a 1m wide footway link along the B4388. The HA advise that footways should measure a minimum width of 2m, Appendix DE001 of the Active Travel (Wales) Act 2013 Design Guidance states "On roads with a speed limit of 40mph or above, or with over 1,500 HGVs AADT, it is desirable to allow an additional minimum of 0.5m of footway or verge width to allow for vehicle overhang and pedestrian 'kerb shyness'." The guidance suggests a restricted width of 1.2m at an immovable object

is acceptable, and in relation to this states, "Provides space for a blind or partially sighted person to walk using a long cane, or with a guide dog, or alongside a person providing guidance."

Section 3.7.1 of the All-Wales Common Standards Guidance (CSG) states "Footways and footpaths fulfil an important role by ensuring the safe movement of pedestrians and, if properly designed, should facilitate and encourage pedestrian activity with a minimum width of 2m for pedestrians or 3m minimum width to accommodate cyclists."

The DAS states "The development will ensure both safe methods of travel for motor vehicles, bike users and pedestrians, the footpath along Forden Road will be extended to the new access". However, we note that the applicant has not proposed any cycle routes and/or combined cycle/footways.

The HA notes that the applicant has not submitted any justification for the proposed reduced width of the footway link.

The proposed footpath onto the U4810 fails to connect with the existing footway provision.

The applicant proposes to extend the 30mph zone out as far as the proposed access, however, guidance in relation to the setting of such requires built development on both sides of the carriageway. The applicant was previously advised of such by the Traffic Engineer and informed that the existing extent of the 30mph zone could only extend by 10m, as stated in his email contained within the PAC. As previously advised, a 40mph buffer zone to the B4388 shall be required and a 20mph zone within the site, along with traffic calming on the estate road. We note that the applicant has not referenced either of these.

CSG requires a gradient at the junction no steeper than 1 in 20 for the first 15m, however, we note that the applicant proposes to exceed this.

The proposed centreline radii on Road 1 (between junction and Plot 1) is considered too tight in absence of speed control measures in accordance with CSG.

The swept path shown for the centreline radii on Road 1 (between junction and Plot 1) on Drawing Number 203 Rev P1 should indicate an RCV rather than a 7.5t van, as such a vehicle is smaller than an RCV and therefore not considered the "worst case".

Drawing Number 201 Rev P1 (Visibility & Geometry) shows a continuous 2m footway along the northern side of Road 1 to the northern access radii. However, Drawing Number 201 Rev P1 (Adoptable extent surface finishes) shows the area between the northern radii and Plot 1 as being service strip.

No detail of the proposed forward visibility demarcation has been submitted for consideration.

No detail of clear forward visibility across the site has been indicated on the submitted drawings.

As submitted, the application is contrary to LDP Policies DM13 (10) & T1, Manual for Streets 1 & 2, TAN18, Active Travel (Wales) Act 2013 and The All-Wales Common Standards.

*Additional Consultation Response*

9<sup>th</sup> Jul 2021

The Highway Authority (HA) has been in discussion with the Planning Officer and the applicant's appointed agent[s]. We have reviewed the revised drawing/detail submitted in support of the application and subject to the following conditions being included with any consent given, we wish to withdraw our earlier objection.

1. Notwithstanding the submitted details on drawing number 1906-sit-01 Rev N the Highway Authority wish the following conditions to be applied to any consent given.
2. Prior to any works commencing on the development site, detailed engineering drawings for a lit footway along the Class II B4388 & U4810, site access, access visibility splays, stopping up of the existing access, and replacement village signage, 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 a link road between the estate road and the U4810 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
4. Prior to the occupation of any dwelling, 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. Prior to any works being commenced on the site a scheme for the extension of the 30mph speed restriction, introduction of a 40mph along the B4388 and traffic management along the U4810 [New Road] shall be submitted to and approved in writing by the Local Planning Authority.
6. Prior to any works commencing on the development site, detailed highway engineering drawings covering the highway works within the site, including the provision of a 20mph Zone, traffic calming measures and appropriate signing, shall be submitted and approved in writing by the Local Planning Authority. The development shall be

carried out in accordance with the approved details of construction.

7. 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.

8. Prior to the occupation of each of the dwellings hereby approved, provision shall be made within the corresponding plot for the parking of vehicles as detailed on the approved site plan 1906-sit-01 Rev N. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

9. Prior to first occupation of any dwelling on the site, a 20mph Zone shall be implemented that covers the internal estate road. (see advisory note)

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

11. No dwelling hereby approved shall be occupied before the estate road carriageway and footways are constructed to binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that dwelling and to the junction with the existing county highway.

12. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.

Hafren Dyfrdwy

24th Feb 2021

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

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

o The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and

o The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

Hafren Dyfrdwy advise that there is a public 150mm combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Hafren Dyfrdwy to discuss the proposals. Hafren Dyfrdwy will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer.

The developer's attention is also drawn to the legal requirement for all sites to enter into a Section 104 sewer adoption agreement with Hafren Dyfrdwy before any sewer connection can be approved, in line with the implementation Schedule 3 of the Floods and Water Management Act 2010. Full details of this are provided on our website [www.hdcymru.co.uk](http://www.hdcymru.co.uk) under the 'New Site Developments' section.

#### Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

To request a water map please follow the link, <https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> scroll down the page to view the link:

Please visit [www.digdat.co.uk](http://www.digdat.co.uk)

You will need to register on the website and then you will be able to search for your chosen location and get an instant quote online. For more information you can view Digdat's user guide([opens in a new window](#)).

Please look at the district area supply plan (PDF)([opens in a new window](#)) to check that your site is within the Severn Trent boundary before requesting an underground asset map.

Any correspondence and diversion applications are to be submitted through New Connections the relevant form can be found on the Severn Trent website, please complete the form as fully as possible.

[https://www.stwater.co.uk/content/dam/stw/stw\\_buildinganddeveloping/Diversion-of-a-Severn-Trent-Water-main.pdf](https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/Diversion-of-a-Severn-Trent-Water-main.pdf)

Information on diversion application charges can be found at

[https://www.stwater.co.uk/content/dam/stw/stw\\_buildinganddeveloping/new-connections/2020/new-connections-charging-arrangement-20-21.pdf](https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/new-connections/2020/new-connections-charging-arrangement-20-21.pdf) Scroll down the "New Connections Charging" document - 1 April 2020 to 31 March 2021 go to Page 24 Diversion of a Water Asset.

CPAT

25th Feb 2021

This development site was previously evaluated in December 1999 - January 2000 for a prior development proposal on the same site. The whole field has a high archaeological potential largely because of its position within the Montgomery Civil War Battlefield (1644) area. The plot is also within the Vale of Montgomery Historic Landscape and the Montgomery Historic Landscape Character Area (of which the battlefield is a component).

The earlier evaluation indicated that there are degraded earthworks in the field relating to the former medieval open-field system which surrounded the town and these were surveyed at the time of the evaluation. A preliminary metal detector survey sampled a small central strip through the plot and confirmed that lead musket and pistol shot of Civil War date survives in this field. The lead shot was found at a shallow depth in the unploughed field and more metal artefacts will be revealed at greater depth after the grass has been removed over the whole development area.

At the time of the prior evaluation the ASIDOHL guidance on assessing the impact of development on historic landscapes was still in an early draft form and could not be applied to the development proposed at that time. Cadw should therefore be consulted via [cadwplanning@gov.wales](mailto:cadwplanning@gov.wales) so that they can decide whether an ASIDOHL assessment is required in this case. Normally ASIDOHL would only be required where the development has a more than local impact. As this is infill development between an existing industrial site and existing ribbon housing development along New Road the proposals are unlikely to have a more than local impact.

Additional archaeological work on the Civil War battlefield remains on the field would be required as a condition of any consent and this would include the following:

1. A systematic and comprehensive metal detection survey to retrieve further artefacts associated with the Montgomery Civil War battle. This would be completed in two stages prior to any development commencing and would consist of:

- a) A systematic transect survey of the whole development plot prior to grass removal and ground preparation works to capture metal artefacts in and just below the turf layer which

tends to mask signals from metal artefacts at deeper levels. The field should be mown before this initial survey takes place.

b) A systematic transect survey of the whole plot after the grass has been stripped under archaeological supervision across the development area to capture deeper metal artefacts. All artefacts recovered will be 3D mapped, retrieved, conserved and sent for specialist analysis and reporting.

To allow the metal detector survey to be completed a suitable investigation condition is provided below:

Suggested planning condition to facilitate a scheme of archaeological investigation as a condition of consent.

No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority.

The archaeological programme of work will be undertaken and completed in accordance with the relevant Standards and Guidance laid down by the Chartered Institute for Archaeologists. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, (Clwyd-Powys Archaeological Trust, The Offices, Coed y Dinas, Welshpool, SY21 8RP Email: mark.walters@cpat.org.uk Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record and a copy to the National Monuments Record, RCAHMW, Aberystwyth.

Reason: To secure preservation by record of all archaeological remains which will be impacted by the development

Cadw - SAM

3rd Mar 2021

Thank you for your letter of 22 February 2021 inviting our comments on the information submitted for the above planning application.

Advice

Having carefully considered the information provided, we have no objection to the proposed development. Please see our assessment of the application below.

The national policy and Cadw's role in planning are set out in Annex A.

## Assessment

MG015 Ffridd Faldwyn Camp

MG022 Montgomery Castle

In our response to a statutory pre-planning application consultation for this development we noted that it is located some 310m northeast of scheduled monument MG022 Montgomery Castle and is clearly visible in the identified significant view from it and is also some 550m east of scheduled monument MG015 Ffridd Faldwyn Camp that will also have views of the proposed development area. In our assessment we considered that the proposed development would extend modern housing outside the current boundaries of the settlement at Montgomery and would therefore have an adverse impact on the settings of both scheduled monuments. We therefore recommended that an assessment of this impact should be prepared. In the pre-application consultation report submitted with the current application our advice is noted but has not been accepted, as the application area benefits from extant planning consent for a care facility along with block of flats for independent living (planning consent P/2016/0680). In the opinion of the agent this development would have a greater impact on the setting of the scheduled monuments than the current proposal, as the extant consent allows three storey buildings rather than the current proposal for two storey dwellings.

Cadw were not consulted on planning application P/2016/0680 although the impact of the development on the view from Montgomery Castle was considered in the determination of that application. Whilst the view from a scheduled monument is not the only element that contribute to its setting (see section 1.25 of TAN 24), in this case, we agree with the agent that the impact of the current proposal will be less adverse on the setting of the castle than the development with extant consent. In determining planning application P/2016/0680 the impact on the setting of scheduled monument MG015 Ffridd Faldwyn Camp does not appear to have been considered, but similarly to the impact on the setting of Montgomery Castle the impact of the current proposals is likely to be less than the development allowed by the extant consent.

### PCC-Affordable Housing Officer

No comments received at the time of writing this report.

### PCC-Built Heritage Officer

No comments received at the time of writing this report.

### PCC-Countryside Services Manager

No comments received at the time of writing this report.

PCC-Ecologist

27th Apr 2021

Thank you for the opportunity to comment on planning application 20/2118/FUL which concerns an application for erection of 33 affordable local need dwellings, formation of vehicular access road and all associated works at Land Off Forden Road, Montgomery, Powys, SY15 6EU.

I have reviewed the proposed plans, aerial images as well as records of protected and priority species and designated sites within 1km of the proposed development.

The data search identified 969 records of protected and priority species within 500m of the proposed development. Species recorded within 1km of the proposed development include bat species: Natterer's bat, brown long-eared bat and lesser horseshoe bat, plus polecat, hedgehog, peregrine, grass snake, common toad, bluebell, large-leaved lime and numerous Environment (Wales) Act 2016 bird, butterfly and moth species.

No statutory designated sites were identified within 500m of the proposed development. One non-statutory designated site was identified within 500m of the proposed development:

- o Castle Rock Regionally Important Geodiversity Site (RIGS) - approximately 270m southwest of the proposed development

One or more Ancient Woodland (AW) sites were identified within 500m of the proposed development. Having taken into account the location of the RIGS and AW in relation to the proposed development and the nature of the works proposed, it is considered that there would be no likely negative impacts directly or indirectly to the RIGS and AW and/or any associated features.

I have reviewed the Ecological Appraisal produced by Marches Ecology dated February 2021 and consider that the survey methods and effort employed were in accordance with current National Guidelines. It is noted that the survey was undertaken in autumn but it was considered that accurate assessment of habitats and presence/likely absence of protected species on site was not affected.

The report details the findings of a phase 1 habitat survey and a protected species habitat suitability assessment undertaken on 16th October 2020 as well as the results of an associated desk-based study. Habitats identified within and immediately adjacent to the proposed development site include:

- o Poor semi-improved grassland

- o Rough (neutral) grassland
- o Tall-ruderal vegetation
- o Dense and scattered scrub
- o Trees
- o Hedgerows
- o Standing water
- o Dry ditches

The proposed development site was surveyed for its ability to support a number of protected and priority species including

- o Badger
- o Water vole
- o Bats
- o Amphibians (including great crested newt)
- o Reptiles
- o Nesting birds
- o Hedgehog

The site comprises a field of semi-improved grassland bounded by native species hedgerows; the northern hedgerow being more species-rich and potentially an Important Hedgerow under the Hedgerow Regulations 1997, and areas of scrub, rough grassland, two mature trees, a pond and some dry ditches. No badger setts were evident, nor significant signs of use detected, although it was considered that the site offered limited foraging potential. The two mature trees were identified as having moderate potential for roosting bats, with the hedgerows providing limited foraging and commuting potential. The pond and wider area were considered unsuitable for supporting water vole. Surveys undertaken by the ecological consultant in 2010 and 2015 confirmed presence of breeding great crested newt (GCN) in the pond. It was identified that the condition of the pond appeared to have deteriorated since 2015. The boundary features were identified as important terrestrial habitat areas for GCN, as well as nesting birds, hedgehog and polecat. Limited habitat availability was identified for reptiles. The site was also inspected for presence of non-native invasive species. A small stand of *Crocasmia* sp. (a garden escape) was noted in one area but identification as the invasive non-native species

*Crococsmia x crocosmiiflora* 'Montbretia' was not possible at the time.

An area of relatively species-poor semi-improved grassland will be lost as a result of the proposal and direct impacts to hedgerows were identified. The western hedgerow will require translocation or replanting (approx. 55m) to create the access and required highway visibility splays. A small section of the northern species-rich hedgerow will be removed to create footpath access to the site. There will be direct impact to GCN terrestrial habitat; grazed grassland which is considered sub-optimal and hedgerow which is optimal. Therefore, a European Protected Species licence will be required for the development. The existing pond will be retained on site.

Mitigation, compensation and enhancement measures were identified for GCN, hedgerows, nesting birds, hedgehog and bats. A separate Ecological Mitigation Method Statement (EMMS), by Marches Ecology, has been submitted alongside the Ecological Appraisal. In addition to a surface water swale, it is proposed to create two wildlife ponds within an 'Ecological Mitigation Area' (EMA) to include the existing pond and areas of rough grassland, ditches and hedgerow on site. The EMA is designed to ensure the retention and enhancement of habitat beneficial to GCN. It is confirmed that permeable surfaces will be used for the access roads, drives and paving and there will be no requirement for gully pots which can trap amphibians. It is considered that sufficient and appropriate detail has been provided to ensure that favourable conservation status of GCN is not negatively impacted subject to adherence to the identified mitigation, compensation and enhancement measures. Appropriate avoidance/mitigation measures were also provided for nesting birds, bats, badger and reptiles. An acceptable translocation method statement has been provided for the western hedgerow, although replanting with a mix of suitable native species will take place if translocation is not feasible. Pollution prevention measures to safeguard the pond on site and ditches during construction and control of invasive non-native species were also identified as necessary to the proposal.

It is considered that removal of a short section of hedgerow to install a footpath access on the northern hedgerow is acceptable providing this is limited to no more than 3m and is not used for construction related access at any time.

It is, therefore, recommended that adherence to the submitted Ecological Mitigation Method Statement is secured through an appropriately worded planning condition.

Appropriate long-term management and monitoring of the EMA will be required to ensure the proposed conservation measures for GCN are realised. The EMMS states that long-term management of the EMA will be undertaken by Barcud (landowner/operator of development) and will follow a management plan that will be reviewed in light of post-development monitoring of the area. The EMMS recommends 21 years and NRW

(comments dated 19/03/21) require a habitat management plan secured for minimum of 25 years. The habitat management plan should make reference to NRW's suggested requirements for habitat management. Monitoring is a requirement of the EPS licence but reference should be made in the HMP of the requirement for monitoring and for monitoring to inform periodic review of the HMP as necessary.

It is, therefore, recommended that a detailed long-term Great Crested Newt Habitat Management Plan is secured through a s106 agreement. If an appropriately worded pre-commencement planning condition is deemed more appropriate, the condition must reflect submission and adherence of a HMP that will be updated as and when necessary in accordance with post-monitoring recommendations.

The EMMS identifies that biodiversity enhancements could be achieved through provision of additional nesting opportunities for birds and habitat for birds, great crested newt and hedgehog through provision of nest boxes and soft landscaping respectively. It is considered that the enhancements are appropriate to the proposed development and are in accordance with the requirements of Part 1 Section 6 of the Environment (Wales) Act 2016.

It is, therefore, recommended that adherence to the identified biodiversity enhancement measures and submission of a landscaping and biodiversity enhancement plan are secured through appropriately worded planning conditions.

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 or foraging in the local area, including GCN. 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://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>

It is, therefore, recommended that submission of an External Lighting Design Scheme is secured through an appropriately worded planning condition.

I note the comments made by PCC Highways (12/03/2021) and that further information is required regarding access alignment and creation of footways to meet Powys LDP policy. PCC Ecology should be reconsulted regarding any changes that will impact the verge or hedgerow along either the B4388 or U4810.

Therefore, should you be minded to approve the application I recommend inclusion of the following conditions. Refer to above comment regarding s106 agreement/planning condition for great crested newt monitoring and habitat management requirements:

The development shall be undertaken in strict accordance with the following

i) Proposed Residential Development, Land off Forden Road, Montgomery, Powys - Ecological Appraisal, by Marches Ecology, dated 10th February 2021 (section 4.3, Assessment and Recommendations)

ii) Proposed Residential Development, Land off Forden Road, Montgomery, Powys - Ecological Mitigation Method Statement, by Marches Ecology, dated 10th February 2021

The measures identified shall be adhered to and implemented in full and maintained thereafter.

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 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted in writing to the Local Planning Authority. The CEMP shall include the following as a minimum:

i) Roles and responsibilities for implementation of CEMP and measures identified therein

ii) Details of pollution prevention measures to avoid harm to terrestrial and aquatic habitats

iii) Details of mitigation measures for protected and priority species, including great crested newt, to include timetable of measures in relation to construction phases

iv) Ecological Compliance Audit, including key performance indicators

v) Biosecurity Risk Assessment identifying measures to prevent the introduction and spread of invasive non-native species on and off-site, and measures for eradication of *Crocospia* sp.

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 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.

Notwithstanding the details submitted, prior to commencement of development, a detailed landscaping and biodiversity enhancement 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 position. The locations on trees and dwellings of biodiversity enhancements for nesting birds shall be included. The approved scheme shall be implemented in full and maintained thereafter.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM4 in relation to Landscape, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016

Prior to commencement of development, an External Lighting Design Scheme to avoid and reduce potential impacts on nocturnal wildlife shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of external lighting installed on dwellings and along footways. The scheme shall 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://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>. The approved scheme shall be adhered to and be implemented in full.

Reason: To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM7 in relation to Dark Skies and External Lighting, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.

In addition, I consider it would be appropriate to include the following informatives:

Warning: A European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/protectedspecies-licensing/european-protected-species-licensing/?lang=en>

Great Crested Newts - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended).

Under The Conservation of Habitats and Species Regulations 2017 it is an offence for

any person to:

- o Deliberately capture, injure or kill a great crested newt
- o Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution or abundance of great crested newts or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- o Deliberately take or destroy the eggs of great crested newts
- o Damage or destroy a breeding site or resting place. This is an absolute offence, in other words intent or recklessness does not have to be proved.

Under the Wildlife & Countryside Act 1981 (as amended) it is an offence to

- o Intentionally or recklessly disturb a great crested newt while it is occupying a structure or place which it uses for shelter or protection
- o Intentionally or recklessly obstruct access to their places of shelter or protection

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 (as amended) that works to ponds or terrestrial habitat where that work involves the disturbance of great crested newts is an offence if a licence has not been obtained from Natural Resources Wales. If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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 on 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.

### Environmental Protection

24th Feb 2021

#### Foul drainage

Environmental Protection has no objection to the proposal to connect the sewage to the mains foul drainage network.

#### Amenity - noise

The application site is adjacent to a commercial/industrial use. Environmental Protection will require a noise impact assessment report - carried out in accordance with BS 4142: Methods for rating and assessing industrial and commercial sound - in order to demonstrate that the site is suitable for residential development and will not be adversely affected by noise.

#### Artificial light

Environmental Protection will require a lighting plan to demonstrate that artificial light from the development will not adversely affect the amenity of existing nearby properties.

#### Construction Environmental Management Plan

The application site is in close proximity to residential properties. Environmental Protection will require a management plan for the construction-phase of the development which details the measures that will be used to minimise and control the impacts of noise, vibration and dust from the construction site. This department would recommend that the plan include details of the acceptable working hours, including for all collections and deliveries to the site.

### *Additional Consultation Response*

4<sup>th</sup> June 2021

A noise impact report has been submitted. This report recognises that although the industrial building adjacent to the development site is currently vacant/not in use, because it has a B8 use class it is possible for it to be used for that purpose in future. Therefore, the report has calculated noise levels at the development site based on reasonable

assumptions about the level of noise emissions from an operational site with B8 (storage and distribution) use.

The assessment concludes that in order to achieve acceptable levels of sound both inside and outside the properties, certain elements of mitigation will be required. The report recommends the specifications for glazing, ventilation, and barrier fencing that will be required to achieve acceptable noise mitigation from the adjacent site. Please can the applicant/agent confirm that the recommendations of the report will be included in the design of the development, and provide amended plans to demonstrate this?

*Additional Consultation Response*

7<sup>th</sup> Oct 2021

Further to my previous comment, I would just like to clarify my position on the noise issue.

Provided the noise mitigation measures mentioned in the noise assessment are put into practice as part of the development, I have no objection to the application. Therefore, in order to ensure that this is the case, I would recommend that this requirement be made a condition of any permission.

PCC-(N) Land Drainage

23rd Mar 2021

Planning Department: Could the following be added as a recommendation for the application.

All: Having assessed the Planning Application Ref 20/2118/FUL, the SuDS Approval Body (SAB) deem that the construction area is greater than 100m<sup>2</sup> and therefore this proposed development will require SAB approval prior to any construction works commencing onsite.

Please contact the SAB Team on 01597 826000 or via email [sab@powys.gov.uk](mailto:sab@powys.gov.uk)

For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website <https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

If for any reason you believe your works are exempt from the requirement for SAB approval, we would be grateful if you would inform us so we can update our records accordingly.

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs.

## PCC-Schools Service

No comments received at the time of writing this report.

## Natural Resources Wales (Mid Wales) DPAS

19th Mar 2021

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about the above, which we received on 16/02/2021.

We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the following condition to the permission and include the following documents within the condition identifying approved plans and documents on the decision notice. Otherwise, we would object to this planning application.

Condition: No development shall commence until a Great Crested Newt Conservation Plan has been submitted to and approved in writing by the Local Planning Authority (LPA).

Plans and documents:

- Ellson, M. (2021). Proposed Residential Development, Land off Forden Road, Montgomery - Ecological Appraisal. Marches Ecology. Unpublished,
- Ellson, M. (2021). Proposed Residential Development, Land off Forden Road, Montgomery - Ecological Mitigation Statement. Marches Ecology. Unpublished

## Protected Species

The application site has been subject to assessment in respect of the Great Crested Newt (GCN). The ecological submissions confirm the presence of the species in the environs of the application site. In our view, the overall proposal has the potential to cause disturbance to GCN and/or loss or damage to their resting places. GCN and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) and they classed as a material consideration for planning under the provisions of Technical Advice Note 5: Nature Conservation and Planning (TAN5).

The Habitat Regulations allow the approval of a scheme that would be likely to result in disturbance or harm to GCN, but only if satisfy an appropriate derogation purpose and two tests before a licence can be issued from NRW.

In the case of development, the applicable derogation purpose is:

- Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.

Furthermore, the licence can only be issued by NRW on condition that there is:

- no satisfactory alternative, and that

- the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

Paragraph 6.3.7 of TAN5 states that your Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In our view, we consider that construction of the proposal has the potential to adversely affect the GCN at this site. We therefore advise that construction of the proposed scheme is subject to the provisions of a derogation licence issued by NRW.

We consider the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the local population of GCN provided any subsequent consent is subject to the imposition of planning conditions in respect of the GCN.

In line with the 'Dear CPO' letter issued by Welsh Government on 1st March 2018, we request that the following informative is attached to any planning permission granted by your Authority:

Warning: A European Protected Species (EPS) licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/ or receive an unlimited fine.

Development should not be commenced until the Applicant has been granted a licence by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations (2017) authorising the specified activity/ development to go ahead. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000, or at <https://naturalresources.wales/permits-and-permissions/protected-species-licensing/european-protected-species-licensing/information-on-european-protected-species-licensing/?lang=en> .

Please note that any changes to plans between planning consent and the EPS licence application may affect the outcome of the licence application.

Condition: No development shall commence until a Great Crest Newt Conservation Plan has been submitted to and approved in writing by the Local Planning Authority. The Conservation Plan shall include, but not necessarily be limited to:

- Build upon the principles outlined in the following ecological submissions:

- Ellson, M. (2021). Proposed Residential Development, Land off Forden Road, Montgomery - Ecological Appraisal. Marches Ecology. Unpublished,

- Ellson, M. (2021). Proposed Residential Development, Land off Forden Road, Montgomery - Ecological Mitigation Statement. Marches Ecology. Unpublished

- Submission of updated details and plan concerning GCN avoidance, mitigation and compensation measures include fence construction and maintenance. Submission to include timescales and reporting requirements.

- Submission of a long term site management plan (not less than 25 years) that includes defined aims and objectives; habitat management prescriptions; contingency measures if fish or invasive non-native species (INNS) are detected; proposals that are capable of being implemented in the event of failure to undertake or to inappropriately undertake identified or contingency actions; wardening and liaison; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to tenure to the compensation area; persons or bodies responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposed dates for updating or revising the management plan.

- Post construction monitoring and record dissemination for a period of not less than 25 years. All ponds (including those associated with the SUDS management scheme) to be added to the Wales Great Crested Newt Monitoring Scheme, (see <https://www.cofnod.org.uk/LinkInfo?ID=7> with individuals/ bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual/ biennial abundance counts and Habitat Suitability Index (HSI) assessments. Each water body shall be individually numbered on site. Frequency of monitoring visits shall be increased in the event of fish and or aquatic invasive non-native species are detected.

- Ecological Compliance Audit, including key performance indicators. The purpose of the Ecological Compliance Audit is to evidence compliant implementation of all ecological avoidance, mitigation and compensation works, either proposed or subject to the provisions of reserved matters conditions. The Audit shall identify Key Performance Indicators (KPI's) that are to be used for the purposes of assessing and evidencing

compliance.

- Persons responsible for implementing the works.
- Biosecurity risk assessment (see below).

The Conservation Plan shall be carried out in accordance with the approved details.

This advice applies to the proposal in its present form. If the plans are changed in ways that may affect GCN on this site, you would need a revised ecology report that takes account of such changes. Please consult us again if any updated or revised ecology report concludes that the proposal is more likely to have an adverse impact on the GCN population and/or alters the detail or implementation of mitigation or compensation measures.

### Biosecurity

We consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases.

We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

We consider that this assessment must include:

- (i) appropriate measures to control any INNS on site; and
- (ii) measures or actions that aim to prevent INNS

being introduced to the site for the duration of construction and operational phases of the scheme.

### Other Matters

Our comments above only relate specifically to matters included on our checklist, Development Planning Advisory Service: Consultation Topics (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

### **Representations**

Following the display of a site notice by the applicant on 17/02/2021 and the advertisement in the County Times on 26/02/2021, 31 public representations have been received at the time of writing this report. A summation of the points raised are detailed below: 25 in support, 6 objecting

- Making use of the field
- Need for Affordable Housing
- Obvious location for expansion
- Extension of speed limit
- Affect local ecology
- Inadequate access
- Increase pollution
- Noise nuisance
- Strain on existing facilities
- Out of keeping with character of the area
- Materials unsuitable
- Speeding traffic
- Impact on scheduled monument
- High density of dwellings
- Archaeology

### **Planning History**

<b>App Ref</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
P/2016/0680	Two and three storey residential and nursing facilities with associated amenity spaces and parking in one main building and two independent living blocks.	Consent	28/10/2016
P/2015/0178	Section 73 application to vary Condition No.1 (Time) of planning permission P/2010/0028	Consent	05/05/2015
P/2010/0028	Erection of a 93 bedroom EMI / Nursing Home, formation of vehicular access and associated works	Consent	03/08/2010
M/1999/0722	Erection of 3 buildings to provide new production area, warehouse and office accommodation together with covered links, storm water drainage works and formation of a vehicular access.	Consent	25/01/2000

## Principal Planning Constraints

Historic Landscapes Register	Vale of Montgomery
Within 50m of Listed Building	Milestone by border
LDP Development Boundaries	Montgomery/ Trefaldwyn
LDP Residential Commitments	Land at New Road - borders with
Scheduled Ancient Monument	in vicinity

## Principal Planning Policies

Policy	Policy Description	Year	Local Plan
PPW	Planning Policy Wales (Edition 11, February 2021)		National Policy
NATPLA	Future Wales - The National Plan 2040		National Policy
TAN2	Planning and Affordable Housing		National Policy
TAN5	Nature Conservation and Planning		National Policy
TAN11	Noise		National Policy
TAN12	Design		National Policy
TAN18	Transport		National Policy
TAN24	The Historic Environment		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		Local Development

	Resources and Assets	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
DM5	Development and Flood Risk	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
T1	Travel, Traffic and Transport Infrastructure	Local Development Plan 2011-2026
RE1	Renewable Energy	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 Housing Contributions	Local Development Plan 2011-2026
H6	Affordable Housing Exception Sites	Local Development Plan 2011-2026
SPGAH	Affordable Housing SPG (2018)	Local Development Plan 2011-2026

SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
SPGLAN	Landscape SPG	Local Development Plan 2011-2026
SPGRES	Residential Design Guide SPG (2020)	Local Development Plan 2011-2026
SPGHIS	Historic Environment SPG	Local Development Plan 2011-2026
SPGARC	Archaeology	Local Development Plan 2011-2026
SPGRES	Renewable Energy	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

Marine and Coastal Access Act 2009

### **Officer Appraisal**

#### Site Location and Description

The application site is located within the town council area of Montgomery, adjacent to the settlement development boundary of the town of Montgomery but is considered as development within the open countryside under the Local Development Plan 2018. The site is bordered by residential properties to the north and east with commercial properties to the south and agricultural land to the west. The site is situated on the north side of Montgomery.

Consent is sought for the erection of 33 affordable local need dwellings, formation of vehicular access road and all associated works.

#### Principle of Development

LDP policy H1 seeks to ensure that housing development is appropriately located and

suitable in scale and type to meet strategic policies SP1, SP3, SP5 and SP6. Housing development proposals are only permitted in defined towns and large villages where they are located on sites allocated for housing or on other suitable sites within the development boundary. On sites outside of development boundaries but which form logical extensions to the settlement, affordable housing may be permitted in accordance with policy H6 - Affordable Housing Exception Sites.

Powys Local Development Plan (2018) Policy H6 states the following:

Proposals for the development of affordable housing to meet a proven, unmet local need in Towns, Large Villages, Small Villages and Rural Settlements will be permitted where:

1. The proposed development is of a size, scale and tenure commensurate with the defined need and appropriate to the settlement tier, and accords with the requirements of Policy H1; and
2. The site is solely for affordable housing and there are clear and adequate arrangements to ensure that the benefits of affordable housing are secured for initial and subsequent occupiers, in accordance with the requirements of Policy SP3.

Policy H6 is a traditional exception site policy, which allows the development of sites for 100% affordable housing to meet local needs in locations not normally acceptable for residential development in accordance with PPW and TAN 2.

The above policy notes that sites adjacent to Towns and Large Villages are likely to be suited to accommodating the larger affordable housing schemes and therefore these sites are reserved for development by Registered Social Landlords, or equivalent organisations, or the Strategic Housing Authority. Single unit developments by individuals will not be acceptable in these locations. In this instance, the proposal is for 33 affordable units.

Montgomery is identified as a town in the Powys Local Development Plan (2018). The application site is mainly bordered by development boundary. Officers consider the proposed site to be a logical extension to the settlement and given the size and facilities offered in the settlement, it is considered that the settlement has the capacity to accommodate the proposed dwellings.

The application is submitted on behalf of Mid Wales Housing Association to address the recognised local need within the area. A condition will be attached to any grant of consent to ensure that the dwelling remains affordable in perpetuity.

It is therefore considered that given the location, adjoining the settlement development boundary of the town of Montgomery, the proposed development in principle fundamentally complies with relevant planning policy specifically LDP Policies SP1, SP5, SP6, H1 and H6 subject to the following further considerations.

## Housing Density

Policy H4 of the Local Development Plan (2018) seeks to ensure all housing development proposals make the most sustainable and efficient use of land. Montgomery is defined as a Town in the Local Development Plan and given that the proposed development would be considered a logical extension, the housing density prescribed for a Town would also be applicable to this site.

Policy H4, as a guide recommends a density of 27+ dwellings per hectare for Towns and Large Villages. The site area of the proposed development measures 1.54ha, therefore a guide density of the site would be 42 dwellings with the proposal putting forward 33 dwelling. However, it is noted that a number of existing ponds are present on site and with the retention of existing established hedgerows that border the site along with provision for SAB and the inclusion of wildlife corridors and footway, reduced the total developable area of the site. Officers therefore consider the reduced density of the site to be appropriate and justified in these circumstances.

## Design, Scale & Visual Impact

With respect to design, specific reference is made to Policy DM13 of the Powys Local Development Plan (2011-2026). This policy indicates that 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. It states that, in terms of design, proposals will only be permitted where the following criteria are satisfied;

1. *“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.*
2. *The development contributes towards the preservation of local distinctiveness and sense of place.”*

Further design-specific guidance is set-out within the adopted Residential Design SPG and TAN 12 (Design).

The proposed development of 33 affordable dwellings will comprise of the following mix:

1 no. 4 bed houses 114. sq m  
12 no. 3 bed houses 96.7 sq m  
10 no. 2 bed houses 92 sq m  
4 no. 1 bed houses 52 sq m  
2 no. 1 bed bungalows 78.5 sq m  
2 no. 2 bed bungalows 87.25 sq m  
2 no. 3 bed bungalows 115 sq m

The houses will be two-storey, and whilst three-storey dwellings are fairly extensive throughout Montgomery, given the location of the site on the edge of the town, it is not considered that three-storey development would be suitable. The proposed dwellings are considered to be of an appropriate scale giving their restriction to comply with affordable housing size requirements as stated with the Affordable Housing SPG. Whilst the maximum ridge height of two storey dwellings measures approximately 8.8 metres, this is considered appropriate given the site's surroundings and existing built development.

The proposed dwellings have been designed to be in-keeping with the character of the local area with the proposed properties constructed in materials such as brickwork, render and slate to match the existing housing within Montgomery which will help the development assimilate into its surroundings. UPVC windows, doors, fascia, soffits and bargeboards will also be included. However, as no detailed manufacturers' specification of the external materials to be used have been specified, officers consider it would be appropriate to condition these details with any granting of planning permission.

To ensure that the dwelling remains affordable and are not subject to extension or alteration, officers consider it would be appropriate to remove permitted development rights to safeguard the scale of the affordable dwellings.

It is therefore considered that the proposed dwellings have been designed to complement the character of the surrounding area in terms of appearance.

### Scale

Policy H3 of the LDP states that housing development proposals must be of an appropriate scale and shall provide a suitable mix of housing types to meet the range of identified local housing needs.

The proposed development will consist of a mixture of 1, 2, 3 and 4 bedroom two storey dwellings and bungalows. It is considered that the scale of dwellings proposed meet a range of housing needs, providing affordable dwellings within Montgomery.

It is therefore considered that the scale and housing types proposed fundamentally comply with relevant planning policy.

### Amenities enjoyed by occupier of neighbouring properties

In considering the impact upon amenities enjoyed by occupiers of neighbouring properties, consideration has been given to the adopted Residential Design SPG and LDP Policy DM13 (Criterion 11).

The proposed development is not considered to offer any impact upon loss of daylight to any neighbouring dwellings; there are no properties that would be adversely affected

when considering the 25 degree rule, which prohibits development that would exceed a line of 25 degrees taken from the nearest habitable room of adjoining existing properties. The proposal also complies with the 45 degree rule, where an angle of 45 degrees is measured in a horizontal plane and taken from the middle of the window of the nearest habitable room in any adjacent rooms. The proposed development is considered to be acceptable when considered against the above criteria.

The proposed development is also not considered to offer any adverse impacts to any neighbouring properties in terms of loss of privacy. The Residential Design SPG states that there should be a minimum of 21 metres between directly facing habitable rooms on rear elevations. There are no windows on the elevation of the nearest neighbouring property that directly face the rear elevation of the proposed dwelling, therefore this is considered acceptable. As stated above, the proposed development is considered to comply with the 45- degree rule and therefore the proposed development is considered acceptable when considered against the above criteria.

Neighbouring residential properties are located adjacent to the development site, but considering the layout of the proposed development, it has maximised the offset between existing and proposed dwellings and by ensuring that existing boundaries of the site are retained.

The layout of the development site has been configured to avoid any overlooking or overshadowing of dwellings and is considered suitable to help safeguard the amenity of the dwellings proposed and that of the surrounding area.

Environmental Protection have been consulted on the proposed development and have reviewed the submitted noise impact report which recognises that although the industrial building adjacent to the development site is currently vacant/not in use, because it has a B8 use class it is possible for it to be used for that purpose in future. Therefore, the report has calculated noise levels at the development site based on reasonable assumptions about the level of noise emissions from an operational site with B8 (storage and distribution) use.

The assessment concludes that in order to achieve acceptable levels of sound both inside and outside the properties, certain elements of mitigation will be required. The report recommends the specifications for glazing, ventilation, and barrier fencing will be required to achieve acceptable noise mitigation from the adjacent site. The Environmental Protection Officer considers that these mitigation measures can therefore be conditioned with any granting of planning permission. Officers consider this to be reasonable and therefore recommend securing the mitigation measures by condition.

Given the proximity of the development site in relation to existing residential properties, officers would consider it appropriate to restrict the operating hours for development and deliveries in association by way of condition. Environmental Protection have also recommended conditions in respect of a construction environment management plan,

which given the location of the development are considered acceptable. A condition in respect of external lighting has also been requested which will be included with the lighting condition for ecology to ensure that, individually or cumulatively that an unacceptable levels of light pollution, an adverse effect on the visibility of the night sky or protected species, or a nuisance or hazard to motorists, pedestrians or local residents will arise from the development.

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

### Highways

Policies DM13 and T1 of the Powys Local Development Plan (2018) indicate that development proposals should incorporate safe and efficient means of access to and from the site for all transport users, manage any impact upon the network and mitigate adverse impacts.

The Highways Authority were consulted on the application and initially raised an objection due to the proposed highways arrangements of the development. A revised scheme was submitted for consideration based on previous comments which has been reviewed by the Highways Officer. Having reviewed the revised drawings/detail submitted in support of the application, the objection has been withdrawn subject to the inclusion of conditions in respect of a footway, site access, visibility, stopping up existing access, replacement village signage, link road, 30mph speed restriction extension, inclusion of a 20mph zone, parking, drainage, finishing materials. Given the nature of the proposed development, officers consider the proposed conditions to be acceptable and reasonable and will therefore be attached to any granting of planning permission.

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

### Public Open Space

LDP policy DM3 deals with the provision of public open space. It requires that provision for public open space (POS) will be sought from all housing developments of ten or more dwellings.

The Open Space Assessment for Montgomery demonstrates a shortage of natural play areas within the area which the application seeks to address. The proposed development seeks to provide areas on site for natural semi/natural greenspace around existing and new ponds whilst wildlife corridors have also been included connecting the areas of the site. The application seeks to optimise the site by promoting place making and creating sustainable areas for people to use. Good placemaking is essential to the delivery of sustainable development and achieving improvements in the well-being of communities. The proposed areas are open and available for use by the public. To ensure that these areas offer the best opportunities to be enjoyed, officers would

consider it appropriate to condition a landscaping plan to include infrastructure such as benches so that the areas can be enjoyed and utilised.

It is therefore considered that sufficient public open space for a development of this size has been allocated within the development site. Therefore, it is considered that the proposal is acceptable within the remit of LDP policy DM3.

### Biodiversity

Policy DM2 of the Powys Local Development Plan, TAN5 and PPW seek to safeguard protected species and their habitats. Policy DM2 states that proposed development should not unacceptably adversely affect any habitat or protected species.

The authority's Ecologist has been consulted on the proposed development and has reviewed the proposed plans aerial images as well as records of protected and priority species and designated sites within 1km of the proposed development.

The data search identified 969 records of protected and priority species within 500m of the proposed development. Species recorded within 1km of the proposed development include bat species: Natterer's bat, brown long-eared bat and lesser horseshoe bat, plus polecat, hedgehog, peregrine, grass snake, common toad, bluebell, large-leaved lime and numerous Environment (Wales) Act 2016 bird, butterfly and moth species.

No statutory designated sites were identified within 500m of the proposed development. One non-statutory designated site was identified within 500m of the proposed development:

- Castle Rock Regionally Important Geodiversity Site (RIGS) – approximately 270m southwest of the proposed development

One or more Ancient Woodland (AW) sites were identified within 500m of the proposed development however taking into consideration the RIGS and AW it is considered that there would be no likely negative impacts directly or indirectly on these or any associated features.

An Ecological Appraisal prepared by Marches Ecology dated February 2021 has been submitted in support of the application. The Ecologist having reviewed the report considers the survey to have been undertaken in accordance with national guidelines.

The report details the findings of a phase 1 habitat survey and a protected species habitat suitability assessment undertaken on 16<sup>th</sup> October 2020 as well as the results of an associated desk-based study. Habitats identified within and immediately adjacent to the proposed development site include:

- Poor semi-improved grassland
- Rough (neutral) grassland

- Tall-ruderal vegetation
- Dense and scattered scrub
- Trees
- Hedgerows
- Standing water
- Dry ditches

The proposed development site was surveyed for its ability to support a number of protected and priority species including

- Badger
- Water vole
- Bats
- Amphibians (including great crested newt)
- Reptiles
- Nesting birds
- Hedgehog

It is noted the site comprises a field of semi-improved grassland bounded by native species hedgerows; the northern hedgerow being more species-rich and potentially an Important Hedgerow under the Hedgerow Regulations 1997, and areas of scrub, rough grassland, two mature trees, a pond and some dry ditches. No badger setts were evident, nor significant signs of use detected, although it was considered that the site offered limited foraging potential. The two mature trees were identified as having moderate potential for roosting bats, with the hedgerows providing limited foraging and commuting potential. The pond and wider area were considered unsuitable for supporting water vole. Surveys undertaken by the ecological consultant in 2010 and 2015 confirmed presence of breeding great crested newt (GCN) in the pond. It was identified that the condition of the pond appeared to have deteriorated since 2015. The boundary features were identified as important terrestrial habitat areas for GCN, as well as nesting birds, hedgehog and polecat. Limited habitat availability was identified for reptiles. The site was also inspected for presence of non-native invasive species.

An area of relatively species-poor semi-improved grassland will be lost as a result of the proposal and direct impacts to hedgerows were identified. The western hedgerow will require translocation or replanting (approx. 55m) to create the access and required highway visibility splays. A small section of the northern species-rich hedgerow will be removed to create footpath access to the site. There will be direct impact to GCN terrestrial habitat; grazed grassland which is considered sub-optimal and hedgerow which is optimal. Therefore, a European Protected Species licence will be required for the development. The existing pond will be retained on site.

Mitigation, compensation and enhancement measures were identified for GCN, hedgerows, nesting birds, hedgehog and bats. A separate Ecological Mitigation Method Statement (EMMS), by Marches Ecology, has been submitted alongside the Ecological Appraisal. In addition to a surface water swale, it is proposed to create two wildlife

ponds within an 'Ecological Mitigation Area' (EMA) to include the existing pond and areas of rough grassland, ditches and hedgerow on site. The EMA is designed to ensure the retention and enhancement of habitat beneficial to GCN. It is confirmed that permeable surfaces will be used for the access roads, drives and paving and there will be no requirement for gully pots which can trap amphibians. It is considered that sufficient and appropriate detail has been provided to ensure that favourable conservation status of GCN is not negatively impacted subject to adherence to the identified mitigation, compensation and enhancement measures. Appropriate avoidance/mitigation measures were also provided for nesting birds, bats, badger and reptiles. An acceptable translocation method statement has been provided for the western hedgerow, although replanting with a mix of suitable native species will take place if translocation is not feasible. Pollution prevention measures to safeguard the pond on site and ditches during construction and control of invasive non-native species were also identified as necessary to the proposal.

It is also considered that the removal of a short section of hedgerow to install a footpath access on the northern hedgerow is acceptable providing this is limited to no more than 3m and is not used for construction related access at any time.

The Ecologist therefore considers that adherence to the submitted Ecological Mitigation Method Statement is secured through an appropriately worded planning condition. Furthermore, a detailed long-term Great Crested Newt Habitat Management Plan is required to be secured. Other conditions required relate to biodiversity enhancement, external lighting and landscaping.

Natural Resources Wales have been consulted on the proposed development and it is noted that subject to an appropriate condition in respect of GCN's no objection to the proposed development is raised. Given the constraints of the site, officers consider the request to be reasonable and an appropriate condition in respect of GCN's will be included with any granting of planning permission.

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

### Cultural 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.

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 and TAN24. Further guidance has been provided in TAN 24 and its annexe Managing Conservation Areas in Wales which came into effect on 31 May 2017 which advises in section 6.4 that “Local planning authorities are involved in the management of conservation areas on a day-to-day basis through their duty to advise on, consider and respond to planning applications for new development. Because local planning authorities must aim to preserve or enhance the character or appearance of conservation areas, they should scrutinise planning applications closely with these objectives in mind.”

It is noted there is a significant distance between the application site and the listed heritage assets within Montgomery, with a high density of existing built development already present intervening the site and the listed assets, it is considered that there would be no detrimental impact upon the above Built Heritage assets and their settings. In light of the above, it is considered the proposed development complies with relevant planning policy.

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

### Drainage

It is noted that Hafren Dyfrdwy have requested conditions relating to foul and surface water drainage be attached to the granting of any consent. However, the construction area for the development is in excess of 100sqm, and as such will be SAB applicable, therefore it is not considered necessary to include a condition relating to surface water drainage. In addition, the applicant has confirmed within their application form that the proposal will connect to the mains sewer, and it is not considered the Local Planning Authority require any further information to assess this. It is therefore not considered necessary to include the recommended condition by Hafren Dyfrdwy and the drainage details provided as part of this application are considered to be acceptable.

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

### Scheduled Ancient Monument and Archaeology

The proposed development is located approximately 310 metres north of scheduled monument MG022 Montgomery Castle and 550 metres east of scheduled monument MG015 Ffridd Faldwyn Camp. CADW have been consulted on the proposed development with reference to the above assets mentioned and consider that the

proposed development would extend modern housing outside the current boundaries of the settlement of Montgomery and would therefore have an adverse impact on the setting of both scheduled ancient monuments. CADW therefore recommended that an assessment of impact should be prepared. CADW however not the comments of pre-application consultation report submitted in support of the application which highlights that the site benefits from extant planning consent for a care facility along with a block of flats for independent living. It has been argued that the extant development would have a greater impact on the setting of the scheduled monuments than the current proposal which allows three storey development instead of the current proposals two storey dwellings. Whilst CADW were not consulted on the previous extant planning permission, which did consider the impact on Montgomery Castle, the argument put forward by the agent that the current proposal will be less adverse on the setting of the castle than the development with extant permission is agreed which is also considered true in respect of Fridd Faldwyn Camp.

CPAT have been consulted on the proposed development and highlight that the field has high archaeological potential largely due to its position within Montgomery Civil War battlefield area which is also within the Vale of Montgomery Historic Landscape.

It is noted the development site has previously been evaluated in December 1999 and January 2000. The earlier evaluation indicated degraded earthworks with a preliminary metal detector survey which confirmed lead shot was found at a shallow depth in the unploughed field with more metal artefacts revealed at greater depth.

It is noted that at the time of the prior evaluation, ASIDOHL guidance on assessing the impact of development on historic landscapes was still in draft. CPAT have therefore recommended that CADW be consulted on this matter. Officers note that CADW have been consulted on the proposal and have raised no objection to the proposed development as it is considered the fallback position of implementing planning consent P/2016/0680 for a residential care home would have a greater impact on the setting of the scheduled monuments than the current proposal, as the extant consent allows three storey buildings rather than the current proposal for two storey dwellings. Whilst CADW have not asked for an ASIDOHL assessment, officer's note the site benefits from an extant planning permission and given the proposed scale of the development currently being considered, the impact would be considered acceptable.

CPAT recommends that additional archaeological works on the Civil War battlefield remains in the field will be required and therefore recommend a condition be attached to any granting of planning permission.

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

### Public Representations

The main issue raised in public representations relates to the proposed highway access

of the development. It is noted that the original scheme sought access on Forden road which was subsequently revised to New Road based on a previous objection by the Highways Authority. Public representation have raised concerns with both accesses proposed due to the speeds and volume of traffic and the increase from the proposed development. Whilst the concerns of residents are noted, the Highways Authority has been consulted on the revised scheme which is considered acceptable subject to the inclusion of conditions. Given that the development has been designed to the appropriate highway standards and with the inclusion of appropriate conditions, the development is considered acceptable in this regard.

## **RECOMMENDATION**

### **Conditional Consent**

In light of the above, it is considered the proposed application provides a high quality development on an exception site location compliant with planning policy and providing 100% affordable housing that responds to local need. The recommendation is therefore one of 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 following approved plans and documents:

1906 -sit-01 Rev N - Site Plan  
1906-sit-02 – Site Location Plan  
482-19-40 - Traffic Signs and Road Markings  
PSH04 202 Rev P1 – Proposed Road Long Sections  
PSH04 203 Rev P1 – Proposed Highway Drainage & Vehicle Tracking  
2b4p-01 Rev A – 2 Bed House Elevations  
2b4p-02 Rev A – 2 Bed House Plans  
1b2pb-01 Rev A – Typical 1 Bed wheelchair complaint bungalow  
1b2p-01 Rev A – 1 Bed House floor plans  
1b2p-02 Rev A – 1 Bed House Elevations  
2b3pb-01 Rev A – Typical 2 Bd wheelchair complaint bungalow  
3b6pb-01 Rev A – Typical 2 bed wheelchair compliant bungalow  
3b5p-02 Rev A – 3 Bed House Elevations  
3b5p-02 Rev A – 3 Bed House Plans  
4b7p-01 Rev A – Typical 4 Bed House Floor Plans  
4b7p-02 Rev A – Typical 4 Bed House Elevations  
Environmental Noise Survey prepared 21<sup>st</sup> May 2021  
Design and Access Statement 11.12.20 rev C

Ellson, M. (2021). Proposed Residential Development, Land off Forden Road,

Montgomery - Ecological Appraisal. Marches Ecology. Unpublished,

Ellson, M. (2021). Proposed Residential Development, Land off Forden Road, Montgomery - Ecological Mitigation Statement. Marches Ecology. Unpublished

3. No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority.

The archaeological programme of work will be undertaken and completed in accordance with the relevant Standards and Guidance laid down by the Chartered Institute for Archaeologists. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, (Clwyd-Powys Archaeological Trust, The Offices, Coed y Dinas, Welshpool, SY21 8RP Email: mark.walters@cpat.org.uk Tel: 01938 553670). After approval by the Local Planning Authority, a copy of the report and resulting archive should be sent to the Historic Environment Record Officer, Clwyd-Powys Archaeological Trust for inclusion in the regional Historic Environment Record and a copy to the National Monuments Record, RCAHMW, Aberystwyth.

4. Prior to any works commencing on the development site, detailed engineering drawings for a lit footway along the Class II B4388 & U4810, site access, access visibility splays, stopping up of the existing access, and replacement town signage, and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
5. Prior to any works commencing on the development site, detailed engineering drawings for a link road between the estate road and the U4810 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
6. Prior to the occupation of any dwelling, 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.
7. Prior to any works being commenced on the site a scheme for the extension of the 30mph speed restriction, introduction of a 40mph along the B4388 and traffic management along the U4810 [New Road] shall be submitted to and approved in writing by the Local Planning Authority.
8. Prior to any works commencing on the development site, detailed highway engineering drawings covering the highway works within the site, including the provision of a 20mph Zone, traffic calming measures and appropriate signing, shall be submitted and approved in writing by the Local Planning Authority. The

development shall be carried out in accordance with the approved details of construction.

9. 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.
10. Prior to the occupation of each of the dwellings hereby approved, provision shall be made within the corresponding plot for the parking of vehicles as detailed on the approved site plan 1906-sit-01 Rev N. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
11. Prior to first occupation of any dwelling on the site, a 20mph Zone shall be implemented that covers the internal estate road.
12. No surface water drainage from the site shall be allowed to discharge onto the county highway.
13. No dwelling hereby approved shall be occupied before the estate road carriageway and footways are constructed to binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that dwelling and to the junction with the existing county highway.
14. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.
15. The development shall be undertaken in strict accordance with the following
  - i) Proposed Residential Development, Land off Forden Road, Montgomery, Powys - Ecological Appraisal, by Marches Ecology, dated 10th February 2021 (section 4.3, Assessment and Recommendations)
  - ii) Proposed Residential Development, Land off Forden Road, Montgomery, Powys - Ecological Mitigation Method Statement, by Marches Ecology, dated 10th February 2021

The measures identified shall be adhered to and implemented in full and maintained thereafter.

16. Prior to commencement of development, a Construction Environment Management Plan (CEMP) shall be submitted in writing to the Local Planning Authority. The CEMP shall include the following as a minimum:

i) Roles and responsibilities for implementation of CEMP and measures identified therein

ii) Details of pollution prevention measures to avoid harm to terrestrial and aquatic habitats

iii) Details of mitigation measures for protected and priority species, including great crested newt, to include timetable of measures in relation to construction phases

iv) Ecological Compliance Audit, including key performance indicators

v) Biosecurity Risk Assessment identifying measures to prevent the introduction and spread of invasive non-native species on and off-site, and measures for eradication of *Crocospia* sp.

17. Notwithstanding the details submitted, prior to commencement of development, a detailed landscaping and biodiversity enhancement 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 position. The locations of trees and dwellings of biodiversity enhancements for nesting birds shall be included. The approved scheme shall be implemented in full and maintained thereafter.

18. Prior to commencement of development, an External Lighting Design Scheme to avoid and reduce potential impacts on nocturnal wildlife shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of external lighting installed on dwellings and along footways. The scheme shall 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://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>. The approved scheme shall be adhered to and be implemented in full.

19. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:

- o 0800-1800 hrs Monday to Friday
- o 0800-1300 hrs Saturday
- o At no time on Sundays and Bank Holidays

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

20. Prior to the commencement of development, the noise mitigation measures as detailed within the Environmental Noise Survey dated 26<sup>th</sup> May 2021 shall be provided on a plan and submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details

21. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:

i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 100% of housing units/bed spaces;

ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];

iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

22. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings have been submitted to and approved in writing by the local planning

authority. Development shall thereafter be carried out in accordance with the approved details.

23. The affordable dwellings shall have a maximum gross floor area of 115 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwellings shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.
24. Prior to commencement of development a Great Crested Newt Habitat Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted Plan shall make reference to the Proposed Residential Development, Land off Forden Road, Montgomery, Powys – Ecological Mitigation Method Statement, by Marches Ecology, dated 10th February 2021. The approved scheme shall be implemented in full.
25. Prior to the commencement of development, a Construction Method Statement shall be submitted to and agreed in writing by the Local Planning Authority in respect of the control of noise and dust during the landscaping and construction phases of the development. Development shall be carried out in strict accordance with the approved method statement.
26. Prior to the commencement of development, details of the hard landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.)

The approved scheme shall be implemented in full and maintained thereafter

#### 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 secure preservation by record of all archaeological remains which will be impacted by the development

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.
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13. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.
14. In the interest of highway safety in accordance with Powys Local Development Plan policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.
15. 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 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.
16. 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 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.
17. To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM4 in relation to Landscape, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016
18. To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM7 in relation to Dark Skies and External Lighting, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.

19. To protect the amenities of neighbouring residential property in accordance with policy DM13 of the Local Development Plan (2018).
20. To protect the amenities of neighbouring residential property in accordance with policy DM13 of the Local Development Plan (2018).
21. In accordance with policies H5 and H6 of the Local Development Plan (2018) and Planning Policy Wales (2021).
22. To ensure an appropriately designed development in accordance with policy DM13 of the Local Development Plan and Planning Policy Wales (2021).
23. In order to ensure that the dwellings serve and affordable need in perpetuity in accordance with the Affordable Housing SPG and policies H5 and H6 of the Local Development Plan (2018) and Planning Policy Wales (2021)
24. To comply with Powys County Council's LDP Policies DM2 in relation to The Natural Environment and DM4 in relation to Landscape, and to meet the requirements of Planning Policy Wales (Edition 11, February 2021), TAN 5: Nature Conservation and Planning and Part1 Section 6 of the Environment (Wales) Act 2016.
25. In order to ensure that there is no harm to the amenity of neighbouring properties during the construction of the development in accordance with policy DM13 of the LDP.
26. To comply with Powys County Council's LDP Policies DM3 in relation to open space and Planning Policy Wales (Edition 11, February 2021).

## **Informative Notes**

### Hafren Dyfrdwy

Hafren Dyfrdwy advise that there is a public 150mm combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Hafren Dyfrdwy to discuss the proposals. Hafren Dyfrdwy will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer.

The developer's attention is also drawn to the legal requirement for all sites to enter into a Section 104 sewer adoption agreement with Hafren Dyfrdwy before any sewer connection can be approved, in line with the implementation Schedule 3 of the Floods and Water Management Act 2010. Full details of this are provided on our website [www.hdcymru.co.uk](http://www.hdcymru.co.uk) under the 'New Site Developments' section.

### Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their

proposed plans for diversion requirements.

To request a water map please follow the link, <https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> scroll down the page to view the link:

Please visit [www.digdat.co.uk](http://www.digdat.co.uk)

You will need to register on the website and then you will be able to search for your chosen location and get an instant quote online. For more information you can view Digdat's user guide([opens in a new window](#)).

Please look at the district area supply plan (PDF)([opens in a new window](#)) to check that your site is within the Severn Trent boundary before requesting an underground asset map.

Any correspondence and diversion applications are to be submitted through New Connections the relevant form can be found on the Severn Trent website, please complete the form as fully as possible.

### Biodiversity

Warning: A European protected species (EPS) Licence is required for this development.

This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/protectedspecies-licensing/european-protected-species-licensing/?lang=en>

Great Crested Newts - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended).

Under The Conservation of Habitats and Species Regulations 2017 it is an offence for any person to:

- o Deliberately capture, injure or kill a great crested newt
- o Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution or abundance of great crested newts or the

ability of any significant group of great crested newts to survive, breed, rear or nurture their young;

- o Deliberately take or destroy the eggs of great crested newts
- o Damage or destroy a breeding site or resting place. This is an absolute offence, in other words intent or recklessness does not have to be proved.

Under the Wildlife & Countryside Act 1981 (as amended) it is an offence to

- o Intentionally or recklessly disturb a great crested newt while it is occupying a structure or place which it uses for shelter or protection
- o Intentionally or recklessly obstruct access to their places of shelter or protection

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 (as amended) that works to ponds or terrestrial habitat where that work involves the disturbance of great crested newts is an offence if a licence has not been obtained from Natural Resources Wales. If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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 on 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.

### Sustainable Drainage

Having assessed the Planning Application Ref 20/2118/FUL, the SuDS Approval Body (SAB) deem that the construction area is greater than 100m<sup>2</sup> and therefore this proposed development will require SAB approval prior to any construction works commencing onsite.

Please contact the SAB Team on 01597 826000 or via email [sab@powys.gov.uk](mailto:sab@powys.gov.uk)

For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website <https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB>

If for any reason you believe your works are exempt from the requirement for SAB approval, we would be grateful if you would inform us so we can update our records accordingly.

The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs

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