

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

**Application Number:** 20/1314/FUL

**Grid Ref:** E: 299115  
N: 267747

**Community Council:** Ystradgynlais Community

**Valid Date:** 21.08.2020

**Applicant:** Mr Matthew Morgan

**Location:** Land at Brynygroes Farm, Ystradgynlais, SA9 1LF.

**Proposal:** Full planning application for residential development and associated works

**Application Type:** Full Application

### The reason for Committee determination

The application has been called in by the Local Member.

### Consultee Responses

#### Consultee

#### Received

PCC-Contaminated Land Officer – first response

6th Jan 2021

The subject site is identified as being an area of mining and quarrying, and a 'High Risk Development Area' as it is a coal mining area which is potential contaminated land.

In relation to planning application, the following advice is provided for the consideration of Development Control.

Firstly, the consultants must qualify themselves as 'appropriately qualified' to undertake a mine gas risk assessment. When specialist assessments are undertaken the LPA should be confident that the organisation making that assessment has a level of professional accreditation that can be relied upon. This is discussed in various best practice documents and is expanded upon in the forthcoming Ciria 'good practice of for risk assessment for mine gas emissions' i.e.

'Anyone carrying out a mine gas risk assessment and mitigation design should be suitably qualified or experienced as required under the definition of 'competent persons' in the

National Planning Policy Framework (NPPF) in England and equivalents in the devolved regions. They should be a Chartered professional member of an appropriate organisation and with additional accreditation (e.g. SoBRA6 accredited risk assessor for permanent gases or a similar level of qualification such as SiLC7 or RoGEP8 ). They should have demonstrated competence in geology, understanding of mining and the processes that can cause gas to be produced in mines and how it can migrate to the surface and into buildings, as well as gas risk assessment techniques'.

I have asked the consultant for such qualification, but none has been forthcoming to date. Whilst I provide specific comments to their desk study below, I will be unable to recommend conditions until this matter has been resolved (because the conditions specify 'an appropriately qualified person').

Secondly, gas protection measures to CS2 standard must be installed in all properties in a coal mining area. However, one of the objectives of the mine gas risk assessment must be that this level of protection is sufficient to mitigate the gas risk. We will not accept these measures in lieu of a gas monitoring programme.

Thirdly, it is accepted there is a body of previous work undertaken at the site of which there is likely useful data that the desk study has not fully explored. This is particularly relevant in respect of the potential for the presence of groundwater. The consultant does not appear to have identified the correlation between groundwater and mine gas, this is a significant omission.

Finally, I will not make comments on the intrusive investigation as this would be accepting of the desk study, which I am not for the reasons detailed below.

#### Specific comments

##### Terra Firma Desk Study Review

1. The qualifications of the author, checker and authoriser are not shown?;
2. The desk study includes reports that are not licenced for use by a third party;
3. S2.1 states that three properties in the centre of the site are excluded from the development, however these properties must still be considered as viable receptors. Furthermore, the property that is subject to a planning application has not been signed off and therefore is still at risk;
4. Fig 2.12 and following plans have been taken directly from a third party report - this should be removed and not relied on, the consultant must produce their own versions;
5. S.2.6.1 states 'Surface and shallow groundwater flows will follow the site topography.

Surface waters in the west of the site may be received by the unnamed stream that flows along or close to the western site boundary' this information appears to have been referenced from an envirocheck report rather than from field data - which will be required to verify such statements;

6. S.3.2.2 states 'As the farm was for raising livestock no fertiliser or pesticides would have been applied to the land'. Evidence of the land use is required?

7. S.3.2.2 states 'There are no records for animal burial pits on site.' How was this information sourced?

8. S.3.2.2 makes reference to assessment criteria without plant uptake - what is the justification for this?

9. S.3.2.3 discusses gas risk and correctly identifies mine gas as a potential source of risk. However, I cannot agree the level of risk assigned in Table 3.1 without a robust, developed CSM. Significant factors have not been considered which should be addressed:

- o Groundwater has only been considered as a receptor to contamination rather than consideration of its impact on mine gas - this is a significant omission;

- o Groundwater levels and rebound. Consideration of pathways requires greater investigation/assessment than provided, data from previous investigations may be of use such as groundwater levels and permeability tests (rather than generic statements on an opinion of permeability from logs);

- o Are groundwater levels recovered or rising - provide evidence;

- o If recovering what is the rate of rise?

- o Are any workings flooded or not?

- o Are water levels linked to other mine systems?

- o A schematic showing the relevant seams, workings in respect of the site is recommended.

10. Site investigation proposals. I have significant concerns in respect of the proposals particularly around characterising gas risk and monitoring which does not appear to be specific to understanding mine gas risk. The monitoring proposals are not acceptable to characterise risk at this site and appear to be little different to a A.N.Other low risk site, for example, evidenced by an intention to monitor on a fortnightly basis over three months and suggesting where an installation will be before drilling has taken place. This is not best practice by existing guidance, or in the context of the draft 'good practice for risk

assessment for mine gas emissions 'guidance which states the following aspects should be considered in a mine gas investigation:

- o A sufficient number of boreholes that should be drilled to an adequate depth to determine whether former workings are present at shallow depth. Often boreholes are drilled to at least 30m but the depth is site specific.
- o A sufficient number of boreholes should be drilled to an adequate depth to determine the significance of potential migration pathways and the variation in any superficial deposits that may act as a barrier to mine gas migration.
- o Investigation of shafts may require close spaced probes, trenches or geophysical methods.
- o Gas monitoring at the bottom of the hole, every 1m as drilling progresses provides useful information for gas risk assessment (as well as being a useful indicator for 406 health and safety of the drillers). This is typically a condition of a Coal Authority license to drill into Coal Measures.
- o Careful logging of rock cores is necessary to identify fracture spacing, infill and direction.
- o Logging of nearby rock exposures can provide useful information on fracturing.
- o Gas monitoring well response zones should be designed to ensure that they are within a single stratum, i.e. within made ground, any superficial deposits, in a worked coal seam or in the surrounding Coal Measures strata. Response zones should not span multiple strata or worked seams and surrounding strata. The response zone for each monitoring well should be designed after completion of drilling and the ground conditions in the well are known. This requires close communication between the drillers and the site geotechnical/geo-environmental engineer or engineering geologist.
- o If the superficial deposits are thick then gas monitoring may only be required in those deposits in order to show gas migration is not occurring from deeper workings.
- o Surface emissions measurements and flux chamber testing can provide valuable information when combined with gas monitoring data from wells.
- o If workings are shallow and flooded then timeseries groundwater monitoring may be necessary to confirm variations do not result in levels dropping and exposing the workings to air.

11. The investigation in the plant hire area should be supplemented with trial pits as window samples do not provide sufficient coverage;

12. S4.4 excludes an assessment of controlled waters. Given the concern over understanding the water regime on site this is not acceptable;

13. The CSM does not consider all reasonably foreseeable changes caused by the development such as drainage and service channels, hard standings, foundations etc. Additionally, there is a 'cover all' statement that grouting mitigates all potential pathways whilst making no acknowledgement of the limitations of grouting i.e. levels checked to ensure it has not dropped, ensuring all holes are grouted etc.

Intrusive mining risk assessment report, Terra Firma, November 2020

14. Plans from an unlicensed third party report should be removed or reproduced by the consultant;

15. The investigation has been undertaken without the desk study or proposals being approved;

16. I will provide no further comments on this report until the mine gas issues raised in respect of the desk study have been resolved.

Land Contamination – second response

5<sup>th</sup> October, 2021

The subject site is identified as potential contaminated land due to being a former mining of coal and lignite, and a Coal Authority defined Development High Risk Area. I have reviewed previous reports and the following latest submissions: • Terra Firma letter report dated 10th September 2021, ref: RH/15761/GRA-P1; and • EPG letter dated 23rd September 2021, ref: EPG/2021/TFW\_BFY\_L1.

My previous objections related to the absence of an appropriate mine gas risk assessment being undertaken by an appropriately qualified person(s). This has now been satisfied with the current and continued use of EPG consultants.

Therefore, the following pre-commencement conditions are appropriate. Condition A

Condition 1. Preliminary Investigation No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority.

This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best

practice, and shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include: Cyngor Sir County Council – A desk study – A site reconnaissance – Formulation of an initial conceptual model – A preliminary risk assessment If the preliminary risk assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a suitably qualified competent person.

The contents of the scheme and scope of works are subject to the approval in writing of the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

Condition 2. Site Characterisation No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins. The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

Condition 3. Submission of Remediation Scheme No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 2 has been received from the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development

of Land Affected by Contamination: A Guide for Developers' (2017).

Condition 4. Specification and Verification Methodologies for ground gas protection The subject site is located in a former coal mining area and ground gas protection measures which meet, as a minimum, Characteristic Situation 2 (CS2) specifications, as prescribed in BS8485:2015+A1:2019 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings', must be installed.

Appropriately qualified personnel as described in Ciria C735 must verify the installation and qualify the installer. The specification and verification methodologies, for the installation of the ground gas protection measures, must be provided in a Verification Plan (as described in Ciria C735) that is part of the Remediation Strategy and must be approved in writing, by the local planning authority, prior to the commencement of the development.

Condition 5. Implementation of Approved Remediation Scheme The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

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

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

Condition 6. Long Term Monitoring and Maintenance A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the

approval in writing of the local planning authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM10 of the adopted Local Development Plan 2011-26.

Note to Applicant Potential Contamination The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 01597 827645.

Welsh Water

16th Sep 2020

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

**SEWERAGE** We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. **Surface Water Drainage** As of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems - designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with the Local Authority, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features.

Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application



process and will provide comments to any SuDS proposals by response to SAB consultation.

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

PCC-(S) Highways – first response

9th Oct 2020

Thank you for consulting the Highway Authority (HA) on this planning application, which covers the provision of proposed residential development and associated works, on land at Brynygroes Farm, Ystradgynlais.

This proposal is supported by the submission of a Transport Assessment (TA) which considers the existing planning uses on the site, the existing base-line highway network characteristics in the vicinity of the site, including provision for pedestrians and transport, and the potential impacts on the network post-development. The TA seeks to address any matters arising, through the implementation of appropriate mitigation measures.

The HA has previously provided detailed highway observations in respect on the proposal, as part of the Pre-Application Consultation Process (PAC). This formal application includes a supplementary Highways Note which seeks to address and mitigate the matters raised by the HA during the PAC process. This submission does not however, include any revised or additional drawings from those issued as part of the PAC process, however the HA have been advised by the highway consultant acting on behalf of the applicant, that revised drawings will be made available during consideration of this matter.

## Overview

This site is allocated for housing within the adopted LDP and already benefits from planning permission (2014/1133) which covers the provision of 138 dwellings; that particular permission Includes the requirement to construct a new dedicated vehicular and pedestrian access from the A4067. The current proposal, which is of a similar scale to that consented, seeks to utilise an alternative existing access from the A4067 via an existing three arm right turn ghost island junction to the south of the consented scheme. The existing access currently serves agricultural land, several residential properties and an existing plant hire business which it is understood, will be relocated post development. The junction also previously served an open cast coal mine haul road which is now disused.

## Existing and Proposed Trip Generation & Existing Road Network

The TA. Does not include automated traffic count records, within in the vicinity of the site entrance. The HA is however satisfied, that the manual count surveys undertaken at the site entrance and, the DfT data collected from a neighbouring site, adequately demonstrates that the A4067 and the proposed junction to the site, both contain sufficient capacity to accommodate the level of traffic a site of this nature would

generate. Accordingly, the projected vehicular movements generated by this proposal, the distribution of that traffic and the effects of such on the existing network is projected to have a "negligible impact" on the existing highway network. As such the HA raises no concerns in this regard.

#### Access from A4067

Whilst the existing three arm junction clearly has sufficient vehicular capacity to serve the proposed development, the current junction geometry, alignment and gradients are not considered appropriate to serve a residential setting. The existing junction was originally designed to convey very large HGV's and as such, the current junction incorporates large junction radii and an excessively wide carriageway. The HA contends that such features will inevitably encourage high entry and exits speeds and conflicting vehicle movements post development, which would be detrimental to highway safety. The existing access gradient is also steep and does not include a suitable dwell area to enable vehicles to navigate the junction safely.

Whilst the submission includes proposals to reprofile the existing junction, in order to improve the access gradients, the submitted long sections do not include suitable vertical curves between the transition in gradients and there is very little detail included with regards to the proposed tie in with the existing haul road, or the likely cover levels available over the existing culvert, which will ultimately cross the proposed access road. The developer has previously been advised the structural integrity of this feature will need to be determined and that future road cover levels will need to include appropriate vehicular loading calculations, to demonstrate that the culvert is suitable to withstand future vehicular loadings. No additional detail has been included to address the geometry issues.

Notwithstanding the comments included within the submitted Transport Note, internal discussions with Engineering Design colleagues have confirmed that past discussions between them and the applicant in respect of the access, centred on agreeing access gradients only. Whilst the previously agreed gradients are not disputed at this stage, such agreement was always subject to the inclusion of suitable vertical transition curves and the submission of suitable detail in respect of the culvert. Discussions were never held in respect of the geometry of the junction.

Since the submission of this application, the HA has had subsequent discussions with

the highway consultant acting on behalf of the applicant, during which, an undertaking was given by the consultant that additional/revised drawings will be submitted to address the issues identified by the HA. These are still awaited at the time of producing this report.

In consideration of the above, the HA therefore contends that the current access proposals fail to comply with PPW, TAN 18 and Policies DM13 (10) & T1 (1&2) of the adopted LDP.

#### Active Travel Links to/from the Site

The submission includes very basic detail to support a proposal to upgrade the existing bridleway (BW75) which crosses the site, to provide an Active Travel (AT) link from the development site to the A4067 and beyond. It is further proposed that the existing footways and crossing points sited within and alongside the A4067, are sufficient in their current form, to meet the Active Travel provision for the development.

The PCC Active Travel group have been consulted on the proposals and have concluded that the submitted proposals fail on numerous grounds, to satisfy Active Travel requirements. The following points summarise their findings:

1. The proposed option is not suitable for Active Travel (AT). It fails on a number of the key areas of the AT Design guidance (please note this is statutory guidance) which outlines minimum standards for active travel routes which are substantially more rigorous than those applied to a public footpath or bridleway which is aimed at different users and volumes. To say that people can use an existing bridleway for AT is not acceptable. It still needs to meet AT standards particularly for large developments of this nature.
2. Active Travel provision from this site should include a combined 3m wide link to accommodate both cyclists & Pedestrians. The submitted proposals clearly fail in this respect.
3. The submitted proposals do not include any long sections to demonstrate that the requisite gradients can be achieved to meet Active Travel requirements.
4. There is no detail submitted to demonstrate that a suitable contiguous link can be provided to the A4067.

5. The surface would need to be upgraded to a suitable standard (see AT guide).
6. The existing footway adjacent to the A4067 in each direction to the splitter islands is substandard, both in terms of the surface and width.
7. An uncontrolled crossing at this point along the A4067 is not considered acceptable. Table 6.3. within the AT Design guidance recommends that crossings at such locations with traffic flows in excess of 8000 AADT 2-way movements should incorporate a Toucan Crossing.
8. The internal AT links are considered extremely poor. Pedestrians will not be inclined to take such an arduous route. More direct routes for each part of the site are therefore required.
9. The facilities beyond the A4067 have no specific facilities for cyclists and contain narrow footway provision.

Notwithstanding the comments included within the submitted Transport Note, the HA therefore contends that the current AT proposal fails to comply with PPW, TAN 18 and Policies DM13 (10) & T1 (1&2) of the adopted LDP.

#### Internal Layout

- o The horizontal alignment is not configured to a design speed 20mph; additional traffic calming provision is required.
- o Footway widths are not 2m.
- o Adequate service margin provision shall be provided where footways are not required.
- o A detailed car parking schedule is required.
- o Internal junction and forward visibility shall be detailed.
- o Turning provision is required on the road serving properties 102-109.
- o Turning head provision for Roads 2 & Road 5 (Plot 82) needs to be enlarged to avoid pedestrian and plot parking conflict.
- o Access arrangements for the existing properties are not clear.

Whilst the above points are relevant, the HA understands that revised drawings are

being prepared to address these matters

#### Surface Water Proposals

- o This element of the scheme shall be subject to a separate SAB approval, however it should be advised that services (including foul sewerage systems) are not normally permitted within permeable areas.

#### Additional comments

- o An independent Stage 1-2 road safety audit has not been submitted as previously requested. This requirement should ideally be undertaken when a more appropriate design has been brought forward.
- o 85% speed measurements (ATC's) have not been taken along the A4067. This is an important consideration when assessing the crossing provision at the A4067.
- o No cross sections are available.
- o Additional information is sought on the watercourse diversion and the effects that may have on the access road.
- o The highway layout drawing includes proposals to remodel the existing haul road access and reconfigure the priority, however no detail is included within the submission to suggest its intended use or the gradients achievable.

#### Conclusion

Considering the above observations, the HA contends that the current application is contrary to PPW, TAN 18 and Policies DM13 (10) & T1 (1&2) of the adopted LDP. It therefore objects to the current proposal.

#### PCC-(S) Highways – second response – 10<sup>th</sup> January, 2022

By my reckoning, the latest revision provides an additional 12 parking spaces which now leaves the site 14 on plot parking spaces short, although plots 2 and 3 are of no concern, so in reality you are 12 short. I appreciate that you have also upped the off plot/visitor parking spaces to 12 as well.

Whilst this is a marked improvement I do have a few concerns, given the members feedback provided at committee, and I do believe there is still opportunity to improve matters further.

Plots 26/27 – there is clearly room to provide an additional space for one of these

properties which would be welcomed given their positioning on the junction raised table.

Plots 28/29 – there is clearly room to provide an additional space for one of these properties which would be welcomed given their positioning on the junction raised table.

Plot 35 – this one is a concern as it is a 4 bed right next to a junction. There is in my opinion scope to provide an additional space for the plot, although I recognise that it would mean that the space would overlap into the frontage of plot 36, which may not be ideal?

Plots 81 & 82 – would you consider flipping plot 83 with plots 81 & 82 so that the visitor parking was directly adjacent the plots?

Plots 103/104—would be much better if we could add an additional space for plot 103 given that its right on the junction. Would appear to be space?

In addition to the above I trust that you will be addressing the following matters?

- Haul road
- Provision of a turning head for the private road serving properties 98-102
- Turning head/car parking spaces conflict

As always – happy to discuss.

Highways – Third response -

27<sup>th</sup> January, 2022

Thank you for again re-consulting the Highway Authority (HA) on this planning application on land at Brynygroes Farm, Ystradgynlais.

This process follows the decision taken by members of the PROW Committee during its December 2<sup>nd</sup> meeting, to defer the application in order to allow the applicant further opportunity to address a number of unresolved planning issues, which included matters relating to highway provision. Such highway matters predominantly related to the inadequate levels of off-street parking provision within the site, and a number of other internal layout matters.

The HA notes and welcomes the additional highway information submitted by the applicant since the meeting, which includes amended detail that seeks to address the issues noted by members. In response the HA would comment on each matter as follows.

### **Parking Provision**

The original layout considered by members, showed off-street parking provision to be 26 spaces below the recommended levels set out within the adopted CSS Wales

Parking Standards, although it was noted that the shortfall associated with plots 2 & 3 would have little effect on the main spine road.

In order to address this issue, the applicant has submitted a revised layout for the site, as shown on drawing R491P-03 Rev M, together with a revised parking schedule. The amended detail includes a number of subtle site layout changes, which have enabled an additional 16 off-street parking spaces to be provided. The changes now leaves the site, just 8 spaces below the recommended allocation. To further mitigate this relatively minor 8 space shortfall, the applicant has adjusted the house layouts and further improved the visitor allocation, so that the visitor spaces are largely, sited in close proximity to the affected plots. This arrangement provides compensatory parking for the affected plots, which should reduce any need to park on street.

The revised and improved parking allocation is therefore welcomed by the HA. The amended proposals are considered to largely accord with adopted policy, and as such, the previous highway concerns raised in regards to this matter, have been adequately addressed.

Moving on to the remaining highway issues that were previously raised, the HA comments as follows.

### **Vehicular access from existing Haul Road.**

Whilst no additional information has been received in respect to this item at the time of writing this response, the HA has been advised that additional detail is being prepared and that revised drawings will likely be available before the matter is considered by the PROW Committee.

Notwithstanding the above, the HA has previously confirmed that this matter can be adequately controlled by the imposition of an appropriately worded highway condition. As such, an appropriate condition (condition 4) has been included in the attached list of highway conditions which is appended to this report.

### **Internal Layout**

The revised site layout, as shown on drawing R491P-03 Rev M, now includes an appropriate vehicular turning head on the private road which serves plots 98-102. This feature is welcomed by the HA, as it allows vehicles to both enter and leave the road in a forward gear which reduces the need for vehicles having to reverse significant distances.

Whilst no additional information has been received to date in respect of the turning head provision for Roads 2 & 5 (at present refuse vehicles would be unable to turn if the adjacent car parking spaces are occupied), the HA has been advised that additional detail is being prepared and that revised drawings will likely be available before the matter is considered by the PROW Committee.



Notwithstanding the above, the HA has previously confirmed that this relatively minor matter can be controlled by the imposition of an appropriately worded highway condition. As such, an appropriate condition (condition 1) has been included in the attached list of highway conditions which is appended to this report.

## **Conclusion**

The HA acknowledges and welcomes the revised site layout provided by the developer. The changes, clearly address the most fundamental parking concerns raised by the HA, which were also shared by members of the PROW Committee. As such, the HA is now satisfied that the amended proposals are acceptable, from a highway perspective, subject to the inclusion of the following highway conditions.

## **Suggested Conditions**

1. Notwithstanding the submitted details, within 10 days from the commencement of the development a detailed suite of highway engineering drawings covering the highway works within the site, including those relating to the new culvert, provision of traffic calming measures, appropriate signing and turning head provision shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.
2. Notwithstanding the submitted details, within 30 days from the commencement of the development a detailed suite of highway engineering drawings and a completed independent Stage 1 & 2 Safety Audit covering the off-site highway works along the frontage of the A4067 county highway, including the realigned access from the A4067, the active travel link from the A4067 into the site & the Toucan Crossing installation, shall be submitted to and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.
3. The gradient of the access from the A4067 shall be constructed so as not to exceed 1 in 30 for the first 15 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
4. The gradient of the internal haul road shall be constructed so as not to exceed 1 in 20 for the first 10 metres measured from edge of the adjoining estate road along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
5. No dwelling hereby approved shall be occupied before the off-site highway works detailed in condition 2 above, have been fully constructed to an adoptable standard to the written satisfaction of the LPA. Such works shall include the commissioning of the Toucan Crossing, completion of the realigned access and widened footway links alongside the A4067 and the construction of the active travel footway link from the A4067.

6. 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 drawing R491P-03 Rev M. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence
7. 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.
8. No dwelling hereby approved shall be occupied until the vehicular access is finished in a 40mm bituminous surface course material for a distance of 15 metres from the edge of the adjoining A4067 carriageway. The area will be maintained to this standard for as long as the development remains in existence.
9. 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.
10. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
11. Each private drive shall be surfaced in a suitably bound material, prior to the occupation of each respective dwelling and retained as such for as long as the development remains in existence.

### **Advisory Notes**

#### **NOTE: THE ATTENTION OF THE APPLICANT MUST BE DRAWN TO RELATED HIGHWAYS LEGISLATION WHICH MAKES PROVISION FOR THE FOLLOWING:**

##### **Note:**

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

##### **Note:**

Where development results in (or retains the potential to) the creation of a private street (typically development in excess of 5 dwellings) Powys County Council has a statutory duty to issue and enforce an Advance Payment Code Notice (APC) under the provisions of Sections 219/220 of the Highways Act 1980. The Notice requires the applicant to secure a sum or bond with the local highway authority that

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

PCC (S) Land Drainage - first response

7<sup>th</sup> October, 2021

Apologies for the delay in responding on this one. As discussed in our telephone conversation earlier, there are no 'showstopper' issues from our point of view. I have listed below what has been agreed in relation to surface water drainage for the site:

1. A SAB Pre Application has been carried out for the site, which demonstrates that they have a suitable surface water drainage strategy for the development.
2. The strategy identifies that infiltration is achievable in some sections of the site but there will still need to be a positive discharge, via an attenuated discharge rate, into the watercourse running through the development site.
3. We have been in discussions with both the developers and consultants during the process and this will have helped to formulate a scheme that is acceptable to all parties.
4. The consultants have asked for a commuted sum figure to be calculated but we do not have enough information at present to be able to accurately provide a costing but a meeting has been scheduled for next week to resolve this.
5. A full SAB Application will be required for the site.
6. I am aware that discussions have taken place over the watercourse and culverted sections through the site and I believe that a solution has been reached with the Developers and Highways.

I hope the above helps to clarify the situation but should you require any further information then please do not hesitate to contact the SAB Team.

Land Drainage – second response – 30<sup>th</sup> December, 2021

Can I also recommend you add another drainage condition and advisory note, as follows please.

*Recommendation: No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:*

- i. a timetable for its implementation, and*
- ii. a management and maintenance plan for the lifetime of the*

*development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.*

The above will allow Planning (and the Committee) to have confidence over the suitability of the proposed surface water and foul water drainage arrangements. You will appreciate, the SAB has only seen a pre-SAB application, which may change prior to the Committee date, so the above will hopefully provide some reassurance to Members over the proposed drainage arrangements.

In respect to the culvert, this system will be an asset that the Highway Authority is to adopt. From a Land Drainage perspective, the detailed design will be assessed when the LLFA receives an Ordinary Watercourse Consent (OWC) application. Can I therefore ask you include the following advisory note to remind the application of the statutory requirement to secure an OWC consent.

*Advisory: Any proposed alterations, interference or erection of any structure that affects an ordinary watercourse will require prior consent from Powys CC (as Lead Local Flood Authority), in accordance with Section 23 of the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010). Further information can be sought at:*

*<https://customer.powys.gov.uk/article/4661/Ordinary-Watercourses-Applying-for-consent-for-works>*

PCC-Ecologist – First response

15th Jul 2021

Thank you for the opportunity to comment on planning application 20/1314/FUL which concerns an application for residential development and associated works at Land At Brynogyres Farm, Ystradgynlais, SA9 1LF.

I have reviewed the proposed plans, aerial images as well as records of protected and priority species and designated sites within 2km of centre of the proposed development.

The data search identified 65 records of protected and priority species within 500m of the centre of the proposed development. Species recorded within 500m of the proposed development include bat species; common pipistrelle, soprano pipistrelle and Nathusius's pipistrelle, and otter, hedgehog, common toad, barn owl, swallow, goshawk, grasshopper warbler, mistle thrush, cuckoo, small phoenix moth and

bluebell.

No statutory and no non-statutory designated sites were identified within 500m of the proposed development. One or more Ancient Woodland (AW) sites were identified within 500m of the proposed development. The northern part of the proposed site abuts an AW site. Having taken into account the location of the 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 AW and/or any associated features subject to implementation of appropriate external lighting measures.

I have reviewed the Updated Ecological Survey produced by Fiona Elphick dated 21st July 2019 and consider that the survey methods and effort employed were in accordance with current National Guidelines.

The report details the findings of a phase 1 habitat survey and a protected species habitat suitability assessment undertaken on 21st July 2019 as well as the results of an associated desk-based study. Habitats identified within and immediately adjacent to the proposed development site include:

- o Improved grassland
- o Ditch
- o Trees

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

- o Bats
- o Nesting birds
- o Badger
- o Water vole
- o Otter

The site had been subject to previous ecological survey in 2009, 2012 and 2014 to inform a previous planning application. The current survey was undertaken to confirm that there had been no material changes in the condition of the site resulting in adverse

impacts to priority habitats and protected species. The proposed development is located on improved grassland bordered by mature trees and woodland. There are three dwellings within the site and a large implement shed; all three dwellings will be retained within the development but the implement shed will be demolished. During previous survey the buildings were fully surveyed for roosting bats and no roosts were found.

As there are no longer plans to demolish the dwellings these were not subject to further survey. The commercial implement shed was confirmed to have negligible potential for bats and did not require further survey. The habitats on site remained unchanged, are considered to be of relatively low ecological value and no evidence of protected species was observed. The field ditch crossing the site was considered unsuitable for water vole and otter but the surrounding trees provide habitat for nesting birds.

The mature trees around the site were also confirmed to have potential to support roosting bats. These are to be retained within the development. Removal of some smaller trees will be required and survey to inspect for roosting bats will be required prior to any felling works, although none of these trees were currently considered to have potential roost features. Several stands of Japanese knotweed were confirmed from the site in 2009. A treatment programme has been undertaken and the invasive plant was not visible on site at the time of survey.

Measures were recommended to avoid impact to nocturnal wildlife commuting and foraging in the area and to nesting birds from insensitive lighting during construction and operation development phases. Tree protection measures were also considered necessary during construction works. It is considered that these measures are appropriate to avoid adverse impact to biodiversity, including protected species. An Ecological Construction Method Statement is provided outlining reasonable avoidance measures to prevent impact to wildlife, including along the watercourses to the west and south of the site, during the construction and operational phases of development.

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

Biodiversity enhancements were proposed, including creation of a habitat strip with reptile refugia along the outside of the western edge of the site to further separate the development from the stream corridor; planting of hedgerows within the development to significantly enhance connectivity and provide habitat for a range of species; installation of bat on mature trees and bat tubes and swift nesting boxes on some of the proposed dwellings.

The submitted Landscape Masterplan identifies the area to the west of the proposed

development will be retained and managed as a habitat buffer, the SuDS attenuation pond will be planted with native aquatic plants, bat boxes will be installed on mature trees and sections of native hedgerow will be planted within the site along with specimen trees (an acceptable species list is included). An area of grassland will also be allowed to grow at the south-eastern edge of the site to benefit wildlife, including amphibians. All of the proposed measures are to be welcomed and 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 the identified biodiversity enhancement measures are secured through an appropriately worded planning condition.

The Landscape Masterplan does not indicate the materials to be used to form the external boundary of the site (except along the western edge) or boundaries between plots. Poorly designed and installed boundary features are considered highly detrimental to hedgehog populations because they hinder commuting, foraging and dispersal. Hedgehog is included on the Environment (Wales) Act 2016, s7 list of species of priority conservation importance within Wales. Therefore, in accordance with Powys LDP Policy DM2, all permanent fencing installed as part of a development is required to include gaps of sufficient size and number at ground level to enable hedgehogs to move through sites.

Access points comprising gaps of 130mm x 130mm (5" x 5") should be created within the fence line at ground level with at least one gap along each aspect of all fenced boundaries. If gravel boards are to be used, hedgehog friendly designs are available and should be used.

It is, therefore, recommended that provision of hedgehog friendly fencing within the proposed development scheme is secured through an appropriately worded planning condition.

The landscape plan and surface drainage plan identify that a section of watercourse west of the existing access will be diverted and the existing culvert under the access road will be lowered. No information has been provided regarding potential impact on otter, a European Protected Species. Otters are considered likely to be present on suitable watercourses within Powys, including in or near urban areas. It will be necessary to ensure that development does not result in adverse impacts to otter, a European Protected Species. As part of the planning process the Local Planning Authority must establish whether the three tests as defined by the Conservation of Habitats and Species Regulations 2017 (as amended) have been met prior to determining the application.

The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

In order to address the 3rd test appropriate mitigation would need to be identified. Mitigation need to be clearly illustrated on the architectural plans where appropriate and must provide sufficient detail to enable them to be subject to a planning condition/s106 agreement.

Further information is required to confirm the likelihood of potential resting places for otter along the affected watercourse and assess the impacts of culverting this section and of proposed works to the existing culvert. This will require an assessment by a suitably experienced and qualified ecologist. Impacts to otter and other protected species, such as water vole, would be assessed as part of the SAB approval process and for issuing of Ordinary Watercourse Consent. If information has been provided to inform either consent, this should be forwarded to the LPA for consideration.

Therefore, it is considered that there is insufficient information with regard to potential impacts to otter, a Habitat Regulations Species, to determine this application.

A report of a Tree Survey produced by ArbTS Ltd has been submitted to inform the application. The tree survey was conducted in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations. A number of high quality trees (category A and B) were present around the site and within the AW site adjacent to the eastern boundary. These are to be retained within the development. The Arboricultural Impact Assessment identified that two individual ash trees and a group of two ash trees will be felled to accommodate the proposal, predominantly due to poor health; all were identified as suffering from ash dieback disease. A number of other ash trees on site also exhibited signs of the disease but no further felling was recommended at the current time. Some works to a limited number of trees along the south-eastern boundary (branch removal) will also be required. Given the comments of the submitted ecology report, it is recommended that a condition is applied to any consent requiring a pre-felling inspection for potential bat roosting features by a suitably licensed ecologist.



The report also includes a Tree Protection Plan and Arboricultural Method Statement which outlines the measures to be taken to protect the root protection zones of all retained trees during construction, and the proposed management works. Subject to implementation of the Plan and Method Statement and additional landscape planting proposed it is considered that there will not be an adverse biodiversity impact as a result of the proposal.

It is, therefore, recommended that adherence to the submitted Tree Protection Plan and method Statement are secured through an appropriately worded planning condition.

I have reviewed the submitted Domestic Lighting Plan which identifies that external lighting is designed to restrict upward light spill, particularly at the rear of all properties. However, although use of low wattage bulbs is referred to no specification is provided regarding the colour spectrum of the bulbs. External lights must use a LED bulb of a colour that avoids the cool-white part of the colour spectrum, i.e. <4,000oK, preferably with a peak wavelength of >550nm (~3000°K). Furthermore, it is not clear why a hooded design of luminary is not deemed appropriate for the front of the bungalow properties. The chosen design casts light spill directly upwards and is completely contrary to guidelines. This will deter use of any suitable habitat areas and wildlife corridors created within the development. If this design is insisted upon an isolux diagram must be submitted (as recommended in the ecology report) to demonstrate that there will not be an adverse impact to wildlife. It is considered that hooded designs which restrict light to path surfaces and entrance ways are sufficient for most safety and security purposes.

Further details of the external lighting to be installed is required to confirm that there will be no adverse impact to nocturnal wildlife.

Given the proximity of the proposal to adjacent watercourses it is considered appropriate that pollution prevention measures are identified to ensure that construction of the site is undertaken in a manner that safeguards the environment and biodiversity. It is recommended that preparation of the Pollution Prevention Plan refers to relevant guidance including GPP 1: A general guide to preventing pollution and GPP5 Works and maintenance in or near water, which can be found at: <https://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/>

It is, therefore recommended that submission of a Pollution Prevention Plan is secured through an appropriately worded planning condition.

Due to the location of the proposed development and the nature of the works required to establish such a development, it will be necessary to demonstrate that construction of the site will be undertaken in a manner that prevents or reduces the likelihood of the introduction and/or spread of invasive non-native species in the environment. It is acknowledged that Japanese knotweed on the site appears to have been treated successfully following a professional eradication programme. However, a Biosecurity Risk Assessment will be required that identifies measures and actions to control and eradicate any invasive non-native species should they be found on and adjacent to the site. Japanese knotweed is prevalent in the vicinity and accidental re-introduction to the site must be avoided. Consideration should also be given to the potential for works to spread or introduce invasive non-native species (plant, animal or pathogen) to the watercourse habitat during culverting works.

It is, therefore, recommended that submission of a Biodiversity Risk Assessment is secured through an appropriately worded planning condition.

Further comment will be provided once the required information has been received.

Ecology – second response

6<sup>th</sup> October, 2021

I have reviewed the submitted information relating to culvert works which confirms details discussed with the proposal's design team previously. The works to the existing culvert will include provision of an otter shelf which will ensure there is no adverse impact to otter movement the design could be considered an improvement on the current structure which is welcome. A trash screen will be fitted over the existing outlet – again this will be of an otter friendly design to be confirmed as part of the Ordinary Watercourse Consenting process.

It is, therefore, recommended that adherence to the identified otter mitigation and enhancement measures are secured through an appropriately worded planning condition.

Justification for the proposed lighting scheme has been provided and measures taken to minimise lighting impacts to sensitive habitat features, notably the river corridor and boundaries. Non-hooded luminaries restricted to the fronts of a proportion of properties (type C bungalows) and are deemed essential for security reasons. Although this is not considered ideal, particularly if street lamp posts are also to be installed, these generally face into the development and away from boundary habitats.

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

The development shall be undertaken in strict accordance with the following

- i) Section 6 (Recommendations) and Ecological Construction Method Statement, Updated Ecological Survey, Land at Brynygroes, by Fiona Elphick, dated 21<sup>st</sup> July 2019
  - ii) Landscape Masterplan, Drawing no. RS200613-01-03
  - iii) Section 6.0 (Arboricultural Method Statement) and Appendix 4 (Tree Protection Plan), Arboricultural Report, by ArbTS Ltd, dated 21<sup>st</sup> June 2021
  - iv) Proposed Access Arrangement & Culvert Works, Drawing no. C-SK13
- 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 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 (including ground works and vegetation clearance), a Construction Environment Management Plan shall be submitted to the Local Planning Authority and approved in writing. The CEMP shall include but not be limited to the following:

- Ecological Construction Method Statement
- Pollution prevention plan
- Biosecurity risk assessment
- Tree protection plan
- Lighting during construction phase
- Ecological enhancement plan to include number, location and timing of implementation of reptile refugia; and timing of planting, site preparation and aftercare measures.
- Roles and responsibilities

The approved measures shall be adhered to and implemented in full.

*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 any works being undertaken to trees, a bat survey of affected trees shall be undertaken by a suitably qualified ecologist. The survey shall be undertaken in accordance with *Collins, J. (ed) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3<sup>rd</sup> edn.) The Bat Conservation Trust, London*. Any works shall be undertaken in accordance with expert ecologist and arborist advice and European Protected Species licence requirements where appropriate.

*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.*

Access points to facilitate movement of hedgehog and small mammals shall be incorporated into all fencing forming any part of the site boundary or boundary between individual plots. A minimum of one access point comprising gaps of 130mm x 130mm (5" x 5") shall be installed along each fenced aspect of the boundary. If gravel boards are to be used, hedgehog friendly designs shall be used. The access points shall be 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 Part 1 Section 6 of the Environment (Wales) Act 2016.*

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

*Protected Species*

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

*Birds – Wildlife and Countryside Act 1981 (as amended)*

*All nesting birds, their nests, eggs, and young are protected by law and it is an offence to:*

- intentionally kill, injure or take any wild bird*
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built*
- intentionally take or destroy the egg of any wild bird*
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young 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.*

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

*It is an offence for any person to:*

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

*Under the Habitats Regulations it is an offence to:*

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

*The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk).*

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

*Otters are known to be present on the majority of watercourses in Powys. The otter is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017.*

*It is therefore an offence to:*

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

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

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

Environmental Protection

21st Sep 2020

In view of the residential setting of the proposed development it is recommended that before any development commences 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.

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

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

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

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

Informative

During construction (including soil movement and landscaping activities) the contractor shall take all reasonable steps to prevent dust formation from dusty activities and any dust formed shall be prevented leaving the site by continuous watering down.

Coal Authority

17th Sep 2020

Thank you for your notification of 08 September 2020 seeking the views of the Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

#### The Coal Authority Response: Substantive Concern

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records indicate that the site has been subject to recorded shallow coal mining; thick coal seams outcrop within the site that may have been historically worked by illicit means and the presence of 4no. recorded mine entries (2no. on-site mine shafts and the zone of influence of an off-site mine entry and off-site mine adit).

The planning application is accompanied by:

- o Site Investigation Factual Report, August 2009 prepared by Ground Investigation (Wales) Limited;
- o A letter regarding old mine shafts dated 29 June 2012 prepared by Dr Ian Williams Managing Director at Ground Investigation (geotechnical & geo-environmental consultants);
- o Phase 1 Geoenvironmental Risk Assessment, 12/03/2018 prepared by GeoConsult Limited, prepared for a proposed new dwelling only and not for residential development as per this current enquiry: Drawing No. R491 P-02F.

We note that this planning application is also accompanied by an Initial Assessment of Land Quality, dated November 2009 prepared by Ground Investigation Ltd. The Assessment has been prepared for 33 acres of farmland, which includes this current application site and recommendations have been made that intrusive ground investigations are required in order to confirm the extent of shallow coal mine workings and the location / condition of the mine entries present within the site.

The Coal Authority were consulted as part of the pre-application consultation process by Asbri Planning Ltd, of which our comments have been provided within the Pre Application Consultation Report, dated August 2020 (Section 6.1).

We identified that as part of any formal planning application, the applicant submits and up-to-date, site and development specific Coal Mining Risk Assessment, informed by the submitted reports, in order for the applicant to demonstrate to the LPA that this site is, or can be made safe and stable. We identified that the layout should be informed by the location and influencing distance of all mine entries, particularly the two on-site mine entries.

We note that the Pre Application Consultation Report identifies that based on our comments "Further Site Investigation works are to be carried out on site to ensure a wider coverage of results are received to assess the impact of development on any mine entries, adits or shallow coal mining. This report will be submitted to accompany the application and will be issued to the Coal Authority and the council's environmental health officer prior to determination of the application".

On checking the LPA website, it does not appear that such a report has yet to be submitted.

The Coal Authority is of the opinion that when a site is affected by the presence of recorded mine entries an attempt should be made to locate these specific mining features in order to inform the layout the development being considered. In accordance with Drawing No. R491 P-02F (Proposed Site Plan), the Coal Authority objects to the layout seeking approval as development will be taking place over and within the zone of influence (area of collapse) of the two on-site mine entries (plots 87 to 90 - Phase 2 development).

In light of the above, and as further site investigation information is to be submitted in support of this planning application (identified within the PAC Report), we would expect the results of intrusive ground investigations to inform the layout of this proposal, and for the applicant to amend the layout in order that adequate separation between the buildings and the mine entries are incorporated. The findings of the site investigations should also inform the extent of remedial and / or mitigation measures required so that in the event of a catastrophic failure of the mine entries / shallow coal workings, there will be negligible impact on the development.

Based on the information currently submitted, the Coal Authority does not yet consider that the applicant has demonstrated to the LPA that the site is suitable for the development proposed and the development will be safe and stable (Planning Policy Wales paras. 6.9.23 - 28) and therefore we currently object to this proposal (Layout - Phase 2).



We welcome the opportunity to review and comment on further information / amended layout submitted in support of this planning application.

Coal Authority

9th Aug 2021

## The Coal Authority Response: Material Consideration

As you are aware, the Coal Authority objected to this planning application in our previous letter to you dated 17 September 2020 as we did not consider that the applicant had provided sufficient information to the LPA to demonstrate that the proposed development is, or can be made safe and stable (requirement of Planning Policy Wales paras. 6.9.23 - 28). In addition, we objected to the layout (Layout - Phase 2) as no consideration had been given to the layout of the development and the recorded mine entries recorded at this site.

The planning application is now accompanied by an Intrusive Mining Risk Assessment Report, July 2021 prepared for the proposed development by Terra Firm (Geotechnical & Geoenvironmental Specialists). The Report has been informed by the previously submitted Ground Investigation Reports, together with the results of further site investigation works in the form of rotary drilling and trial trenching. Borehole logs / trial trenching works and how they relate to the layout being considered are appended to the Report.

Having carried out a review of the abandonment plans for this area, the report author informs that whilst one of the on-site mine shafts (Shaft 2: CA shaft ref: 278210-017) and the off-site mine adit is connected to coal workings, this could be an 'air shaft'. The other recorded mine shaft (Shaft 1: CA shaft ref: 278210-016) is not shown to correspond to any other mining feature or workings and is not detailed on any other abandoned mining plan. The report author considers that the existence of Shaft 1 is therefore doubtful.

Having reviewed the previous site investigations (August 2009 Ground Investigation Report) together with the findings of the additional rotary drilling / trial trenching works (October 2020 and July 2021) Section 3.2 concludes that Shaft 1 does not exist.

However it is likely that Shaft 2 and the mine adit and the line of the adit (roadway) were found to connect to shallow coal workings within the Four Feet Coal seam. The adit / alignment of the roadway is illustrated on Figure 3.2.

Section 3.3 informs that numerous coal seams were recorded across the site varying in depth and thickness however with the exception of the mine adit and adjoining localised workings in the Four-Feet Coal seam, no further evidence of past coal mining activity (no voids / broken ground) were encountered. Based on the 10:1 rock head to void ratio (CIRIA C758D - Abandoned mine workings manual) the report author identifies that it is unlikely that there is sufficient rock head cover above all or the majority of the Four-Feet Coal seam and therefore recommendations have been made that proof drilling on a close grid and grouting of all voids and backfilled workings / broken ground is required. Section 4.1 goes on to state that the mine adit will only need grouting where it lies within influencing distance of new houses. We would normally expect all roads, hardstanding, and other assets to be assessed within the development site and not just the 'planned houses' and the applicant should be made aware that the remedial measures will need to be carried out under the terms and conditions of a Coal Authority's Permit. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

Section 4.1 adds that Shaft 2, if confirmed to be present, will also require grouting and therefore recommendations have been made that a grid of closely spaced holes are sunk to ascertain its position and extent of backfill prior to grouting. Once stabilised an exclusion zone to development should be applied around the shaft. However, based on the recorded depth to bedrock from current ground level at this location and an assumed 3m wide shaft a circular exclusion zone of 14m in diameter should be assumed. If the ground level is to be raised or reduced, or if the diameter of the shaft can be confirmed the size of the exclusion zone may be modified. We note that the layout of the development has afforded due consideration to the findings / recommendations of the above Report (R491 P-02 Revision I - Proposed Site Plan).

In addition, to the remedial works, the report author confirms that above the area of treated mine workings, the use of a reinforced concrete raft type foundation/floor slab foundation should be employed.

Section 4.2 states that as a result of both shallow coal mining / mine entries there remains a potential risk from mine gas. As a minimum, gas protective measures in accordance with Gas Characteristic Situation 2, as defined by CIRIA C665 will be required. It is recommended that a site-specific gas risk assessment be performed to confirm these measures are adequate. The LPA should liaise with their in-house Environmental Health team on this specific matter.

#### The Coal Authority Recommendation to the LPA

In light of the above, the Coal Authority considers that the applicant, based on the professional opinion / recommendations made by Terra Firm (Geotechnical & Geoenvironmental Specialists), has demonstrated to the LPA that the site can be made safe and stable for the proposed development (Planning Policy Wales, paras. 6.9.23 - 28) subject to the remedial / mitigation measures identified within Section 4.1 of the Intrusive Mining Risk Assessment Report, July 2021.

The Coal Authority recommends the imposition of the following conditions:

Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of any remedial works and mitigation necessary to address the risks posed by past coal mining activity.

The remedial works and mitigation measures shall be carried out in accordance with authoritative UK guidance.

This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

The Coal Authority withdraws its objection to the proposed development (Drawing No. R491 P-02 Revision I - Proposed Sit Plan) subject to the imposition of the condition to secure the above.

PCC-Rights Of Way Senior Manager –  
first response

28th Sep 2020

Thank you for the opportunity to comment on this planning application.

The developer is advised that public footpaths 51 and 3 and bridleway 75 subsist through/about the development site. It is strongly advised that the applicant checks the definitive line of the public rights of way over the site to ensure that they understand exactly where they are located.

The proposed development directly effects the above paths and may obstruct or otherwise interfere with the path. Countryside Services therefore wishes to submit a holding objection and advises the applicant to contact us directly to discuss potential options.

If the safety of the public cannot be guaranteed at all times during construction, consideration should be given to applying for a temporary closure of the path. This is a separate procedure for which a fee applies. The process can take some time to put into place so early consultation with Countryside Services is recommended if a temporary closure is required.

DM1 - Planning Obligations; state that adequate infrastructure is necessary to serve the proposal, and that benefits are secured in the public interest to meet the additional demands of the development proposals on local communities, either on-site, off-site or via a financial contribution towards this.

DM3 - Public Open Spaces; that for the development of 10 or more dwellings, appropriate

open space should be provided either on or off site, together with provisions for its long-term aftercare and maintenance, together with access routes to this open space

DM13 - Design and Resources; the development should not have an unacceptable adverse impact on tourism assets, and provisions should be made to make developments inclusive to all. PROW or other recreation assets listed in Policy SP7(3) are enhanced and integrated within the development, or appropriately mitigated. Development proposals should meet highway access requirements without adversely affecting safe and efficient traffic flow on the network. 4.2.80 states that the council will encourage developments which promote pedestrian and cycle friendly access, avoiding conflict with private motorised vehicles and provide appropriate links where possible. 4.2.83 states all new development should be highly accessible, with comprehensive integration into existing networks potentially through enhancement of existing PROW.

E6 - if applicable Farm Diversification; covers the adequate provision for parking and storing of materials, and the construction / conversion of buildings within or immediately adjacent to existing farm buildings; this will require provisions for PROW to either be incorporated into the development or diverted to a suitable alternative route. Farm diversification may be required to address additional traffic in accordance with paragraph 3.14 of TAN 18.

T1 - Travel, Traffic and Transport Infrastructure; covers the safe and efficient flow of traffic for all transport users, including vulnerable users, especially those making 'Active Travel' journeys by walking or cycling.

T2 - Safeguarding of Disused Transport Infrastructure; to consider their use as open space corridors for walking and cycling.

RE1 - Renewable Energy; proposals for all types of renewable and low carbon energy development shall comply with all relevant policies in the LDP, with satisfactory mitigation to reduce the impact of the proposal and associated infrastructure, where necessary compensatory benefits will be sought through DM1 - Planning Obligations.

TAN 18: Transport;

2.3 ensure development includes appropriate provision for pedestrians, cyclists including those with mobility issues

6.1 development plans should integrate policies and objectives for walking and cycling

6.2 identify and protect existing and proposed routes suitable for the use of cyclists and walkers

E2 Consultation with the Highway Authority for the formation or alteration of any road for which it is Highway Authority; or is likely to result in a material increase in volume or material change in character of the traffic entering or leaving a classified or proposed road; public rights of way are considered roads under the Road Traffic Regulation Act.

F1 A condition may be necessary where works must be carried out in an existing highway in order to safely and efficiently accommodate traffic created by a development.

F3 Developers will be required to pay the cost of any highway improvements where the need is directly created by their development.

We would therefore advise that advice is sought from Countryside Services before any development begins.

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

- o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...

- o Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.

- o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.

- o Temporary closures - The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.

- o Legal Diversion - If development directly affects a public right of way, the developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

Rights of Way Senior Manager – second response – 7<sup>th</sup> October, 2021

Thanks for the plan. I've just had a chat with the agent and I'm content that the latest revision is acceptable.

Natural Resources Wales (Mid Wales)  
DPAS

25th Sep 2020

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales (NRW) about the above, which we received on 07/09/2020.

NRW was consulted by the applicants at pre application stage. Our advice on the proposed scheme has changed because new information has been provided in support of the application.

We continue to have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirements are met. Otherwise, we would object to this planning application.

Requirement 1 - Landscape: the submission of a Landscape and Ecological Management Plan (document) to demonstrate the proposal does not have a long-term adverse impact on the Brecon Beacons National Park.

Requirement 2 - Lighting Plan: the submission of a revised lighting plan (drawing) to

demonstrate the development does not affect the Brecon Beacons National Park or Protected Species.

## Landscape

At its nearest point, the development is approximately 70m southwest and within the setting of the Brecon Beacons National Park (BBNP). The development's buildings would be clad in render, fibre cement cladding and reconstituted stone panel or slate cladding, with tile or slate roofs.

We have reviewed the information available within this application and we note the PAC

Report refers to a Landscape Visual Impact Assessment (LVIA) that was carried out in

support of a previous Outline Application (P/2014/1133). The LVIA has not been resubmitted in support of this application, and, in any case, we are concerned that the LVIA for a different scheme will not demonstrate what is needed for this current application.

Therefore, we cannot ascertain that sufficient information has been used to inform the scale, layout and design and materials of the development and proposed mitigation.

Requirement 1 - Landscape: the submission of a Landscape and Ecological Management Plan (document) to demonstrate the proposal does not have a long-term adverse impact on the Brecon Beacons National Park.

The PAC report indicates that your Authority does not require additional landscape impact assessments for this full application. We advise that the design and materials do not relate well to the local area. In our advice to the PAC stage of planning, we advised that the nearby historic village of Cwm Giedd comprises principally stone built traditional buildings with slate roofs, as does the area of Heol Giedd in Ystradgynlais to the east. A development at this location would need to relate well to the character of Cwm Giedd and the Heol Giedd area in terms of its layout and use of materials. Therefore, we are concerned that the design and materials do not relate well to the local area, although the colours are muted. Further reference should be made to the guidance in the Ystradgynlais Residential Design Guide and to an assessment of the character of the local area.

We have reviewed the Landscape Plan (drawing RS200613-01-03), but it does not



include fences so it is not clear whether this plan compliments the block plan (drawing R491 P-03E), or whether the design has been modified to address the concerns we raised at the PAC stage. The proposed block plan illustrates close-boarded fencing along the west and north plot boundaries. It is NRW's opinion that close board fencing would have an adverse effect on visual amenity and should not be included along the north boundary with open countryside and the BBNP beyond. The north boundary would benefit from tree planting to supplement the hedgerow and help integrate the development in views towards the National Park, rather than fencing.

The overall effects of light pollution should be considered given its location adjacent the BBNP, which is a Dark Sky Reserve. A lighting plan which demonstrates how light pollution impacts on the BBNP have been minimised is required. The applicants may find useful to refer to the BBNP Authority supplementary planning guidance on Light Pollution & Obtrusive Lighting. Advice on this issue is further detailed in the Protected Species section.

### Protected Species

We have reviewed the updated survey report submitted in support of the above application dated 21/07/2019 by Fiona Elphick and we concur with its conclusions.

No European Protected Species (EPS) were found present within the area to be affected by the development and the potential for bat roosting was considered low, however the trees and ditches on and near the site are likely to be used by bats and otter for foraging and shelter.

We welcome the recommendations for ecological enhancements and avoidance measures made in the report and we do not consider that the development is likely to be detrimental to the maintenance of the population of any EPS at a favourable conservation status in its natural range.

However, whilst we understand the erection of close-boarded fencing has been recommended to minimise light spill and direct disturbance of wildlife habitats such as woodland, streams and any newly planted hedgerows, their visual impact on the BBNP, must also be given due consideration. Ecological needs should be assessed in combination with any landscape mitigation requirements and summarised in a LEMP to demonstrate both ecology and landscape have been duly considered in the development's design and as suggested in the "Enhancement to benefit biodiversity"

section of the updated survey report.

A domestic lighting plan has been submitted, but we are not able to open this document on your Authority's website. We also note that the PAC states that the 'Revised Lighting Plan requires further work'. We would be able to make comments to this regard upon receipt of a detailed plan which should account for the ecologist's recommendations and include a lux plan for the site. All proposed exterior lighting (including but not limited to street lighting and pavement bollards) must be included in the lux study. The lux study should demonstrate no negative impacts on any ecological receptors such as protected species' commuting corridors and the visual amenity of the BBNP including dark skies and night-time tranquillity.

Requirement 2 - Lighting Plan: the submission of a revised lighting plan to demonstrate the development does not affect the Brecon Beacons National Park or Protected Species.

We note the ecology report's recommendations to achieve lux levels of no more than 0.5 lux at the canopy edge of all tree lines adjacent to the development's boundaries. Whilst this would be desirable it may not be easily achievable. Please refer the applicant to the Bats and artificial lighting in the UK Guidance Note 08/18 published in partnership with the Institute of Lighting Professionals (ILP) and the Bat Conservation Trust (BCT), 2018. The lighting plan must be in line with this guidance note.

The Lighting Plan should include (but not limited to):

- o Details of the siting and type of external lighting to be used, to include streetlights;
- o Drawings setting out light spillage in key sensitive areas; and
- o Details of lighting to be used both during construction and/or operation.

## Other Matters

Our comments above only relate specifically to matters included on our consultation topic list, 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 environmental 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.

Advice for the developer:

## Groundwater

We refer you to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by NRW. In particular, Position Statement G13 (Sustainable drainage systems) which applies to this development.

Advice on environmental considerations and the assessments needed to support your planning application can be found on our external website.

For advice on how to deal with possible land contamination on your development visit:

<http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/advice-for-developers/land-contamination/?lang=en>

For advice on how to protect groundwater at your development visit:

<http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/advice-for-developers/protecting-groundwater/?lang=en>

## Pollution Prevention

Responsibility for preventing pollution rests with those in control of the development.

Pollution Prevention Guidance should be read by those carrying out the work.

All works at the site must be carried out in accordance with the Guidance for Pollution Prevention and of particular importance to this application is GPP5 'Works in, near or over watercourses' which is available at:

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

If a pollution incident does arise the site must inform us immediately via our incident hotline.

Ward Councillor – First response

15th Sep 2020

With regard, to the above referenced application and the start of an associated consultation process I have received a number of local representations regarding the matter. Due to the apparent depth of feeling and the planning history of this site ,I ask for this application to be 'called in' for deliberation and consideration by the full Planning Committee.

PCC-Commons Registration Officer

17th Sep 2020

The Commons Registration Authority can confirm that part of the proposed development at Bryn-Y-Groes Farm under application number 20/1314/FUL is sited on Common Land that is registered under the Commons Registration Act 1965 as register unit CL128 (Brecknockshire).

Please be advised that the carrying out of 'restricted works' without the consent of the appropriate national authority i.e. the Welsh Government would be UNLAWFUL. It is noted from the applicant's Design & Access Statement that this is recognised and an application will be made to de-register a small area of common land. Please note Powys County Council is not the determining authority, the Planning Inspectorate in Wales is responsible for determining applications on behalf of the Welsh Minister. Application forms and guidance about how to make an application under Section 16 of the Commons Act 2006 are available on the Welsh Government website:

<https://gov.wales/commons-act-2006-apply-under-section-16>

The Registration Authority also recommends the reading of the Welsh Government 'Common Land Consents Guidance' that was published in August 2014. This document is available at the following link:

<https://gov.wales/common-land-consents-guidance>

PCC Policy (on Welsh Language Impact Assessment) - 24<sup>th</sup> January, 2022

LDP Policy DM12 Development Welsh Speaking Strongholds can only be applied to **windfall developments of 10 or more dwellings**, it does not apply to LDP housing allocations in these areas. The LDP's Sustainability Appraisal has already assessed the impact of the LDP's allocations on the Welsh language.

The policy wording reflects national planning guidance in TAN 20, which explains that planning applications should not routinely be subject to Welsh Language Impact

Assessment, as this would duplicate the LDP's Sustainability Appraisal and site selection processes. However, it goes on to explain that Welsh Language Impact Assessments may be carried out in connection with **large windfall developments** within areas of Welsh language sensitivity or significance.

This means that a **Welsh Language Impact Assessment or Language Action Plan is not required** in connection with this development, which it is understood mainly involves an LDP housing allocation. Whilst the proposal involves some additional land beyond the boundary of the allocation, which could be considered as windfall, the number of additional units involved falls below the policy threshold of 10 dwellings and remains within the indicative number of units for this housing allocation (as set out in Appendix 1 of the LDP).

## Public Responses

There have been fifteen public comments: 2 support, 1 neutral and 12 objections. Whilst the majority of the objections were against the development in terms of drainage and the impact of recent floods on surrounding properties and the hope that these incidents wouldn't be exacerbated by the development, other issues were also of concern and they can be listed as:

Increase in traffic, increased pollution, loss of light, loss of privacy, noise, out of keeping with the area, contaminated land, strain on existing facilities, traffic / highways impact, impact on natural landscape, destruction of trees, impact on ecology, landsliding, mine shafts, affordable housing, impact on the Welsh language, community cohesion, impact on local infrastructure, potential impact on future residents by future potential neighbouring open-cast mining, planning history, design, impact on sewage system, not needed, no jobs in area, common land, development too high, over-development, other sites more suitable, spoil the skyline, will be used for commuter housing, and support to require permeable surfaces.

## Planning History

App Ref	Description	Decision	Date
P/2012/0346	Outline: Demolition of existing buildings and residential development (up to 155 dwellings) and associated works.	Refused.	
P/2014/1133	Outline (all matters reserved): demolition of Existing buildings and resid dev (up to 138	Approved.	

dwellings) and associated works.

P/2017/0812	Section 73 to remove Condition 19 of P/2014/1133 relating to Affordable Dwellings.	Withdrawn.
19/0331/REM	Section 73 to vary condition 2 of P/2014/1133 To extend time limit for submission of RM.	Pending.

## Principal Planning Constraints

Right of Way

## Principal Planning Policies

Policy	Policy Description	Year	Local Plan
SP7	Safeguarding of Strategic Resources and Assets		Local Development Plan 2011-2026
DM1	Planning Obligations		Local Development Plan 2011-2026
DM3	Public Open Space		Local Development Plan 2011-2026
DM5	Development and Flood Risk		Local Development Plan 2011-2026
DM6	Flood Prevention Measures and Land Drainage		Local Development Plan 2011-2026
DM8	Minerals Safeguarding		Local Development Plan 2011-2026
DM9	Existing Mineral Workings		Local Development Plan 2011-2026
DM12	Development in Welsh Speaking Strongholds		Local Development Plan 2011-2026
DM15	Waste Developments Within		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
SPGOBS	Planning Obligations SPG (2018)	Local Development Plan 2011-2026
SPGRES	Residential Design Guide SPG (2020)	Local Development Plan 2011-2026
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 TAN 15	Design Development and Flood Risk	National Policy National Policy
TAN18 TAN 20	Transport Planning and the Welsh Language	National Policy National Policy
TAN2	Planning and Affordable Housing	National Policy
TAN 23 TAN24	Economic Development The Historic Environment	National Policy 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
DM2	The Natural Environment	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
DM3	Public Open Space	Local Development Plan 2011-2026
DM6	Flood Prevention Measures and Land Drainage	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
DM10	Contaminated and Unstable Land	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026
DM15	Waste within Developments	Local Development Plan 2011-2026
T1	Travel, Traffic and Transport Infrastructure	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
DM1	Planning Obligations	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**

Land at Brynygroes Farm is a site located to the north-west of the town of Ystradgynlais, some 500 metres from the town centre. It is separated from the town by the A4067 and is on a rising area of land, away from the road. The site is on farmland which has three large modern dwellings in its heart, plus a commercial property for plant / tool hire etc.

To the north of the site, the land falls steeply down a wooded area to the village of Cwmgiedd. To the east, across the road, is a residential area of Ystradgynlais. To the south the land falls down to the County Class III highway the, A4067 to which access is gained to the site off. To the west of the site is farmland and the Haul Road which runs up to common land, the former mining site and a radio mast.

The site measures approximately 4.5 hectares and is a rolling site, mainly rising to the rear and west. The site is, apart from the buildings mentioned above, currently pasture

land. The three dwellings mentioned above will be retained and incorporated into the wider development, and the tool hire premises will be demolished and that land used as development land. A small area of common land crosses the site in the southernmost corner.

There are a number of rights of way in the area. Public footpath 54 runs up what is currently the existing access track along the western boundary northwards until it exits the site. Public bridleway 75 runs below the southern-most part of the site, crosses the existing site access road and continues westwards.

The application is for the demolition of the existing commercial premises and the development of 117 dwellings. The mix of which is as follows:

- 19 x two-bedroom terraced dwellings, of which 4 are affordable.
- 12 x two-bedroom semi-detached dwellings.
- 28 x three-bedroom semi-detached dwellings
- 16 x three-bedroom bungalows
- 21 x three-bedroom detached houses
- 21 x four-bedroom detached houses.

The application is partially a departure from the Local Development Plan 2018 (LDP) because the affordable housing allocation has been swapped in location terms with some of the open market houses that are now not within the development boundary of the LDP. This will be appraised further below.

### Principle of Development

Policy H2 of the LDP identified several sites that are designated for residential development during the plan period. Brynygroes Farm is identified as site reference P58 HA10, with a specified number of units of 136 and a site area of 4.5 hectares.

Objections were received with regard to the principle of the development, concerned that the development was out of keeping with the area, that the dwellings weren't needed, that other sites were more suitable, that the development would impact on existing community cohesion, would be a source of strain on local facilities and infrastructure.

For the purposes of the LDP, Ystradgynlais is designated as a Town. Towns are home to 41% of Powys' population and are the most densely populated settlements. All are important service centres providing a range of services, facilities and employment for their own population and their surrounding areas. They are generally the chosen location for 'area services' and in particular larger scale public services (e.g. high schools, leisure centres). Towns are also the most accessible settlements, most being located on trunk roads, with all having public transport services. Under the LDP Towns are seen as the principal location for accommodating housing (open market and affordable), employment land, any retail growth (e.g. supermarkets), public services and

developments which generate large numbers of trips. Housing growth is planned commensurate with the size and level of facilities of each town, although the capacity of towns to accommodate growth varies according to environmental and infrastructure constraints.

The application site has therefore been carefully selected through the LDP process to be appropriate in location and scale commensurate to the area and nearby local services and transport links. Ystradgynlais was therefore considered to be a sustainable location for housing growth and the application site identified for housing in line with those considerations.

Therefore, it is therefore considered that the principle of housing development within this site is considered to be acceptable and in accordance with policy H2 of the LDP in that it forms an allocated housing site.

### Design

With respect to design, specific reference is made to LDP policies DM13 (Part 1). LDP policy DM13 requires development to be able to demonstrate a good quality design and to have regard to the qualities and amenity of the surrounding area, local infrastructure and resources.

The site is currently partially farmland rising from the main road that runs through the valley bottom that Ystradgynlais sits within. There are a number of constraints on the site, the design ones being that there are currently three substantial dwellings in the centre of the site that need to be incorporated into the wider design. There are also smaller dwellings on the A4067 roadside to the south-east of the site, but these have less of a relationship with the proposed.

Other site constraints are several different levels that have to be accommodated – ideally without multiple retaining walls which can be highly visible from a distance. In addition to this, the size of the site means that it has to incorporate not only the streets, but also pedestrian footways and so on a local level these paths are integral to the layout.

With regard to the design of the dwellings, there is an adopted Residential Design Guide: Town Appraisal for Ystradgynlais and whilst it is accepting that Ystradgynlais has a wide range of house styles and designs, it does note a number of localised features that the designs of the dwellings have incorporated.

- Roofs to be natural or reconstituted slate.
- Materials should be natural stone or render in light colours.
- Dwellings to be set back no more than 3 m from the road in general.
- Windows to have vertical proportions and where appropriate arched heads.
- Brick detailing around windows.
- Front facades restricted to one type of building material.

- Preferred front boundaries are low-rise stone walls with railings.

The mix of house types was determined following in-depth market research to establish the housing need in this location. The housing provision is therefore tailored to the particular housing need in Ystradgynlais providing housing opportunities for existing residents and for young persons who wish to remain in the area.

The house types are as follows:

House Type A – 15 units – are terraces of three attached two-bed dwellings. The dwellings are 4.8m wide by 8.9m deep. They are 5m to the eaves with a front to back roof pitch of 8.5m high. The elevations of the dwellings are rendered to side and rear and have a bricked upper section on the front elevation with render to the ground floor. The units have slated roofs with solar panels. Detailing to the front elevations includes porches – the middle having a lean-to roof, and the two side dwellings having pitched. Plots 23, 24, 25, 30, 31, 32, 88, 89, 90, 93, 94, 95 are House Type A.

House Type A, version 2 – 8 units - is a set of two semi-detached dwellings. They are the same dimensions and designs as the above dwellings. Plots 91, 92, 96, 97, 98

House Type B version 2 – two units (plots 33 and 34) – semi-detached 3 / 4 - bed dwellings, including a bedroom in the roof. The dwellings are 6.2m wide, 9m deep. It's 4.8m to the eaves and 8.4m to the pitch. The dwellings are rendered on the ground floor with brick to the upper floor. The ground-floor have bay windows and extended porch sections. The front pitch has single skylights and solar panels for each dwelling. To the rear of the dwellings are single dormer windows to accommodate the attic room.

House Type BA V4 – two units (plot 81 and 82) – semi-detached 2 / 3 bedroom. The houses are on a slight slope and so the roofs are staggered. The dwellings are 9m deep and 6.2m wide. The dwellings are 5.1m to the eaves, and 8.7m to the ridge. The dwellings have render to the base and brick to the upper level. The dwellings have an extended porch finished in stone.

House Type C V2 – eight units (plots 45, 46, 47, 48, 54, 55, 74 and 75). These dwellings are detached, lengthways on to the road and are single storey with rooms in the roof-space. The height to eaves is 3.1m and 6.5m to the pitch. The dwellings are 11.5m deep and 9.5m wide. The proposed dwellings have stone facing to the right-hand side of the front elevation, and horizontal timber cladding to the left-side, with a central glass panel above the front door to the pitch.

House Type D V2 – eight units (plots 5, 7, 8, 16, 35, 39, 41 and 83). These dwellings are detached 3 / 4 bedrooms over two-storeys with an additional bedroom in the roof-space. The dwellings are 9.2 m deep by 6.2 m wide with an eaves height of 6.2m and a pitch of 8.3m. The dwellings have render to the lower section and brick-work above and have a bay window on the ground floor and an extended section. A lean-to roof runs between the bay and the extended section.

House Type D V3 – three units (plots 68, 78 and 80). These dwellings are detached and lengthways onto the road. They are rendered on the ground level with horizontal timber cladding to the first floor. The dwellings have an extended stone-faced front porch. The height to eaves is 5m and 7.8m to pitch. The proposed are 7.6m deep, and 7.2m wide.

House Type E Plot – one dwelling (plot 73 only). The dwelling is detached with a double-garage to the side. The dwelling is 9.5 metres wide with a detached garage making a total of 15.8m wide. The dwelling is 7.6m deep with an extended section making a total of 9.8m deep. The height to eaves and the height to the pitch of the garage is 5.1m with a total pitch height of 8m. The ground floor is rendered with a stone-faced porch with a lean-to roof. The extended section to the rear is also rendered with a lean-to roof. The upper level is finished in brick. The roof is tiled. The garage has two separate roller-shutter doors.

House Type E v2 – one unit (plot 57). This is a four-bedroom dwelling with an attached garage. The main section of the dwelling is 9.6m wide and 7.5m metres deep. The height to eaves is 5.1m and height to the pitch of 7.7m. There is a ground-floor lean-to extended section to the rear of 2.5m deep, and 7.8m wide. The garage is to the side of the dwelling is 4m wide by 7.1m deep. The height to eaves for the garage is 2.3m with a back-front pitch of 4.8m in height, with a roller-double doors to the front.

In looking at the above, it is considered that there is a mix of high-quality designed dwellings in a range of sizes and in a range of designs. The houses have interesting features and have broken-up facades to ensure a varied streetscape.

Objections were received with regard to design, however, it is considered that the designs are acceptable in terms their materials used and the links to the wider locality. It is also considered that they have taken account of the guidance issued in the Ystradgynlais Town Appraisal. Objections were also received with regard to the height of the houses within the development. However, it is considered that the height of the proposed dwellings is acceptable in such a setting, and that they are not overly high considering that they are at most two-storey dwellings and typical of their type.

It is therefore considered that this application is in accordance with LDP policy DM13 and H3.

### Amenity

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design guide 2020 & LDP: DM13 (Part 12).

The layout of the estate has been designed to ensure that the proposed dwellings will not have an unacceptable impact on either property, or the amenity of the occupants of the existing dwellings.

With those dwellings currently detached from the site, care has been taken not to overshadow them as they are in a lower situation. A buffer has been put between the existing dwellings off the site and the proposed to ensure that their amenity is protected. Objections were received from local people with regard to amenity, noise and loss of privacy, but it is considered that the proposed dwellings will be far enough from the existing dwellings in the locality not to cause an adverse impact on the occupants' ability to enjoy their amenity.

The proposed development will be constructed in three phases in order to reduce the impact on the locality. In addition to this, Environmental Health have requested a condition to be attached to any consent that controls working hours etc.

It is therefore considered that this application is acceptable within the remit of the Powys Residential Design guide 2020 and LDP: DM13 (Part 12).

### Density

As previously referred to the proposed density of the site as allocated under the LDP is for 136 dwellings, whilst proposed we have 117 dwellings with three dwellings already provided within the heart of the site leaves a shortage of 16 dwellings.

It is therefore acknowledged that there is a slight undersupply of dwellings. Since the allocation of the LDP it is noted that the Sustainable Drainage Scheme (SuDS) has been introduced which in this instance has removed areas of land from development. Consideration has also been given to the topography of the land and visitor car parking provided which altogether has reduced capacity on site. It is however acknowledged that the proposal includes a wide mix of housing types and scales which would meet a wide range of need within Ystradgynlais.

Objections were received through public representations that the site was being over-developed.

LDP policy H4 deals with housing density in residential developments in order to gain the most from every parcel of developable land. H4 states that the minimum density of building should be 27 houses per hectare. In this instance, whilst less than the proposed allocation, the site proposes 26 dwellings per hectare, plus the three existing dwellings, which whilst not part of the overall number of proposed houses, they are within the site and this will bring the total number to 26.6 houses per hectare.

Considering the constraints that this site has in terms of land contamination, drainage and the density constraints of having three existing large dwellings that realistically could not be built amongst, this is considered to be acceptable within the development and therefore policy H4 is considered to have been complied with.

## Landscape and Visual Impact

Policy SP7 deals with safeguarding of strategic resources and assets. In this instance, the landscape has no protected designations, but the site is within 8km of the BBNP boundary.

LANDMAP identifies the area as being characterised as the following:

Geological Landscape- Outstanding

Landscape Habitat- High

Visual and Sensory - Moderate

Historic Landscape- Low

The previously approved planning application submitted a Landscape and Visual Impact Assessment which considered the impact of the residential development (then 137 dwellings) and concluded that the impact of the development on the surrounding landscape will not be significant.

The proposed development provides an extensive level of landscaping to the proposed within and around the site boundary. A condition will be attached to any grant of consent ensuring that the landscaping is provided to an appropriate level.

Objections were received with regard to concerns that the development would harm the skyline. However, when considering the scale of the buildings proposed, the existing topography of the land and landscaping proposed it is considered that concerns over landscape and visual impact have already been appropriately considered throughout the planning process, and will be mitigated further by appropriate landscaping.

Therefore, on balance, considering the wider processes that have already been approved, it is considered that the proposed development would not have an unacceptable adverse effect on the character and appearance of the surrounding area.

## External Lighting

LDP policy DM7 deals with external lighting. It states that development proposals will only be permitted when a lighting scheme has been provided that demonstrates that the lighting will not individually or cumulatively cause 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.

A development of this size could cause a considerable impact if a sensitive lighting plan was not put in place. This is particularly so considering the proximity of the BBNP Dark Skies classification.

An external lighting plan was submitted to ensure that external lighting was comprehensive and co-ordinated and would take account of the local bio-diversity. This

has been considered by the ecologist and found to be acceptable.

It is therefore considered that the application is acceptable within the remit of external lighting and therefore is in accordance with LDP policy DM7.

### 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 development site has a number of smaller public open spaces rather than a large single area. There are five separate areas of public open space spaced throughout the development and there are landscaping plans for each of them:

1. To the north of the site, there is a public space that runs from the northern-most turning hammer-head at Plot 77 and it runs behind the back of the dwellings north to south.. Across the road is another green area that runs west of the roadside.
2. To the north-west of the site is another open space that sits at the northern-most point of the road.
3. In the middle of the site adjoining the existing dwellings are two POS's where the pedestrian link path runs through. Two more green corridors run from the south of these areas linking each other and then going further south around the outside of the curtilages to a larger POS that wraps around the edge of Plot 6 and back to the roadside.
4. The last POS is at the southern-most area of the site south of Plot 1, and the across the estate road to run up the western side of the road and link to the POS around Plot 6.

In total the public open space amounts to approximately 2620 m2.

The Open Space Assessment 2018, considered open spaces in the Ystradgynlais area and found that there is not a shortfall of sports pitches in the area and that there are pitches within the vicinity that are considered within a reasonable buffer zone of the site. However, the assessment does show that there is a shortfall of equipped areas of play in the vicinity of the site. Whilst there are equipped play areas in Cwmgiedd and Penybryn, these are considered to be "neighbourhood" equipped areas and so have a smaller buffer zone of accessibility.

Therefore, it is considered that for a site of this size in this location, an equipped play area should be provided. During initial negotiations for the site, it was accepted that the requirement for an equipped play area (LEAP) would be waived due to the impact it would have on density and therefore viability, and instead small pockets of open space



would be provided across the site.

However, following concerns from Committee, it has been negotiated that the developers have agreed to provide a play area adjacent to the pedestrian exit to Plasycod and this would therefore comply with LDP policy DM3 and the Open Space Assessment. The areas of public open space can be shown on the block plan.

Details on the exact type of play equipment have not yet been agreed, but LDP policy DM3 requires that the type of play equipment shall be determined by the deficiencies of the Open Space Assessment. It is considered that this can be conditioned for later detailed approval.

### Public Rights of Way

Public footpath 54 runs within the site and bridleway 75 crosses the access of the site.

The Countryside services team has been consulted and notes that the intention will be to formally divert the rights of way should planning consent be granted. The Countryside Service team welcome the proposed diversion and note that in the meantime, the routes must remain unobstructed at all times until any such time a formal diversion is agreed.

A formal diversion of the right of way can only occur following the grant of planning permission, and as such, it is entirely appropriate and normal practice for the right of way diversion to be secured after the grant of permission and not before.

It is therefore considered that this application is acceptable in terms of the public rights of way, and in particular is in accordance with LDP policy DM13.

### Climate Change

PPW states that the planning system has a vital role to play in making development resilient to climate change, decarbonising society and developing a circular economy for the benefit of both the built and natural environments and to contribute to the achievement of the well-being goals.

The application has been supported by a statement which includes some of the following credentials:

- Construction through off-site closed panel timber frame, providing higher than standard (Building Regulations) u-values and air tightness
- Air Source Heat Pumps (ASHP) to all properties – no fossil fuels
- Photovoltaic panels to all properties to generate power on site and offset electrical demands of the ASHP
- Electric car charging points to all properties
- Responsibly sourced materials including natural stone cladding and timber

cladding

- A dedicated Active Travel route with a newly constructed pedestrian crossing of the A4067. This link will connect the site to the local facilities and amenities via a 10 minute walk reducing the need to travel by car

The development is also considered to be resilient to climate change in that it will be built in a provision for climate change in its surface water management schemes (SUDs approval) and provides a landscaping scheme which includes the planting of mature trees to reduce carbon in accordance with Future Wales- the National Plan 2040.

As such, it is considered that the submission has considered climate change.

### Ecology

With respect to biodiversity, specific reference is made to LDP policy DM2 which seeks to maintain biodiversity and safeguard protected sites. In accordance with TAN 5: Nature, Conservation and Planning, and Powys LDP Policy DM2: The Natural Environment, as part of the planning process Powys LPA should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature and under Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to maintain and enhance biodiversity so any submission should incorporate enhancement proposals.

The site is 4.5 hectares and although mainly improved grassland, has variations in ecological terms including ditches and trees.

A data search showed 65 records of protected and priority species within 500m of the centre of the proposed development. These included bats, otters, hedgehogs, toads, owls, birds and flora. There is an area of ancient woodland to the NE of the site, but no statutory or non-statutory sites are within 500 m of the proposed site.

With regard to the ancient woodland, the Ecologist considers that there would not be any adverse impact on the woodland as a result of the development, subject to a suitable external lighting plan, which has been submitted and deemed acceptable.

Over the extensive planning history, three previous Phase 1 Habitat Surveys were produced and an up-to-date one was submitted with this application and considered by the PCC Ecologist. One of the existing buildings on site (the commercial premises) is going to be demolished if this application is acceptable, but it was that the building was confirmed to have negligible potential for bats and did not require further survey.

Throughout the planning process the surveys have found that the main ground is considered to have relatively low ecological value and no evidence of protected species was found, although the surrounding trees provide habitat for nesting birds and roosting bats, and it is considered important that these are to be retained within the development. Removal of some of the smaller trees is going to be required, but these

will require inspections before felling for roosting bats, although none is considered to have potential at this time.

Japanese knotweed that was found on site in the 2009 survey, and treated, is no longer found to be in evidence.

The Ecologist considered that measures were needed to prevent a negative impact on wildlife during construction period – in particular tree and root protection, plus external lighting both during the construction phase. An Ecological Construction Method Statement was submitted and found to be acceptable. A condition can be attached to ensure adherence to that Statement.

Biodiversity enhancements are required in all planning consents. In this instance enhancements have been submitted and include the creation of a habitat strip with reptile refugia along the western edge, planting of hedgerows within the development to significantly enhance connectivity and provide habitat for a range of species; installation of bat boxes on mature trees and bat tubes and swift nesting boxes on some of the proposed dwellings.

With regard to landscaping within the site itself, a Landscape Masterplan was submitted. It outlined a number of areas of soft landscaping, including the retention of the habitat buffer to the west of the site, a SuDS attenuation pond with native aquatic plants, a native hedgerow, an area of grassland at the south-eastern edge of the site to benefit wildlife.

The site is considered to have a number of high-quality mature trees. However, the Arboricultural Impact Assessment identified that two individual ash trees and a group of two more will be felled both on account of their poor health and to accommodate the proposal, although all were suffering from ash die-back disease. The remainder of the high-quality trees do need to be retained in a healthy situation; therefore a Tree Protection Plan and an Arboricultural Method Statement were submitted and the Ecologist has recommended conditions ensuring adherence to them.

The Ecologist considered the plans and considered that the biodiversity enhancements were appropriate to a site of this size and nature. A condition can be attached to ensure the biodiversity enhancements are adhered to.

Hedgehogs weren't considered to be adequately catered for, and so provision for them in terms of boundary fencing to allow them to traverse through the site can be conditioned.

An existing section of watercourse west of the existing access will be diverted and the existing culvert under the access road will be lowered. Further information was requested to ensure that any potential otter population was not adversely impacted by the development. Further details were submitted, including details of an otter shelf within the culvert to allow them safe passage. The Ecologist considered this to be

acceptable.

Whilst the site has relatively low bio-diversity, the surrounding area is richer with the ancient woodland to the NE and the Afon Tawe 190m away to the east. Therefore it was considered important that a Pollution Prevention Plan was secured through a condition.

It is a complex site in terms of ecology, but the Ecologist is content that the proposal mitigates any problems that it raises. It is therefore considered that this application is acceptable in relation to ecology and in particular, LDP policy DM2.

### Highways

A safe access and parking are fundamental requirements of any development and TAN 18, PPW and LDP policies DM13 and T1 deal with highways issues.

The main access to the junction will not only serve the housing development, but also the Haul Road up to the common land, the former mining area, the communications mast and the Coronation Park. A culvert with a 6m easement runs west-east down towards the A road, across the access lane to the lower part of the site and therefore has to be accommodated.

The internal access layout will follow the road that accesses the existing dwellings and the commercial premises.

The application was accompanied by a Transport Assessment to deal with provision for cyclists, pedestrians and other non-car users to identify measures that could be included with the scheme to minimise private car travel.

The intention is to ensure that vehicle use is secondary to walking or cycling within the site and that there are good connections to the town centre which is approximately 500m from the site. Therefore, as well as footways alongside the roads within the site, there are also well-lit, pedestrian connecting-paths between the areas of housing to ensure safe travel within the site. The speed of traffic within the site will be a maximum 20mph.

Traffic calming measures were integral to the design and included planting and raised areas.

A specific pallet for materials and dimensions for the road design was proposed and deemed to be acceptable.

The site is on the opposite side of the A4067 to the main built up area of Ystradgynlais and therefore it was considered important to create good connectivity between the new dwellings and the rest of the community and facilities within the town. Active Travel plans were submitted to encourage pedestrian connectivity to Ystradgynlais. A pending Section 278 Agreement is to deal with the requirements to improve pedestrian links to

the town centre.

Two additional internal-to-external links will be provided – one to the village of Cwmgiedd at the north of the site and an improved link from Brynygroes Cottages to the east of the site via a Toucan Crossing which will provide a walking route into Ystradgynlais town centre of between 10-13 minutes.

Further to the last report presented to Members, amended plans have now been produced which include additional vehicular provision within the site in terms of additional off-street parking. The figures are that there are now 12 visitor spaces. Whilst the shortfall in off-street parking spaces was originally 26 below those recommended by the standards, the shortfall is now just 8. These increases are welcomed by the Highway Authority which now considers the shortfall to be acceptable.

The site is in an area well-served by public transport and the proposal has good active travel links both into the town centre and other residential areas. The application is supported by a Transport Assessment and this clearly sets out the location of the bus stops and the bus station in relation to the site. This shows that the nearest bus stop, located on Heol Giedd is located some 286m (a 4-minute walk) from the site boundary. Ystradgynlais Bus Station is located 569m (less than an 8-minute walk) from the site. It is not considered that this application has the ability to require bus provision within and to the site, rather that bus services evolve strategically due to supply and demand.

In addition to this, the scheme has good intra-estate pedestrian routes that will encourage people to not rely so heavily on their cars for short journeys and have walking and cycling as the first option for shorter distances.

Future Wales, The National Plan 2040 puts placemaking at the heart of the planning system. It requires a modal shift supported by a sustainable transport hierarchy, which prioritises walking, cycling and public transport. The document seeks to provide strategic direction and sets out policies and key issues to be taken forward at the regional scale. It also requires that growth should be shaped around sustainable forms of transport, with a reduced reliance on private vehicles. It is considered that the projection of policy is towards higher density development with lower standards of private parking. Future Wales requires planning authorities to take a proactive role in this.

Policy 12 within Future Wales states that planning authorities must act to reduce levels of car parking in urban areas, including supporting car-free developments in accessible locations. It requires planning authorities to challenge perceptions that housing needs to be built with parking on plots which promotes car-dominant developments. They must promote different ways of dealing with cars that encourage a reduction in car use and increase active travel and use of public transport.

It is therefore considered that a judgment is needed between the need to deliver housing on a site that has the principle established as an allocated housing allocation, is

close to an area well-served with public transport and active travel networks and to challenge longstanding guidance about parking standards, and the desire to provide good levels of off-road parking for residents for their convenience and to protect the wider environment from on-street parking.

On balance, it is therefore considered that the above detail regarding Active Travel and the fact that Highways are accepting of the levels of off-street parking on the site, it is considered that the proposal is acceptable in terms of parking standards within the site.

The Highway Authority had also expressed concerns with regard to the access to and from the Haul Road which runs north-west onto the open hill and shares the same access point onto the A4067. The Highway Authority had expressed a desire to have detail about how the internal estate road would interact with the Haul Road before determination, although, they accept that this can be dealt with via a planning condition.

The Highway Authority also raised concerns about some of the internal highways details and in particular the turning heads. Some of these have been amended to Highway Authority's satisfaction, and it is anticipated that further amendments will be submitted before Committee and can be dealt with in an update report.

Therefore, it is considered that the proposed is acceptable in terms of highway safety, and is in accordance with Future Wales, PPW edition 11, TAN 18 and LDP policies T1 and DM13, subject to a number of conditions.

### Common land

The Commons Registration Authority confirmed that part of the proposed development is sited on Common Land that is registered under the Commons Registration Act 1965 as register unit CL128 (Brecknockshire). Objections were received with regard to part of the land being common land.

The application has always included a recognition that for the development to go ahead as proposed, the Common Land would need to be de-registered - and that it would be as part of a separate process.

For information it is noted that an application (Ref. 326390) to deregister and exchange land was made to Welsh Government in December 2020 and has now been approved by Welsh Ministers on 13th January 2022.

### Affordable Dwellings.

LDP policy H5, SPG Affordable Housing and TAN 2 deal with planning and affordable housing contributions within development proposals.

An area of land at the south-eastern corner of the designated site is outside the development limits and therefore would only be available for affordable dwellings.

However, following discussions, it was agreed that this area of land would instead be used by open market dwellings so that the affordable provision (four dwellings) on the lower area of the site was swapped to the main site. This has not only allowed for provision of affordable dwellings to be incorporated within the site but also allowed for a stronger design element to be at the gateway of the site with four larger open market dwellings.

The LDP's Viability Assessment Update found that housing developments in the South-West Powys sub-market area (Ystradgynlais and Tawe Uchaf Town/Community Council areas) could not support the provision of affordable housing and therefore no contributions are required from housing developments within this area. Therefore it is considered that the provision of four affordable houses (that would have been outside the development limits) are the only ones that would be required on this site.

The details about how affordable housing can be organised and managed can be included as conditions to be resolved at a later date.

It was considered that this was a good solution for affordable housing within the site, and therefore it is considered that this proposal is acceptable and is in accordance with H5, SPG Affordable Housing and TAN 2.

#### Land Contamination

LDP policy DM10 and Planning Policy Wales (Edition 11) deals with unstable and contaminated land. The LDP states that development proposals on land that is contaminated or unstable will be permitted any contamination or instability is remediated and will not unacceptably adversely affect public health and safety.

The application site is identified as being an area of mining and quarrying, and a 'High Risk Development Area' as it is a coal mining area which is potential contaminated land. Extensive reports submitted by the applicant have been reviewed by PCC Land Contamination and have found to be acceptable.

The Coal Authority were also consulted due to the area being a former mining area. They initially had substantive concerns that the area was a Development High Risk Area in which there were considered to be coal mining features and hazards which need to be considered in relation to the determination of this planning application. It was considered that the land may have been subject to recorded shallow coal mining, with thick coal seams that may have been historically worked by illicit means, plus the presence of four recorded mine entries.

The Coal Authority requested site and development specific Coal Mining Risk Assessment in order for the applicant to demonstrate to the LPA that this site is, or can be made, safe and stable.

Further information was submitted and then reviewed by The Coal Authority. Their response to this was they were satisfied that the site could be made safe and stable for the proposed development (Planning Policy Wales, paras. 6.9.23 - 28) subject to the remedial / mitigation measures identified within the submitted documents. They have asked for a condition to be included in order to Section 4.1 of the Intrusive Mining Risk Assessment Report, July 2021.

Objections were received with regard to land stability and contamination potentially caused by former mining works. It is considered that the above measures have addressed these points and found the site to be acceptable.

It is therefore considered that the application is acceptable within the terms of LDP policy DM 10 Contaminated and Unstable Land.

#### Commuted Sums for Education Provision

PCC Education requested that the development provide a financial contribution towards provision of additional capacity of educational facilities for local primary and pre-school provision.

The developer submitted a detailed Development Viability Model to show their costs and this was scrutinised by the LPA. The findings were that because of the complexity of the site and its physical constraints, plus the fact that there were so many additional elements to making site acceptable then the costings were such that it was not considered viable for a contribution to be made.

It is therefore considered that it is not required that a financial contribution should be required from the developer in support of facilities for local education provision.

#### Flood Risk and Surface Drainage

LDP policy DM6 and TAN 15 deal with development and flood prevention measures and land drainage. Objections were raised with regard to flooding and drainage on this site. A flooding incident occurred within the locality (in the terraced dwellings of Rhestr Fawr at the foot of the site) in August 2019, and some of the objectors are concerned that run-off from the direction of the site contributed to that, and wish to be reassured that the situation be improved, rather than exacerbated. One comment of support was received with regard to the permeable surfaces within the site.

Following concerns from Members and public representations further discussions have been held with the Land Drainage team within Powys County Council.

It is noted that given the scale of the proposal a sustainable drainage scheme to manage on-site surface water must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers. This process is



through a separate regulatory SuDs Approving Body (SAB). It is the SAB responsibility to adopt compliant systems so long as they are built and function in accordance with the approved proposals. Should SAB approval not be granted then the development would be unable to be developed.

However, further to discussions it is noted that drawing C1537 C-SK05 Rev Chas indicated sustainable drainage features such as permeable tarmac areas and porous private driveways and 5 separate individual infiltration basins located throughout the application site directed all to an improved culvert which is to be diverted directly to an adjacent watercourse.

The Land Drainage Officer has confirmed informally that whilst not yet approved through the SAB process the officer is content that an appropriate sustainable drainage scheme can be achieved in line with the proposals.

In addition to this, according to the NRW DAM maps, the site access and lower part of the site is designated Zone B (areas known to have flooded in the past). The wider site is Zone A, which is defined as little or no risk. NRW have been consulted and do not consider that there are any flood risks with this development proposal.

Therefore, it is considered that this application is acceptable in terms of drainage and is in accordance with the policy remit, in particular LDP policy DM6.

### Welsh Language

Policy DM12 of the LDP confirm that the Welsh Language and culture are important planning considerations in Powys. The future of Welsh language and culture will depend on a wide range of factors including education, demographic change, community activities and a sound economic base to maintain thriving sustainable communities.

Ystradgynlais is identified as a Welsh Speaking Stronghold.

The Plan supports Welsh language and culture across the entire County by being centred on a spatial strategy that guides and distributes development to sustainable locations in accordance with its objectives and Strategic Policies SP5 and SP6 and by providing policy support for building strong local economies, providing appropriate housing provision, distribution and choice including affordable housing, and by protecting the historic environment and existing community facilities and services.

It is acknowledged that new large housing developments have the potential to affect local concentrations of Welsh speakers but can be mitigated through appropriate mitigation measures which could include support and funding for Welsh language and culture initiatives and projects, or control over phasing of new housing development.

In addition, it is recommended that all advertisements, place names and signage within the Welsh Speaking Strongholds are expected to be bilingual in order to protect local

linguistic character, tradition and promote cultural distinctiveness.

A Welsh Language impact assessment was previously submitted for the current outline consent approved for the land. The recommendation for that consent then included a condition which secured prior to the occupation of any dwelling a Welsh Language and Culture mitigation plan including details of mitigation measures and their implementation to be submitted for approval.

LDP policy DM12 requires that “windfall sites of ten or more dwellings” would require Welsh language impact assessments. However this site is not a windfall site, but an allocated housing site and therefore there is no requirement for an impact assessment. The element of this site that is not on the allocated housing site is only for four dwellings, and this would therefore also not comply with the requirement for an impact assessment.

In addition, PPW (Ed 11) states: *“If required, language impact assessments may be carried out in respect of large developments not allocated in a development plan which are proposed in areas of particular sensitivity or importance for the language.”* (Para. 3.29). As an allocated housing site, a Welsh Language Impact Assessment is therefore not required as impact on the Welsh language has already been considered through the decision of the Local Planning Authority to allocate the site for residential development through the LDP.

It is therefore considered that the condition that was on the outline consent for a Language and Culture mitigation plan would be acceptable for this consent also.

Subject to this condition it is therefore considered that this proposal is in accordance with LDP policy DM12 and PPW.

### **RECOMMENDATION- Conditional Consent**

In light of the above, it is considered that the proposed application would result in a well-designed development that responds to local needs and is assimilated well within the locality. Amendments have been sought to the application to address the matters previously raised by the Committee including improved provision of open space and increased off-street parking provision. It is therefore considered on balance that the proposed development is in accordance with relevant planning policies and the recommendation is therefore one of conditional consent.

### **Conditions**

1 The development shall begin not later than five years from the date of this decision.

2. The development shall be carried out in accordance with the following approved plans and documents: R491 P-01, R491 P-02, R491 P-03M, R491 P-04, R491 P-05, R491 P-06, R491 P-07, R491 P-08, R491 P-09, R491 P-10, R491 P-12, R491 P-13, R491 P-14, R491 P-15, R491 P-16, R491 P-17, R491 P-18, R491 P-19, R491 P-20, R491 P-21, R491 P-23, R491 P-24, R491 P-25, R491 P-26, R491 P-27, R491 P-28, R491 P-29, R491 P-30, R491, R491 -Schedule of Accommodation, RDS Landscape Plan, Topographic Survey (MW Surveys), C1537\_C-SK07 Highway Long Sections Sheet 1 of 2 Rev A, C1537\_C-SK08 Highway Long Sections Sheet 2 of 2 Rev B, Toucan Crossing v2-AT05, R491 POS Plan, Tree Survey by ArbTS LTD, Tree Protection Plan, Arboricultural Method Statement, Updated Ecological Survey by Fiona Elphick (21st July, 2019), Ecological Construction Method Statement.

3 No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

4 Prior to commencement of development, a detailed Construction Method Statement in respect of the control of noise and dust during the construction shall be submitted to the Local Planning Authority and shall be implemented thereafter as approved.

5 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 Sunday and Bank Holidays

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

6 No development shall commence until a preliminary investigation and assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority. This investigation and assessment must be carried out by or under the direction of a suitably qualified competent person, in accordance with current guidance and best practice, and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- A desk study
- A site reconnaissance
- Formulation of an initial conceptual model
- A preliminary risk assessment

If the preliminary risk assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a suitably qualified competent person. The contents of the scheme and scope of works are subject to the approval in writing of the local planning authority.

All work and submissions carried out for the purposes of this condition must be

conducted in accordance with DEFRA and the Environment Agency's 'Land Contamination Risk Management (LCRM)' guidance and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

7 No development shall take place until a site investigation of the nature and extent of contamination has been carried out, by a suitably qualified competent person, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. A written report of the findings of the site investigation shall be made available to the local planning authority before any development begins. The written report should include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. The report is subject to the written approval of the local planning authority.

8 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 and The Contaminated Land (Wales) Regulations 2006, as amended by The Contaminated Land (Wales) (Amendment) Regulations 2012, in relation to the intended use of the land after remediation. The detailed remediation scheme should not be submitted until written approval for Condition 7 has been received from the local planning authority. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

9 The subject site is located in a former coal mining area and ground gas protection measures which meet, as a minimum, Characteristic Situation 2 (CS2) specifications, as prescribed in BS8485:2015+A1:2019 'Code of Practice for the Design of Protective Measures for Methane and Carbon Dioxide Ground Gases for New Buildings', must be installed.

Appropriately qualified personnel as described in Ciria C735 must verify the installation and qualify the installer. The specification and verification methodologies, for the installation of the ground gas protection measures, must be provided in a Verification Plan (as described in Ciria C735) that is part of the Remediation Strategy and must be approved in writing, by the local planning authority, prior to the commencement of the development.

10 The approved remediation scheme must be carried out in accordance with its

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

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

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority. The verification report contents must be agreed with the local planning authority before commencement of the remediation scheme. All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the WLGA document 'Development of Land Affected by Contamination: A Guide for Developers' (2017).

11 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of duration to be agreed in writing with the local planning authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority. Within six months following the completion of the measures identified in that scheme and the achievement of the remediation objectives, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

12 The development shall be undertaken in strict accordance with the following

- i) Section 6 (Recommendations) and Ecological Construction Method Statement, Updated Ecological Survey, Land at Brynygroes, by Fiona Elphick, dated 21st July 2019
- ii) Landscape Masterplan, Drawing no. RS200613-01-03
- iii) Section 6.0 (Arboricultural Method Statement) and Appendix 4 (Tree Protection Plan), Arboricultural Report, by ArbTS Ltd, dated 21st June 2021
- iv) Proposed Access Arrangement & Culvert Works, Drawing no. C-SK13

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

13 Prior to commencement of development (including ground works and vegetation clearance), a Construction Environment Management Plan shall be submitted to the Local Planning Authority and approved in writing. The CEMP shall include but not be limited to the following:

- o Ecological Construction Method Statement
- o Pollution prevention plan
- o Biosecurity risk assessment
- o Tree protection plan
- o Lighting during construction phase
- o Ecological enhancement plan to include number, location and timing of implementation of reptile refugia; and timing of planting, site preparation and aftercare measures.
- o Roles and responsibilities

The approved measures shall be adhered to and implemented in full.

14 Prior to any works being undertaken to trees, a bat survey of affected trees shall be undertaken by a suitably qualified ecologist. The survey shall be undertaken in accordance with Collins, J. (ed) (2016) Bat Surveys for Professional Ecologists: Good Practice Guidelines (3rd edn.) The Bat Conservation Trust, London. Any works shall be undertaken in accordance with expert ecologist and arborist advice and European Protected Species license requirements where appropriate.

15 Access points to facilitate movement of hedgehog and small mammals shall be incorporated into all fencing forming any part of the site boundary or boundary between individual plots. A minimum of one access point comprising gaps of 130mm x 130mm (5" x 5") shall be installed along each fenced aspect of the boundary. If gravel boards are to be used, hedgehog friendly designs shall be used. The access points shall be maintained thereafter.

16 Prior to occupation of any dwelling a Welsh Language and Culture mitigation plan including details of mitigation measures and their implementation of measures shall be submitted to and approved in writing by the local planning authority. The measures to support the Welsh Language and Culture shall be implemented as approved.

17 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 44 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 4 of housing units; 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.

18 Notwithstanding the provisions of the Town and Country Planning (General

Permitted Development) (Amendment) (Wales) Order 2013, (or any Order revoking and re-enacting that Order) no development for the Affordable Dwellings identified in Condition 18 above under Schedule 2, Part 1, Classes A to E other than that hereby permitted shall be carried out without the written permission of the Local Planning Authority.

19 Prior to the commencement of development a phasing scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details for the phasing of all housing and infrastructure including (but not limited to) phasing of open market/affordable dwellings, provision of public open space, provision of visitor car parking areas, landscaping/ biodiversity enhancements and associated infrastructure. Development must thereafter be completed in full accordance with the details as approved.

20. Prior to commencement of development a plan for the provision of children's play equipment in the play area shall be submitted for approval in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details.

21. Notwithstanding the submitted details, within 10 days from the commencement of the development a detailed suite of highway engineering drawings covering the highway works within the site, including those relating to the new culvert, provision of traffic calming measures, appropriate signing and turning head provision shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

22. Notwithstanding the submitted details, within 30 days from the commencement of the development a detailed suite of highway engineering drawings and a completed independent Stage 1 & 2 Safety Audit covering the off-site highway works along the frontage of the A4067 county highway, including the realigned access from the A4067, the active travel link from the A4067 into the site & the Toucan Crossing installation, shall be submitted to and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details of construction.

23. The gradient of the access from the A4067 shall be constructed so as not to exceed 1 in 30 for the first 15 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

24. The gradient of the internal haul road shall be constructed so as not to exceed 1 in 20 for the first 10 metres measured from edge of the adjoining estate road along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

25.No dwelling hereby approved shall be occupied before the off-site highway works detailed in condition 2 above, have been fully constructed to an adoptable standard to the written satisfaction of the LPA. Such works shall include the commissioning of the Toucan Crossing, completion of the realigned access and widened footway links alongside the A4067 and the construction of the active travel footway link from the A4067.

26.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 drawing R491P-03 Rev M. The parking areas shall be retained for their designated use for as long as the development hereby permitted remains in existence

27.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.

28.No dwelling hereby approved shall be occupied until the vehicular access is finished in a 40mm bituminous surface course material for a distance of 15 metres from the edge of the adjoining A4067 carriageway. The area will be maintained to this standard for as long as the development remains in existence.

29.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

30.The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.

31.Each private drive shall be surfaced in a suitably bound material, prior to the occupation of each respective dwelling and retained as such for as long as the development remains in existence.

## **Reasons**

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

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



1990.

3 To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

4 To safeguard the amenities of the locality in accordance with policy DM13, section 13 of the Powys Local Development Plan.

5 To safeguard the amenities of the locality in accordance with policy DM13, section 13 of the Powys Local Development Plan.

6 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.

7 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.

8 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.

9 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.

10 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.

11 In the interests of land contamination and in order to accord with Local Development Plan policy DM 10.

12 To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

13 To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

14 To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

15 To comply with Powys County Council's LDP Policies DM2, DM4, DM13 in

relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 11, 2021), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

16 In the interests of the Welsh language and culture in accordance with Powys Local Development Plan (2018) policy DM12.

17 In order to control further development which has the potential to have adverse effects on the affordable nature of the dwellings hereby approved in line with policy H5 of the Local Development Plan and Planning Policy Wales.

18 In order to control further development which has the potential to have adverse effects on the affordable nature of the dwellings hereby approved in line with policy H5 of the Local Development Plan and Planning Policy Wales.

19 To safeguard the amenities of the locality in accordance with policy DM13, section 13 of the Powys Local Development Plan.

20. To safeguard the amenities of the locality in accordance with policy DM3 of the Powys Local Development Plan.

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

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

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

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

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

26. 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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29. In the interest of highway safety in accordance with Powys Local Development Plan

policies T1 and DM13, TAN 18 (2007) and Planning Policy Wales.

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

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

## **Informatives**

### **1.Dwr Cymru**

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

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

2. During construction (including soil movement and landscaping activities) the contractor shall take all reasonable steps to prevent dust formation from dusty activities and any dust formed shall be prevented leaving the site by continuous watering down.

3. The Council's guidance leaflet on the development of sites with potential land contamination is attached. Further advice on compliance with this condition may be obtained by contacting the Environmental Health Service on 01597 827645.

### **4. Protected Species**

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

### 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.

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

It is an offence for any person to:

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

Under the Habitats Regulations it is an offence to:

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

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk).

## 5. Rights of way

- o Development over, or illegal interference with, a public right of way, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way. This includes temporary obstructions such as rubble mounds, building materials, parked vehicles etc...
- o Landscaping & Surfacing - Advice will need to be sought before interfering or surfacing a public right of way.
- o New fencing or boundaries - The developer will need to seek a licence for a new structure if intending to create a boundary across a public footpath or bridleway. We cannot authorise a structure across a Restricted Byway or Byway Open to All Traffic.
- o Temporary closures - The developer can seek a temporary closure of a public right of way from the council if they feel the public may be at risk during development.

Legal Diversion - If development directly affects a public right of way, the developer will need to seek advice and apply for a legal diversion from the Council. No development can take place on a public right of way until a legal order is confirmed and the process may take at least 6 months. For more information please discuss with Countryside Services at the earliest available opportunity.

## 6. Groundwater

We refer you to the Environment Agency (2017) 'Approach to groundwater protection' position statements which have been adopted by NRW. In particular, Position Statement

G13 (Sustainable drainage systems) which applies to this development.

Advice on environmental considerations and the assessments needed to support your planning application can be found on our external website.

For advice on how to deal with possible land contamination on your development visit:

<http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/>

[advice-for-developers/land-contamination/?lang=en](http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/advice-for-developers/land-contamination/?lang=en)

For advice on how to protect groundwater at your development visit:

<http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/>

[advice-for-developers/protecting-groundwater/?lang=en](http://naturalresources.wales/guidance-and-advice/business-sectors/planning-anddevelopment/advice-for-developers/protecting-groundwater/?lang=en)

## Pollution Prevention

Responsibility for preventing pollution rests with those in control of the development.

Pollution Prevention Guidance should be read by those carrying out the work.

All works at the site must be carried out in accordance with the Guidance for Pollution Prevention and of particular importance to this application is GPP5 'Works in, near or

over

watercourses' which is available at:

[http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-](http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/)

[series/guidance-for-pollution-prevention-gpps-full-list/](http://www.netregs.org.uk/environmental-topics/pollution-prevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gpps-full-list/)

If a pollution incident does arise the site must inform us immediately via our incident hotline.

## 7.Common Land

Please note Powys County Council is not the determining authority, the Planning Inspectorate in Wales is responsible for determining applications on behalf of the Welsh Minister. Application forms and guidance about how to make an application under Section 16 of the Commons Act 2006 are available on the Welsh Government website:

<https://gov.wales/commons-act-2006-apply-under-section-16>

The Registration Authority also recommends the reading of the Welsh Government 'Common Land Consents Guidance' that was published in August 2014. This document is available at the following link:

<https://gov.wales/common-land-consents-guidance>

## Land Drainage Advisory

Any proposed alterations, interference or erection of any structure that affects an ordinary watercourse will require prior consent from Powys CC (as Lead Local Flood Authority), in accordance with Section 23 of the Land Drainage Act 1991 (as amended by the Flood & Water Management Act 2010). Further information can be sought at:

<https://customer.powys.gov.uk/article/4661/Ordinary-Watercourses-Applying-for-consent-for-works>

## Highways

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

Where development results in (or retains the potential to) the creation of a private street (typically development in excess of 5 dwellings) Powys County Council has a statutory duty to issue and enforce an Advance Payment Code Notice (APC) under the provisions of Sections 219/220 of the Highways Act 1980. The Notice requires the applicant to secure a sum or bond with the local highway authority that covers the

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

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